



# Routledge Handbook of Civil and Uncivil Society in Southeast Asia

Edited by Eva Hansson and Meredith L. Weiss

# ROUTLEDGE HANDBOOK OF CIVIL AND UNCIVIL SOCIETY IN SOUTHEAST ASIA

*The Routledge Handbook of Civil and Uncivil Society in Southeast Asia* explores the nature and implications of civil society across the region, engaging systematically with both theoretical approaches and empirical nuance for a systematic, comparative, and informative approach.

The handbook analyses the varying definitions of civil society, critiquing the inconsistent scrutiny of this sphere over time. It brings forth the need to reconsider civil society development in today's Southeast Asia, including activist organisations' and platforms' composition, claims, resources, and potential to effect sociopolitical change. Structured in five parts, the volume includes chapters written by an international set of experts analysing topics relating to civil society:

- Spaces and platforms
- Place within politics
- Resources and tactics
- Identity formation and claims
- Advocacy

The handbook highlights the importance of civil society as a domain for political engagement outside the state and parties, across Southeast Asia, as well as the prevalence and weight of 'uncivil' dimensions. It offers a well-informed and comprehensive analysis of the topic and is an indispensable reference work for students and researchers in the fields of Asian Studies, Asian Politics, Southeast Asian Politics, and Comparative Politics.

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# ACRONYMS

ABIM	Angkatan Belia Islam Malaysia, Malaysian Islamic Youth Movement
ACSC/APF	ASEAN Civil Society Conference/ASEAN People's Forum
ADB	Asian Development Bank
AFML	ASEAN Forum on Migrant Labour
AICHR	ASEAN Intergovernmental Commission on Human Rights
AMAN	Aliansi Masyarakat Adat Nusantara, Indigenous Peoples' Alliance of Nusantara (Indonesia)
APMM	Asia Pacific Mission for Migrants
ASEAN	Association of Southeast Asian Nations
BN	Barisan Nasional, National Front (Malaysia)
BPO	business process outsourcing
BSP	Burma Socialist Program Party
CARP	Comprehensive Agrarian Reform Program (Philippines)
CBO	community-based organisation
CDM	civil disobedience movement (Myanmar)
CEDAW	Committee on the Elimination of Discrimination Against Women
CMA	Center for Migrant Advocacy (Philippines)
CNRP	Cambodia National Rescue Party
COD	country of destination
CONFED	Confederation of Sugarcane Planters (Philippines)
COO	country of origin
CPP	Cambodian People's Party
CRPH	Committee Representing Pyidaungsu Hluttaw (Myanmar)
CSO	civil society organisation
CSR	corporate social responsibility
DAC	Development Assistance Committee
DAP	Democratic Action Party (Malaysia)
DAP	Dewan Adat Papua, Papuan Customary Council
DAR	Directorate of Agrarian Reform (Indonesia)
DFAT	Department of Foreign Affairs and Trade (Australia)

## Acronyms

DTP	Diplomacy Training Program
EAO	ethnic armed organisation
EITI	Extractive Industries Transparency Initiative (Myanmar)
EU	European Union
FIDH	International Federation for Human Rights
ForBALI	Forum Rakyat Bali Tolak Reklamasi Teluk Benoa, Balinese People's Forum Against the Reclamation of Benoa Bay
FPI	Front Pembela Islam, Islamic Defender's Front (Indonesia)
GCM	Global Compact for Safe, Orderly and Regular Migration
GFATM	Global Fund to Fight AIDS, Tuberculosis and Malaria
GFMD	Global Forum on Migration and Development
GONGO	government-organised non-governmental organisation
GSCN	General Strike Committee of Nationalities (Myanmar)
HINDRAF	Hindu Rights Action Force (Malaysia)
HOME	Humanitarian Organization for Migration Economics (Singapore)
HRW	Human Rights Watch
HRWG	Human Rights Working Group
IBPAP	IT and Business Process Association of the Philippines
ICT	information and communication technologies
ILO	International Labour Organization
IMA	Indonesian Mining Association, Asosiasi Pertamabangan Indonesia
IMF	International Monetary Fund
INGO	international nongovernmental organisation
INSISTS	Institute for the Study of Islamic Thought and Civilizations (Indonesia)
IPRA	Indigenous Peoples' Rights Act (Philippines)
ISA	Internal Security Act (Malaysia, Singapore)
ISOC	Internal Security Operations Command
JIL	Jaringan Islam Liberal, Liberal Islam Network (Indonesia)
KADIN	Kamar Dagang dan Industri Indonesia, Indonesian Chamber of Indonesia Commerce and Industry
KPA	Konsorsium Pembaruan Agraria, Consortium for Agrarian Reform (Indonesia)
KPK	Komisi Pemberantasan Korupsi, Corruption Eradication Commission (Indonesia)
LB	LoyarBurok (Malaysia)
LBH	Lembaga Bantuan Hukum, Legal Aid Institute (Indonesia)
LGBT(QI)	lesbian, gay, bisexual, transgender (queer, intersex)
LOIPR	List of Issues Prior to Reporting
LPA	Legal Profession Act (Malaysia)
MALARI	Malapetaka Lima Belas Januari, Fifteenth of January Disaster (Indonesia)
MCCHR	Malaysian Centre for Constitutionalism and Human Rights
MFA	Migrant Forum in Asia
MoEYS	Ministry of Education, Youth and Sports (Cambodia)
MUI	Majelis Ulama Indonesia, Indonesian Ulema Council
NGO	nongovernmental organisation
NIDL	new international division of labour
NLD	National League for Democracy (Myanmar)

## Acronyms

NNER	National Network for Education Reform (Myanmar)
NPO	nonprofit organisation
NSFP	National Federation of Sugarcane Planters (Philippines)
NU	Nahdlatul Ulama (Indonesia)
NUG	National Unity Government (Myanmar)
ODA	official development assistance
OECD	Organisation for Economic Co-operation and Development
OFW	Overseas Filipino Workers
PAD	People's Alliance for Democracy (Thailand)
PAS	Parti Islam Se-Malaysia, Pan-Malaysian Islamic Party
PBE	Philippine Business for Education
PDP	Presidium Dewan Papua, Papua Presidium Council
PDR	People's Democratic Reform Committee (Thailand)
PERADIN	Persatuan Advokat Indonesia, Indonesian Bar Association
PGA	Peoples' Global Action on Migration, Development and Human Rights
PH	Pakatan Harapan, Alliance of Hope (Malaysia)
PHRI	Perhimpunan Hotel dan Restoran Indonesia, Indonesian Hotels and Restaurants Association
PITW	Personal Information Technology Workshops (Cambodia)
PKR	Parti Keadilan Rakyat, People's Justice Party (Malaysia)
PMRW	Philippine Migrants Rights Watch
<i>Quedan</i>	certificate of ownership of sugar, issued by Philippine sugar mills
RSPO	Roundtable on Sustainable Palm Oil
SAM	Sahabat Alam Malaysia, Friends of the Earth Malaysia
SAMM	South Asian Media for Migrants
SBPAC	Southern Border Provinces Administrative Centre (Thailand)
SLORC	State Law and Order Restoration Council (Myanmar)
SMO	social movement organisation
SOGIE	sexual orientation, gender identity, and expression
SPDC	State Peace and Development Council (Myanmar)
SUHAKAM	Suruhanjaya Hak Asasi Manusia, Malaysian Human Rights Commission
TANS	Transnational Advocacy Networks
TWC2	Transient Workers Count Too (Singapore)
UDD	United Front for Democracy against Dictatorship (Thailand)
UMNO	United Malays National Organisation (Malaysia)
UN DESA	United Nations Department of Economic and Social Affairs
UNDP	United Nations Development Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
USDA	Union Solidarity and Development Association (Myanmar)
USDP	Union Solidarity and Development Party (Myanmar)
WALHI	Wahana Lingkungan Hidup Indonesia, Indonesian Forum for the Environment
WTO	World Trade Organization

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# 1

## CIVIL SOCIETY IN POLITICS AND SOUTHEAST ASIA IN CIVIL SOCIETY

### Conceptual foundations

*Meredith L. Weiss and Eva Hansson*

In 2020, in the wake of the postponed election the previous year, and following the court-ordered dissolution of the popular opposition Future Forward Party, Thai students, queer activists, and thousands of others ratcheted up a litany of rallies and other protest actions, declaiming against the military-dominated government and demanding reforms to the heretofore sacrosanct monarchy. The following February, Myanmar's military likewise ousted the recently re-elected National League for Democracy-led government in a dramatic coup d'état. In response, not just party loyalists and organised activists, but also unprecedented numbers from among the general public joined street protests and a massive, sustained civil disobedience movement, defying both the army leadership and the still-acute COVID-19 pandemic. Six months later in Malaysia, youth activists took to the streets to oppose the 'back-door government' that had taken power in a February 2020 parliamentary/palace coup, struggled to stay afloat, then collapsed by August 2021, as well as its botched handling of the pandemic. These examples all illustrate the salience of civil society as a domain for political engagement outside the state and parties, across Southeast Asia – yet they are only extreme manifestations of this sphere's potency. However dominant the regimes and leaders of Southeast Asian states, civil society has been and remains a key part of even authoritarian polities in the region, allowing for fairly mundane advocacy efforts around single issues, enduring networks and coalitions, and more explosive scaling up across organisations, individuals, and media or other outlets.

Definitions of 'civil society' are rife. We take Jeffrey Alexander's (1993, 797) as a starting point: 'a richly evocative but undertheorized concept referring to the realm of interaction, institutions, and solidarity that sustains the public life of societies outside the worlds of economy and state'. The literature on civil society has drawn on earlier progenitors, including differing visions of Marx, Hegel, Gramsci, Parsons, and Habermas. But it really took off with efforts to explain how counterhegemonic, independent self-organisation in societies, characterised by 'self-limiting' ambitions (e.g. neither 'totalising' nor aiming to take political power), resulted in revolutions that overthrew authoritarian regimes – especially in Central and Eastern Europe and Latin

America in the 1970s and 1980s – and with the prevalence of struggles for rights and community mobilisation broadly in the then-advanced capitalist democracies (Walzer 1990; Cohen and Arato 1992; Alexander 1993).

Although never far from public attention, civil society as a space and platform has been inconsistently central to scholarly agendas. Relevant to any world region, this disparity is especially apparent in Southeast Asia: activism of all sorts claims headlines, confronts the full range of regimes, worries or enthuses political actors and observers, and offers hints of ideological and institutional developments to come – and yet academic research on this sphere tends towards episodic, ratcheting up upon notable outbursts, and uneven overall. Present trends region-wide towards varying mixes of autocratisation, populist politics, social polarisation, institutional decay, and innovative modes of engagement make the influence and relative resilience of differing segments within civil society all the more important: the most pressing developments in politics today, in Southeast Asia as elsewhere, are hardly confined to ‘formal’, let alone more narrowly electoral, politics.

Nevertheless, assumptions about what civil society *should* or *could* be, under ideal circumstances, lead scholars from across ideological perspectives to critique the concept as unhelpful or problematic, or as representing a domain too anaemic to be useful in Southeast Asia. Indeed, defining civil society could constitute a political project in itself. Culturalists argue that an essential predisposition of Asian societies towards political passivity precludes a mature civil society: if citizens are unwilling to rock the proverbial boat, the space of civil society loses relevance for politics and society in Southeast Asia. At the height of the ‘Asian values debate’ (see Bon and Wong, this volume), not only Asian and Western scholars, but also authoritarian political leaders concerned for their own dominance embraced the idea of a fundamentally different ‘Asian’ political culture.<sup>1</sup> In Asia, this line of critique is, at root, neo-Tocquevillian in its faulting a lack of *civic* engagement among the population at large, among societies daunted by repressive state tactics and/or content to leave governance to developmentalist technocrats. Indeed, instead of approximating ‘schools of democracy’, civil society organisations (CSOs) in such polities may reproduce authoritarian hierarchies and remain entrenched in clientelist structures of an oligarchic political system (Thapa 2016, 70–71). In contrast, liberals complain that there can be no civil society in at least most of Asia for lack of a space sufficiently autonomous from the state to qualify – neglecting the fact that this overlap is really the case everywhere. This perception embodies the conceptual confusion engendered by defining civil society as, by default, in opposition to ‘the state’ – an issue to which we return below – and often even more narrowly, as against or in support of a certain regime, whether authoritarian, democratic, or somewhere in between. Lastly, neo-Marxists carp that in a civil society dominated by capitalist relations and by middle class and business interests, managerial practices and organisational principles render civil society too ‘businessified’, depoliticised, and unrepresentative to qualify as valid (Hewison 2018). Academic criticisms against such ‘NGOisation’ even predated the actual efflorescence of nongovernmental organisations (NGOs) in Southeast Asia (Grey 1999; Ungpakorn 2007, 96–97).<sup>2</sup>

In fact, we find these concerns, across perspectives, to reflect a fundamental misconceptualisation: if we understand civil society as a *space* open to the full range of ideas and organisations, rather than as a set of organisations familiar in form and focus to development practitioners or others, we more accurately capture reality on the ground. Indeed, scholarly research on civil society in Southeast Asia has been conceptually ‘ahead’ of the wider literature in its scepticism of overly structural or narrow

expectations or theories. An ecumenical reading allows us still to critique civil society, but without missing or disregarding its potential to affect both societal and political change. Most obviously, neither democratisation nor its reversal can be understood without taking into account the role of civil society and its structuration along conflict lines specific to national contexts. Just one such dialectic: should frustrated progressives decamp from formal politics in a hybrid or authoritarian regime to civil society, they may not only see greater scope to pursue activist initiatives, but also, by giving up on holding the line within parties or state institutions, open the door wider to democratic backsliding or authoritarian retrenchment.

Nevertheless, the last book that comprehensively examined civil society in Southeast Asia and offered a theoretically driven, systematic, comparative analysis of state–civil society relations verges now on two decades old: Muthiah Alagappa's (2004a) *Civil Society and Political Change in Asia: Expanding and Contracting Democratic Space*. Two central lenses and two central questions guided the analytical focus of a set of country-focused contributions, significantly orienting a generation of scholarship that followed (including some of the chapters here). Contributors engaged two lenses: *neo-Tocquevillian*, with the premise that where the state has high legitimacy and capacity, civil society tends to be self-limiting, channelling its claim-making through the political process; and *neo-Gramscian*, proposing instead that where the state is contested and/or society deeply divided, civil society tends towards conflictual, counterhegemonic, and zero-sum (Alagappa 2004b, 468–469). They probed, too, both whether civil society in Asia fosters or inhibits political change, and what the nature of civil society is across Asia's varying political contexts.

At the time of publication, Southeast Asia was, overall, experiencing an era of optimism. With a new 'people's constitution' adopted in the late 1990s, Thailand seemed irrevocably returned to civilian rule. However elite-led, the constitution-drafting process itself heralded the importance of civil society: members of CSOs participated actively and contributed information, influencing the draft (Shigetomi 2004, 300–302). Indonesia had successfully navigated a transition from authoritarianism in 1998–1999, and expanding efforts at mobilisation for political rights in political systems as diverse as Malaysia, Myanmar, Vietnam, and Cambodia seemed harbingers of a liberalising future. Even so, case studies in Alagappa's volume recommended not presuming civil society's inherent democratic qualities or contribution to democratisation. As research on other regions concurs, civil society may be a source also of democratic decline and authoritarian reproduction (Wischermann et al. 2018). We take these premises very much to heart in the chapters to come.

Indeed, starting only about two years after the publication of Alagappa's seminal book, the tide turned across Southeast Asia. Crackdowns on CSOs and movements in a number of countries emerged almost simultaneously: repression of pro-democracy, labour-rights, anti-land-grabbing, and other organisations in Vietnam; a military coup d'état in Thailand, leading to more than a decade's military dictatorship; and a violent crackdown against the month-long 'Saffron Revolution' against dictatorship in Myanmar. Since then, despite some vacillations, the region has experienced overall a slow-boiling return to more authoritarian formal politics and, importantly, increasing restrictions – stemming from the state or from other social actors – on activist claims and efforts, as well as curbs on online and other political space. Accompanying (and at times furthering) this authoritarian trend, Southeast Asia has also seen a (re-)emergence of anti-democratic social movements and CSOs, making use of the same civil society space

they aim to delimit. Such CSOs have formed not only in undemocratic Thailand and Vietnam, but also in transitional Malaysia and ostensibly politically liberal Indonesia, the only country in the region besides tiny Timor-Leste in which democracy had, it seemed, steadily consolidated since the late 1990s.

Nonetheless, civil societies have continued to develop, thrive, diversify, institutionalise, and both bond and bridge communities across the region, however, limited the space they may occupy and scant the resources they enjoy (e.g. Thiem 2013; Hansson and Weiss 2018). Over the past two years, not just political machinations, including state efforts to co-opt promising agendas, but also the wrenching COVID-19 pandemic, have tested the capacity and influence of CSOs from across the tactical and ideological spectrum. But civil societies are clearly never just reflections of state action, nor of the concerns of the moment, however pressing. With increasing personal freedoms in some states, new constraints in others, persistent informal networks and clientelist holdovers in most, and enduringly complex interests and claims in all, overlapping obdurate institutional legacies, Southeast Asian civil societies are today characterised by a plurality of ideologies, aims, and strategies. These multivalent developments indicate a real need to reconsider civil society development in the region, including composition of this space, claims, resources, and potential to effect socio-political change. The chapters to come explore the nature and implications of civil society in Southeast Asia, not just offering empirical updates, but also teasing out conceptual frameworks and theoretical nuances.

We begin that process in this chapter, informed in key part by discussions over the course of an August 2021 conference, as states and societies in Southeast Asia – and indeed, globally – strained under the weight of an ongoing pandemic and its economic externalities. That extraordinary pressure, and the tensions it laid bare, lent motivation to a collective task of probing the qualities, boundaries, and characters of civil societies across the region. We start here with a working definition of civil society and sketch of its parameters and then offer a critical overview of its roots in the region. After setting the stage empirically, by identifying key turning points in the character of (and perspectives on) civil society in Southeast Asia, we conclude with an overview of the chapters to come.

### **Clarifying the concept of civil society**

Two dimensions are most helpful in conceptualising civil society: the character of this sector and its placement within a polity.

#### ***What civil society is***

The term *civil society* encompasses a broad swathe of political space. We understand civil society not only to include the gamut of social movements *but* also as more than that – and not with the specifically democratising aspect much of the literature suggests (e.g. Cohen and Arato 1992). Those movements and their constituent organisations, as well as activists who engage individually for collective ends, are not themselves the sum total of civil society; rather, they occupy, make use of, and sometimes reshape the space of civil society. By the same token, to prohibit groups from formally organising, or to oblige largely atomised activism rather than collective action does not preclude or kill off civil society; it may simply leave this space less well-populated (or less visibly so, if activists move underground), in ways consonant with the specific nature of repressive

measures and the wider socio-political context (Boudreau 2004). Even formally authoritarian states, with only very few exceptions, allow ‘formally autonomous organizations engaging in activities beyond the direct control of the state’: organisations *not* specifically aimed at checking or resisting the state, but coexisting with it (Lewis 2013, 325), or whose activities threaten neither the political regime itself nor ‘national security’ as ruling elites define it (Kerkvliet 2019). This sphere sustains both comparatively benign ‘self-organisation’ and ‘production of counter-discourses’ – and it is the more threatening, less co-optable, or usefully legitimating latter effort that authoritarian states will be especially keen to repress (Lewis 2013, 326). Still, authoritarian rulers – for instance, in Southeast Asia’s ‘market Leninist’ states (London 2014) – tend towards a broad brush in painting self-organisation and broad collective action as threatening, regardless of the issues around which people mobilise.<sup>3</sup>

For any government, certain issues and claims are more problematic than others. All are concerned with regime-challenging activism and mobilisation (and many are prepared to suppress or obstruct such groups, organisations, and activities), but we note patterns in Southeast Asia of activities prone to incur such sanction. Most obviously, governments across the region have been inclined to suppress ‘left leaning’ activities, or activities they perceive as challenging state-defined developmentalist goals – for instance, independent or self-organised workers, farmers, and land-rights organisations (Deyo 1989; Hewison and Rodan 1996);<sup>4</sup> antagonistic anti-corruption efforts (Chen and Weiss 2020); and environmental activism (Hirsch and Warren 1998).<sup>5</sup> Organisations and movements that governments (or empowered social actors) deem threatening to prevailing norms or interests, such as women’s or sexuality-rights organisations, have also been targeted, much as in other regions (e.g. Rothschild 2005; Weiss 2013). Such exclusions clearly structure civil society. For instance, developmentalist authoritarian regimes may permit the self-organisation and relative autonomy of manufacturers and other business interests but not allow independent trade unions or labour-rights NGOs, unavoidably altering the balance of power among CSOs. We see, too, common predilections across states towards targeted repression of mobilisation around ‘macro rights’, or the right to have rights, even when governments tolerate or even encourage more narrowly pitched issue-based activism.<sup>6</sup>

All told, we find a wide range of scales and forms of regulation and repression of the space and occupants of civil society across the region. The continuum extends from a state highly accepting of associational life (except in its ‘uncivil’ variants; more on those below) in the Philippines (long known for its especially dense, diverse mass of CSOs) and post-New Order Indonesia; to more regulated or controlled, but still open and active organisations in, for instance, Cambodia, Malaysia, and Singapore; to largely suppressed mobilisation in Laos and Vietnam.

Common parlance – and the democratisation literature in particular – tends to frame civil society as though naturally inclined towards liberalism. John Hall (1995, 26–27) explains bluntly, ‘we value democracy in large part because we expect it to be married to civil society’. Yet repression aside, civil society is neither exclusively pro-democracy nor pro-human rights: groups from across the ideological spectrum may occupy, thinly or densely, the space of civil society. To understand any CSO or movement’s implications for democracy, we need to grasp what ideas and motivations drive its efforts, its participants’ worldview and ideology, where it fits among the power relations in civil society, its connection with political parties (apart from under the region’s *de jure* or *de facto* single-party regimes), and how such connections translate into influence on ‘formal’ politics.

Nor should civil society be understood as a domain only of inclusivity, universal discourses, or solidarity; ‘primordiality and exclusion’ are equally present and salient in both democratic and non-democratic societies (Alexander 1993, 802). Indeed, not only does civil society ‘not always equal democratisation’, but also CSOs may actually thrive under non-democratic rule (Toepler et al. 2020, 652). Some CSOs may prefer to remain apolitical and simply focus on service-provision and similar functions; others may support an authoritarian regime’s ideology or leadership (Toepler et al. 2020, 652–653). Indeed, famously, in the case of Nazi Germany, a dense civil society helped produce one of the most repressive and dangerous regimes in human history (Berman 1997). The fault-lines and conflict that mix may spark or sustain within civil society not only reflect patterns within the larger society but may also generate ideas, ideologies, and possibilities for mobilisation. This spatial and ideologically polyglot character of civil society comes through clearly in Southeast Asia.

Southeast Asian experience suggests a less equitable, open, and autonomous civil society than key theorists have proposed. Habermas is exemplary in defining the ‘public sphere’, a related, though ‘not precisely equivalent’ concept (Calhoun 1993, 269), influential for contemporary approaches to civil society, as:

... first of all a realm of our social life in which something approaching public opinion can be formed. Access is guaranteed to all citizens. A portion of the public sphere comes into being in every conversation in which private individuals assemble to form a public body ... Citizens behave as a public body when they confer in an unrestricted fashion – that is, with the guarantee of freedom of assembly and association and the freedom to express and publish their opinions – about matters of general interest ... We speak of the political public sphere in contrast, for instance, to the literary one, when public discussion deals with objects connected to the activity of the state. Although state authority is so to speak the executor of the political public sphere, it is not a part of it.

*(Habermas 1974, 49)*

His premises – the historical antecedents he highlights – are liberal constitutions that emerged starting in the 18th century, in which society secured ‘a sphere of private autonomy’, and private individuals were guaranteed a channel to ‘transmit the needs of bourgeois society to the state’ for more ‘rational’ authority, with ‘the restriction of public [state] authority to a few functions’ (Habermas 1974, 52–53). Moreover, it is largely thanks to Habermas – his work on the public sphere, and on new social movements as concerning ‘communicative spheres of action’ and ‘revitalization of buried possibilities for expression and communication’ (Habermas 1981, 33, 36) – that a focus on discourse marks much of this literature. We deem discourse important, but not more defining in practice than other dimensions.

More to the point, the ideal-typical public sphere Habermas suggests is very far from Southeast Asian realities. Instead, we find civil societies typically structured by context-specific cleavages that divide or bind citizens, and by ‘categorical inequalities’ based on ethnicity, economy, class, gender, geography, and more (Tilly 2003) that grant some individuals or groups access to deliberations and exclude others. Habermas’s conceptualisation understates power, including such differential access, as a structuring factor and downplays contentious views, conflict and contradiction as intrinsic to deliberation

(Fraser 1990). We argue instead for the centrality of such inequalities to organisation and mobilisation in civil societies in contemporary Southeast Asia, and that *both* conflict *and* cooperation characterise civil society and the public sphere here, as do context-specific patterns of power and domination.

In line with breadth of motivations and modes, we find across Southeast Asia, too, a wide array of activist tactics. Unlike much of the literature on civil society, we deem it analytically unhelpful to exclude ‘uncivil society’, or groups that (generally partially and/or episodically) make use of violent means of protest (see especially Kreuzt’s chapter here). Scholars tend to see uncivil society as embodying something quite separate from the peaceable, rule-bound (however provocative), and civic virtues producing civil society, notwithstanding the ‘contentious politics’ school’s effort to put collective mobilisation from petitions to revolts on a single axis (McAdam, Tarrow, and Tilly 2001). Reflecting on Southeast Asian experience, we move beyond Tocquevillian assumptions of pro-democratic, peaceful, inclusively solidaristic mobilisation, to include that full range. As Garry Rodan (2022, 11) explains, ‘if we define away all forces and values hostile to democracy – even where they act in a constitutional and non-violent manner – we limit our capacity to comprehend some of the most significant political associations and ideologies engaged in struggles to reshape and/or defend existing state power relationships in contemporary Southeast Asia – and elsewhere’. Moreover, just as we do not exclude groups whose toolbox extends beyond civil means of engagement, nor do we exclude groups that, when not advocating for interests or otherwise mobilising, pursue profit: associations of businesses and networks can occupy the space of civil society, even if component firms are not exclusively within that domain (see especially Tans’ chapter). In some polities where registration rules for CSOs are strongly restricted, NGOs may also register as businesses to circumvent hassle and surveillance.

We have presented civil society thus far as essentially domestic, except, perhaps, inasmuch as its organisations engage with inherently border-crossing colonial empires. The common framing of civil society as defined in opposition to the state reifies that conceptualisation, though a growing literature addresses transnational civil society (for instance, Avenell and Ogawa 2022). With organisational growth during and after the Cold War, however, other transnational aspects became increasingly apparent and salient. It was and remains primarily local governing apparatuses that have regulated this space: domination, power, and governance do remain fundamentally domestic. Yet, for instance, the Cold War operated also at the level of civil society, with duelling blocs of labour unions (Wehrle 2005; Tan 2018; Leow 2019) and students’ organisations (Stern 1967; Altbach 1970), forging or fortifying regional or global networks; after the Cold War, international donor efforts to build civil society have cultivated similar links. Those efforts have spanned from development assistance channelled through domestic NGOs, in line with prevailing donor strategies, to democracy assistance funnelled to local pro-democracy groups, to open or underground rights-advocacy organisations, working either in the language of international norms or with vernacularised variants (Bon and Wong, this volume). Importantly, some such efforts affirmed a subterranean dimension to the space of civil society, particularly in outright non-democracies.

Nor is the transnational aspect of civil society merely a matter of external tentacles’ reaching into domestic space. Even well before the current era of globalisation, we have seen proactive efforts across Southeast Asia (and in other world regions) to develop and join solidaristic or coordinated campaigns for goods and goals germane beyond any one state.



### ***Where civil society is***

That issue of relative boundedness brings us to our second core consideration: the placement of civil society – and here we diverge to an extent from much of the literature. Discussions of civil society, drawing on Gramsci and his progeny, present a triptych of civil society, political society, and economic society (Adamson 1987/1988, 322–323), and present civil society as engaged overwhelmingly vis-à-vis a distinct political society: the state apparatus, as well as political parties, and politicians. In practice, this mapping generates a shorthand assumption of a state–civil society dichotomy, which we find to be unhelpful.<sup>7</sup> These spheres do differ in their purposes and objectives, but they overlap, on the one hand, and they operate both singly and interactively, on the other. To wit, civil societal actors may work within and around the formal state and vice-versa (Kerkvliet, Heng, and Koh 2003; Wells-Dang 2013) – and these actors and their organisations depend to some degree on state laws and regulations (Bobbio 1989) – but their engagement may serve to legitimate both state and supra-state organisations (Uhlín, this volume), notwithstanding common assumptions of civil society’s necessary autonomy from the state (Diamond 1996, 228). Our point here is not to say that some actors within civil society could not be poised against the state or a specific government, or engaged in struggle against a political regime, whether authoritarian or democratic (e.g. Thayer 2009); indeed, civil society space is often where such reformist ideas emerge and organisation and mobilisation around them develops. We caution, too, against eliding *state* and *regime*, for nor do the experiences of civil society in Southeast Asia embody an inherent struggle against an overbearing state per se, as so much liberal theorising on civil society assumes. Political civil society actors may agitate against, and struggle to de-legitimise, a political regime or a specific government, but rarely the state.

The potential for entanglement goes further, muddying the conceptual waters. Authoritarian regimes may form their own NGO-mimicking organisations (often termed government-organised NGOs, GONGOs) or seek to permeate civil society by sponsoring think tanks or other organisations tethered to developmentalist bureaucracies. Such organisations might contribute technocratic expertise to policy-making processes or simply ‘legitimise and consolidate existing regimes or leaders, as well as the developmental state narrative’ (Nachiappan, Mendizabal, and Datta 2010, 24). Meanwhile, in line with the strategic toleration noted earlier, some parts of civil society may develop purposefully anodyne service-providing non-profits (to borrow terminology drawn largely from US tax codes) or, conversely, ‘align with authoritarian regimes on grounds of religious or nationalistic values’ (Toepler et al. 2020, 649) that may seed uncivil action. This mix of CSOs factors into functions of ‘legitimation, repression and co-optation’, the three ‘pillars of authoritarian rule’ (Toepler et al. 2020, 649). While service-providers risk co-optation and depoliticisation, loyal NGOs that support the regime may provide counter-narratives against Western values (and sometimes services, too); it is primarily those within the subset of claims-making NGOs that irk regimes by ‘pushing largely liberal, Western values and rights-based agendas’ (Toepler et al. 2020, 651–652).

The state aside, actors from civil society may engage also with the third sphere, economic society, however underplayed in the literature – for instance, via forms of labour mobilisation (Caraway, this volume); by CSOs’ challenging business firms and their leaders; or in the form of advocacy among the profit-oriented businesses, organised in interest-driven associations, that Tans’ chapter addresses. Or CSOs’ efforts may focus

really on society itself, as by pursuing ‘expressive’ goals of recognition, apart from or in lieu of ‘instrumental’ policy objectives (Bernstein 2008). Importantly, as well, the state and its coercive forces are not the only source of repression; civil society actors themselves may suppress, police, and delimit others’ political space (e.g. Gamson 1997).

In this sense, framing the state as essentially tantamount to political society at least implies that ‘formal politics’ *is* politics, whereas civil society, as the domain of ‘non-institutional politics’ (Offe 1985), is secondary or peripheral. Given the potential for dynamics of contestation and control within civil society, as well as the syncretic relationship among spheres, we frame civil society as an essential component of ‘politics’ across regime types; to avoid semantic confusion with ‘political society’, we thus down-play the three-spheres framing.

A final caveat: part of the impact protest may have is not only on society and state, but also on the individuals and groups that take part. We can thus not only think of the place of civil society vis-à-vis the balance of the polity – but also the place of individuals relative to the space of civil society. At one level, the experience of collective action shapes the sense of common cause conducive to further efforts, through negotiated “social construction” of the “collective”; participants create and internalise a collective identity, understood ‘as a system of relations and representations’ (Melucci 1995, 44, 50). At a deeper level, too, participants may come within civil society to share a new disposition as proper political agents rather than as ruled-over subjects and, in their deliberations with others, may revise ‘their own understanding of both their individual self-interest and the public interest, and both together’ (Pitkin 2004, 338, 340). By ‘seeing themselves in collective action’, Hanna Pitkin (2004, 341) asserts, ‘they observe their own power and their shared power’. Pattana Kitiarsa’s ethnographic research in Thailand, for instance, demonstrates that some protesters did not join protests to ‘make a revolution’, but as they participated in repeated actions, they became increasingly aware of their rights and position, of the injustices they experienced, and of political action as a way to rectify matters (Pattana 2012).

### **The origins of civil society in Southeast Asia**

The social movements and other collective initiatives that occupy contemporary civil society took deep root and thrived with economic liberalisation and the population movements, as well as transformations of interests and affiliations, it wrought. CSOs and the scope of civil society itself have expanded greatly especially since the Cold War ended, their growth accelerated in part in many regions of the world (including Southeast Asia) by foreign development aid. Still, in earlier times, we might still speak of religious or occupational groups, for instance, as occupying civil society, even if with generally lesser political capacity or ambition.

Civil society has a long historical trajectory in Southeast Asia, although the label, in English or local languages, took firm hold really only in the latter decades of the 20th century (Weiss 2008). By the end of the 19th century and the first decades of the 20th century, most countries of the region supported what would now be considered CSOs. Furthermore, already by this time, cosmopolitan elites travelled the world and brought back ideas about civic and political rights, democracy, and equality (Anderson 2007). By the 1920s–1930s, along with nascent parties and other formal-political organisations, lively clusters of women’s organisations, trade unions, political publications, and more were developing (see e.g. Marr 1976; Peycam 2012; Tran 2013, [Chapters 1 and 2](#)).

Motivating these sometimes cosmopolitan groups were a broad range of ideological perspectives – republicanism, liberalism, Marxist-Leninism, monarchism, Islamism, and more (Sidel 2021) – as well as competing visions of a ‘good society’, state–society relations, state–citizen relations, and so forth. Dominating civil societies across most of the region, however, were anti-colonial national liberation movements and organisations, themselves far from uniform in their ideologies, structures, and strategies. The institutional legacies of some of these groups persist today, in political parties or religious, advocacy, and other CSOs.

Reflecting this history, throughout this volume, we understand the space of civil society to predate its being named as such. Nationalist groups may not have seen themselves as part of a ‘civil society’, nor might European or Japanese colonial apparatuses have recognised this sphere (or indeed space for indigenous politics at all), but structurally, the space in which these initiatives transpired *was* that of civil society – implying yet another reason not to feel overly bound to define civil society vis-à-vis a state, rather than simply on its own merits.

### **Political turning points**

Not only shifts in the composition and mix of CSOs, but also in perspectives on civil society, reflect broader political changes. Actors from civil society have played momentous roles in the region, but periodically. That these turning points often occur in sync across several states in the region reflects not just the interconnectedness of Southeast Asian politics, but also underlying socioeconomic fault lines that traverse the region. Our goal here is not to offer a country-by-country sketch, but to identify a few especially important *regional* turning points, especially sparked by common shocks. Although the chapters that follow home in substantially on 21st-century civil society, recent and current developments obviously build on the structural and normative foundations previous developments established.

The first such shock, and the period it shaped, was arguably the most formative, not just for the shape and character of civil society: the syndrome of World War II, the Japanese occupation, and the decolonisation that followed in the 1940s–1950s. The shift from a colonial to postcolonial framework inherently altered the position and potential of local organisations and activists. In ‘the West’, a bourgeoisie that emerged with capitalist expansion essentially toppled feudal orders. However, not only did colonial states in most of Southeast Asia coexist with and make political and economic use of feudal elites, but also capitalist development was tied tightly to that state, which allowed very little space for the development of an ‘independent’ bourgeoisie. What defined early movements and organisations in Southeast Asia was often, therefore, resistance to repressive colonial domination and feudalism, along with broader struggles over citizenship and inclusion. The onset of the Cold War in the midst of that ferment affected civil societies in profound ways, especially as the assumptions of ‘domino theory’ translated into broad repression of political dissent (Hansson, Hewison, and Glassman 2020).

Even in this inhospitable context, CSOs continued to evolve. The 1960s and 1970s saw the emergence of important student movements and other, often left-leaning, activism, from Saigon, to Bangkok, Kuala Lumpur, Manila, and Jakarta. A backlash against these largely urban-based initiatives against dictatorships and for justice and political rights led, in several instances, to further restrictions on the space for civil society activism and organisation. Moreover, this anti-leftist action primed societies for the

further concentration and consolidation of political power – which contemporaneous elites commonly saw as a prerequisite for economic development. Importantly, though, these early episodes of mobilisation laid a structural and normative foundation for later activism and organisation.

Next came the reconfiguring disruption of the developmentalist heydays of the 1980s. This period generated expectations of and roles for functional, non-ideological NGOs – even as growing middle classes fostered the same sort of identity-based ‘new social movements’ that thrived in other world regions (Offe 1985; Buechler 1995). Southeast Asian leaders keen to replicate the first movers of the ‘flying geese’ formation (Akamatsu 1962) idealised technocratic leadership, insulated from popular pressure. This process overlapped with a global neoliberal shift, which encouraged the crafting, expansion, and support of a developmentalist civil society as a way to facilitate mandated structural-adjustment programmes and the ‘roll back’ of the state (Beckman 1993). Funding initiatives for developmentalist NGOs to provide services ranging from supplying potable water to offering English classes in rural communities permeated and redirected local civil societies. International financial institutions and bilateral aid programmes supported the development of suitably apolitical CSOs – not those they considered expressions of ‘special interests’, such as trade unions – to partner in this work.

But the state’s insulation also isolated it from the wider society. While international actors supported technocratic strong-man leadership, pressures for change ratcheted upwards in several countries in the region. Western international policy elites who saw in the end of the Cold War the ‘end of history’ now re-emphasised support for civil society, in the belief that a dense civil society would have inherently democratising effects. Programmes for international democracy-promotion intensified, focused substantially on expanding, but not necessarily democratising, civil society. An NGO sector financially dependent on external sources, and generally chary of issues or fields that their governments might deem threatening or ‘sensitive’, thrived in several states in the region.

The third shock, the Asian Financial Crisis of the late 1990s, not only sparked an immediate wave of efforts at systemic political reform in Indonesia, Thailand, and Malaysia in particular but also laid the ground for a wider transformation in civil society in the decade that followed. In the wake of that trauma, in the mid-2000s, massive popular protests shook multiple counties: Malaysia’s Bersih movement for electoral reform, Thailand’s pro-democratic (and pro-Thaksin Shinawatra) ‘red-shirts’ and royalist ‘yellow-shirts’, massive land and labour protests in Cambodia and Vietnam, ongoing disputes over the direction of democratisation in Indonesia, and monk-led mass protests in Myanmar. What ignited activism across contexts differed, but the protests shared a focus at least in part on economic and political inequality, reflecting common roots, at least indirectly (and in some cases, umbilically) in the effects of the financial crisis of the late 1990s; all, too, opened space for other identities to press their interests, directed towards both society and their governments. These efforts triggered not just positive reforms and gains, in some cases, but also conservative anti-democratic counter-movements, seeding much of the polarisation we see today (for instance, Ufen, this volume). This activism also gave rise to a plethora of new, smaller organisations and revivification or retuning of ‘old’ organisations, such as the ‘Octobrists’, or former left-wing students in the struggles of the 1970s (especially October 1973 and 1976), in Thailand (Kanokrat 2016), as fresh shoots emerged around the fringes of broader movements.

The longstanding conflicts that took public expression in and around the mid-2000s remain unresolved today; indeed, most have since been exacerbated. The divisions, organisations, movements, and ideas that germinated then arguably laid the ground for current movements and counter-movements in Southeast Asia – our final key turning point. The COVID-19 pandemic has accelerated trends already crystallising: virtually all political regimes in the region are currently drifting towards autocracy, as democracy recedes, fails to consolidate, or slips further from reach, all the more so with pandemic-driven securitisation (Supalak 2020; Azmil and Por 2020; Hapal 2021; Mietzner 2020, 2021). Amid those shifts, the space of civil society, echoing that of formal politics, has grown more heatedly polarised rather than merely plural and contentious.

We see not only cognate strategies, perhaps extending to efforts at mimicry, among protesters, but also ‘autocratic learning’ among states (often with counter-protesters’ enthusiastic backing): would-be authoritarians emulate their counterparts’ successful strategies to stay in power and to prevent regime change, such as through controlling the internet and social media. Social-media platforms and other multinational corporations may collaborate with such regimes (even as activists find other online venues and spaces), encouraging such ‘learning’. For example, we see cognate legislative efforts and policy changes, extending to joint policies to prevent pro-democratic ‘colour revolutions’ (as in Europe or North Africa) from developing in the region and challenging existing political regimes. Those efforts extend even to open intergovernmental collaboration – a joint Chinese and Cambodian government think tank, for instance – to investigate such campaigns and prevent them from taking root (Rathavong 2017). Furthermore, in some countries in the region, such as Vietnam, Laos, and Cambodia, ruling parties have revived Cold War concepts and labels to describe the threat they see to their own political future, from civil society and from within the formal political system itself. Propaganda, party-supported research, and official media warn against ‘dark forces’ that aim to use the ‘guise of civil society’ and being ‘pro-democracy’ to attack the political regime, while new party regulations have specified signs of ‘peaceful evolution’ in order to weed out elements with such inclinations from within the ruling party apparatus and civil society.<sup>8</sup>

At the same time, pro-democratic civil society is probably more determined, if not stronger, than ever, in the face of emerging threats and as ‘Generation Z’ activists bring other identities and issues into the public sphere, as more fully part of local struggles (claims regarding gender, sexuality, environment and climate, etc.). Transnational alliances among likeminded CSOs have made headway, too. For instance, the social-media-based ‘Milk Tea Alliance’ emerged in 2020 among pro-democracy and rights-advocacy groups and individuals in several countries across the region; among other campaigns, the Alliance supported cross-national protests and rallies in solidarity with the civil disobedience movement in Myanmar and against the military coup d’état. The tensions that give rise to these efforts and the doggedness of state resistance, though, not only broaden the scope of current movements but perhaps also widen polarisation and foment new divisions in civil society.

### **What we contribute**

Attention to the diversity of Southeast Asian experience not only deepens our empirical knowledge of Southeast Asia but also shifts the theoretical frame. Seminal works on Latin America, Africa, and Europe largely laid the conceptual ground for how scholars and practitioners have approached civil society. Notwithstanding important turns in

social-movement (and later contentious politics) scholarship towards questions of identity, smaller bore policy advocacy, ideologically conservative mobilisation, and so forth, much of the foundational work on civil society writ large really focuses on pro-democratic regime change and the liberalising potential of civil society. Scholars addressed a gamut of cases (though Southeast Asian ones were not prominent among them) to probe the role, character, and scope of civil society and the engagement it hosts, but especially the then-newly post-communist states that emerged with the fall of the Soviet Union, or Latin American and African states in and after transitions from different forms of authoritarianism or dominant-party rule (among many others, Alvarez 1990; Chazan 1992; Weigle and Butterfield 1992; Oxhorn 1994; Dryzek 1996; Ekiert and Kubik 1998). (Work on the Middle East and North Africa – the ‘Muslim world’ – lagged but still made its mark; for instance, Norton 1995/1996.) Of course, Southeast Asia not been immune, too, either to pro-democracy social-movement campaigns, successful or otherwise, or to analyses of these and what they tell us about civil society (e.g. Hikam 1996; Jones 1998; Hedman 2001; Weiss 2006). Even so, works on the region do present a far wider range of reforms to which civil society may contribute.

In part, what distinguishes Southeast Asia most obviously is that democratic capacity has never been high in the region, however much it now is shrinking. All the chapters here are in some way informed by notable trends of democratic erosion or autocratisation in the region and understand civil society space as, if not actively dwindling, then at least precariously pressed by illiberal or anti-democratic forces. We find then not only the paradox of constrained space for civil society, but also highly consequential engagement within that narrow space, complementing or supplementing lack of democratic space also in formal politics (even in the region’s closest-to-liberal democracies). In fact, the sorts of shifts we see in Southeast Asia – for instance, increasing polarisation not just in formal politics, but also in the informal politics of civil society – along with our approach of conceptualising civil society as a space rather than a set of structures, resonate anywhere. Furthermore, an ecumenical lens not only on what structural forms might occupy civil society, but also on normative or ideological starting points, as well as tactics and strategies activists adopt, presents a broadly germane reconceptualisation. The role of CSOs as partners to political parties, government agencies, and international organisations, for instance, is not only unmissable in Southeast Asia but also warrants greater attention, and being ‘counted’ as properly within civil society, in other regions.

The chapters to come interrogate, apply, and extend these concepts and frameworks. We divide the chapters into five sections, for heuristic purposes: spaces and platforms, place within politics, resources and tactics, identity formation and claims, and advocacy. Some of the chapters home in on a single country; others address two, several, or the region as a whole. None, of course, aspires to be the last word on the topic it broaches. Indeed, research on civil society in Southeast Asia, while developing and diversifying in recent years, is still very much in its infancy, particularly in the several countries in the region where such work risks branding as ‘sensitive’ and potentially subversive. It is our hope that this volume will contribute inspiration for continued enquiry, and for scholarly as well as activist engagement.

### ***Structure of the volume***

We begin in [Part I](#) with spaces and platforms of civil society in Southeast Asia. Merlyna Lim kicks off the discussion with an examination of the internet and social media as platforms for action, available across the gamut of movements. Emerging media have

always, Lim argues, attracted controversy and debate; the latest variants, like their predecessors, offer utility to advance progressive and regressive interests alike. As she details, however, the specific types of platforms that social media provide have fostered shifts in the character of political discourse, important not only for electoral competition, but also for civil society. From media, we turn to the arts with Minna Valjakka's chapter. She examines the arts as not only political (as well as embroiled in markets and other institutions and communities), but as also deeply salient to civil society. Installations and other artistic productions disseminate information, raise awareness, and encourage socio-political action – and also have, and gain attention and credence from, aesthetic value. Her chapter examines artists working in challenging circumstances in Myanmar and Singapore, and to the networks through which their works circulate, to see these dynamics in action.

Delving into Southeast Asia's increasingly dense and expansive urban spaces, Rita Padawangi recommends that we shift our lens on civil society and mobilisation to give spatial perspectives their due. She examines cities as both sites and foci of mobilisation. Through case studies of a fraught electoral contest in Jakarta and of housing-rights activism, she demonstrates both how inherently political urban space is, and what we miss analytically if we fail to appreciate local-level mobilisation and resistance against structural subordination. As with several other chapters in the volume, Padawangi addresses how extractive development models that governments and private-sector allies have pursued in the Southeast Asian region contribute to setting limits to who can participate in civil society but, at the same time, spawn counter-movements, especially when formal political avenues appear limited.

We turn then to Ward Berenschot and Adriaan Bedner, who examine the range of strategies glossed as legal mobilisation, to understand the scope not only for its pursuit, but also for its success, across the region. They start by sketching and comparing legal opportunity structures, or the conditions that make legal mobilisation more or less likely to prove effective. Their analysis of legal mobilisation around land conflicts in Indonesia and the Philippines, and labour rights in Malaysia and Thailand, finds NGOs across these cases reluctant to turn to the courts – notwithstanding fairly different conditions and openings across states – and courts and legislatures, hence, unlikely to feel especially pressured to reform.

**Part II** takes us to the nexus of civil society and formal politics, across regime types, both domestic and transnational. First, Andreas Ufen explores the role of civil society in regime transitions, by comparing the political salience of civil society in Indonesia and Malaysia over time. In particular, he traces the efforts and impacts of 'uncivil' or anti-pluralist actors in making use of civil society space and how that affects democratic or democratising states. This examination makes clear how ambiguous CSOs' political roles may be: they may push against, or for authoritarianism, and may present quite different visions of the common good.

Continuing in this vein – and like Ufen, taking as starting point a critical review of the democratisation literature and what it understates or misses – Kristian Stokke homes in on the complex, disheartening case of Myanmar. He traces and assesses Myanmar's vacillation between military rule and (limited) democracy, and the sorts of mobilisation that occurred within civil society at and between each phase. This examination draws attention to the different mix of organisational forms and objectives active at different stages, culminating in the current upsurge and impact of novel initiatives for mass mobilisation in the anti-coup Spring Revolution.

Anders Uhlin's chapter scales our inquiry up to the regional level, to assess civil society as a component of the Association of Southeast Asian Nations (ASEAN) landscape. His analysis distinguishes among substantive legitimation, delegitimation, and symbolic legitimation as objectives or end-results of engagement. Uhlin finds that while civil societal activists do approach ASEAN and engage as they might, their efforts ultimately convey primarily symbolic legitimacy: they neither result in substantive change nor delegitimize the regional body.

In [Part III](#), we examine resources and tactics available for civil societal mobilisation. Rosalia Sciortino details the mechanics, strengths, and fault-lines in how CSOs secure funding in an increasingly challenging resource environment, both domestic and internationally. More than that, though, she makes a case for the imperative of ensuring more solid and sustainable financial footing for civil society, both to bolster democracy and good governance, and to redress socioeconomic inequities that the COVID-19 pandemic has made all the more apparent and dire.

Astrid Norén-Nilsson moves the focus to questions of leadership in civil society – a critically important resource and perspective, as she explains, but one that scholarship on civil society tends to neglect. Looking both broadly across Southeast Asia and more closely at Cambodian civil society, she examines the role of leaders, and of the study of leadership in disentangling, the relationship among grassroots, CSOs, and state. She probes, too, the roots and emergence of civil society leadership, how sphere-spanning elite networks operate, and what closer consideration of leaders reveals about the workings and scope of civil society.

Next in this discussion of resources and tactics, complicating the common view of civil society as a space for nonviolent activism, Joakim Kreutz scrutinises the appeal and potential of violent strategies. Acknowledging the lack of a clear distinction between 'civil' and 'uncivil' organisations, he seeks to trace when and why CSOs in Southeast Asia resort to violence rather than limiting themselves to nonviolent strategies. He finds that organisations do not move frequently or so readily between modes: radicalisation and de-escalation both may happen, and CSOs think carefully about their strategic choices, but switching modes is challenging. The extent and character of government repression is especially salient to CSOs' decision to adopt violent means directly or through alliance with violent actors, but so is protestors' assessment of the odds that nonviolence may succeed.

With [Part IV](#), we shift to collective-identity formation and claims around these identities. Duanghathai Buranajoenkij examines mobilisation by and for women and questions of gender, focusing on Thailand. Her historically grounded analysis charts change over time not only in women's groups' membership, foci, and objectives, but also of different ways in which activists have pursued feminist agendas – including via broader political movements. Even as she notes the emergence of a promising new young-feminist movement, however, she acknowledges how persistent and problematic issues of sexism and sexual harassment remain, including within activist communities. And she examines, too, the propensity for instrumental state use of feminist ideas and women's groups as a legitimating strategy.

Helle Rydström, Hương Thu Nguyễn, and An Ngọc Hoàng next delve into Vietnam, to detail the character of an emergent LGBT movement there. They explain the extent to which activists have pushed back against 'misrecognition' of LGBT individuals in Vietnam, starting with the state's designation of homosexuality as a 'social evil' in the mid-1980s. Those efforts at securing official recognition and toleration have made



remarkable headway, especially in contrast to developments in most of the region. Much as Duangthai assesses state co-optation of a women's rights agenda in Thailand, they acknowledge an element of 'pinkwashing', or of the state's strategic concessions on LGBT rights-claims in a bid to appear 'progressive' on an international stage. Nonetheless, they see real advances in Vietnam, not just in terms of state policies, but also in the form of an increasingly organised and mobilised LGBT movement within civil society.

Shifting to questions of ethnicity and indigeneity, Jacques Bertrand and Cheng Xu examine how these identity claims undergird distinct patterns of mobilisation. Indigenous claim-making, they argue, is a subset of ethnic claim-making; what distinguishes these categories is less the actual indigeneity of a given group than the claims groups present. Indigenous claims tend towards 'defensive localism' shaped by both global and domestic norms and laws, seldom pitched towards broad coalitions, and less threatening to states than ethnic claims: indigenous mobilisation focuses more often on local self-determination than on capturing state power. Ethnic claims, in contrast, may include demands for territorial autonomy or independence; as such, states find these claims harder to accommodate. They develop their analysis with reference to indigenous and ethnic mobilisation in Myanmar, Indonesia, and the Philippines.

Closing out this section, Carlo Bonura's chapter examines what he terms 'religious civil society', in terms of its distinctive spatial and, especially, normative aspects in Muslim, Christian, and Buddhist societies across Southeast Asia. Religion has been and remains highly important to socio-political life throughout the region, in complex and varied ways. Southeast Asian states intervene notably in questions of religion; religious institutions may be unable to maintain autonomy. That intervention carries implications not only for the structure and character of religiously grounded associational life, but also for the normative resources – worldviews and principles that help shape individuals' political views, policy preferences, and behaviour vis-à-vis the state – religion provides within a given context. Even so, religious organisations, identities, and ideas have long played, and still perform, key roles in the gamut of civil societal initiatives, from policy advocacy to mass mobilisations, region-wide.

Lastly, [Part V](#) explores sectoral or issue-based advocacy. Teri Caraway starts us off by considering organised labour, a potentially especially potent segment of civil society. The existing literature captures better how CSOs other than unions mobilise in the face of threat. Considering pushback from civil society broadly, but especially from organised labour specifically, against autocratisation in Cambodia, Indonesia, and Myanmar, she asks what accounts for variations in how strongly labour mobilised. The answer, she suggests, lies less in the character of labour mobilisation prior to the autocratic turn than in the nature of the regime change itself: a sudden turn is more likely to stimulate aggressive resistance than a more incremental transition.

From labour, we turn to business associations, with Ryan Tans' chapter. These little-studied associations, he suggests, comprise 'contingent civil society', overlapping the latter sphere under delimited circumstances. His analysis challenges a prevailing reading of Southeast Asian business as essentially rent-seeking rather than entrepreneurial, oligarchic, and/or state-connected and suggests the extent to which businesses, like other actors, may seek to augment their power through collective action. Especially important in predicting when, and understanding why and how, businesses engage civil society, he suggests, are the relative structural power and entrepreneurial premise of their members.

Edmund Bon Tai Soon and Wong Pui Yi examine the processes by which human rights activists translate norms and claims for local relevance, or vernacularisation. Specifically, they home in on how human-rights organisations focused on legal mobilisation and protections, with a primary case of Malaysia's LoyarBurok (and offshoot Malaysian Centre for Constitutionalism and Human Rights) and secondary focus on Lembaga Bantuan Hukum Jakarta (Legal Aid Institute Jakarta) in Indonesia, pursue cause lawyering and broader rights-focused social mobilisation. The different institutional and socio-political contexts in which these groups function shape each group's approach in important ways – from how they are organised to core strategies – notwithstanding important similarities.

In his chapter on environmental activism, Oliver Pye delves into the distinct ways in which civil society engages with the environment in Southeast Asia: we find multiple 'environmentalisms' at play. Both domestic and international environmental NGOs are active in Southeast Asia, but their efforts are only part of the story. Rather, in a region in which issues of environmental justice are of necessarily critical importance, a range of other groups and actors, in social movements or otherwise, also push back against predations, press for better resource-governance, and more. Amid complex, ongoing processes of urbanisation and industrialisation, as well as democratic regression, Southeast Asia has become host to hotly contested strategies for both growth and ecological transformation.

Similarly pervasive and challenging region-wide, given these same economic-development patterns, are questions of migrant labour. Stefan Rother addresses migrant workers, as an especially diffused and structurally disempowered, yet increasingly horizontally and vertically mobilised, community in Southeast Asia. Home to both prominent countries of origin and of destination, this region has seen notable success in migrant workers' mobilisation and policy advocacy, particularly in the Philippines. Available political space and allies shape the scope for and character of advocacy that service-oriented community efforts support. Despite their achievements, Southeast Asian migrant workers and organisations still confront structural barriers, especially given their outsider status – and, hence disarticulation from many potential allies – and norms of sovereignty that impede progress on transnational labour protections.

Finally, David Camroux wrap ups the volume with a concluding chapter, drawing out common threads and insights.

## Notes

- 1 Samuel Huntington (1993) especially elevated these ideas: he saw non-western 'Confucian' and 'Islamic' civilizations as having much in common, including prioritising the family and community over individual rights, consensus over dissent, and discipline over liberty. For a criticism of culturalism, see Rodan (1997), who argues that civil society emerges from wider historical processes, such as industrialization and its consequences for class/group relations, and not from particular cultural dispositions.
- 2 Other scholars in this tradition, however, disagree. For instance, Lilja et al. (2017: 45), approaching this question in the Cambodian context, from a Foucauldian concept of power and domination, argue that the feminist NGOs they study, which 'carry out' the struggle 'for' others on their behalf, play important roles in pushing the agenda on gender issues by being involved in 'proxy resistance' for other subalterns.
- 3 In both Vietnam and Laos, such organisational activities directly contradict the institutional organising principles of the party-state. The latter understands broad self-organisation of certain predefined 'functional interests' (women, workers, farmers, etc.) outside its own frames

- as the end of the political regime itself, and therefore a threat to ‘national security’ (Hansson, forthcoming).
- 4 Authoritarian-developmental political leaders often see independent trade unions as particularly threatening, given their disruptive capacity and their members’ expected strategic interest in widening political inclusion and rights. These leaders, especially in countries inclined towards export-oriented, extractivist, low-wage-based development models, including in Southeast Asia, have resorted to divide-and-rule strategies towards unions, combining cooptation, concession, and repression (see Hansson 2011; Pye and Caraway, both this volume).
  - 5 Its close connection with the developmentalist model renders environmental activism especially fraught. The state may serve as de facto accomplice to violent repression, as by not at least protecting citizens who engage in such advocacy, or the state may itself be the perpetrator, as by criminalising activists as ‘rebels’ or delegitimising them as ‘anti-development’. A case in point: after 48 deaths in 2017 and 30 in 2018, in 2019, the Philippines garnered the title of the ‘deadliest country’ in the world for environmental and land activists (Guardian, 30 July 2019). Indeed, environmental activists have suffered penalties ranging from imprisonment to murder across the region, at the hands of political or economic elites – even as various nature-oriented CSOs persist unchecked and may even offer a ‘safe’ venue for forms of political consciousness-raising (e.g. Tsing 2005; Pye, this volume).
  - 6 Xi Chen’s (2020) distinction between ‘civic’ and ‘noncivic’ activism, reflecting divergent state responses to popular protest and mobilisation in China, resonates also with several Southeast Asian contexts. The defining difference for Chen is whether activists advocate for the public interest, which nondemocratic states may see as especially threatening, or (among smaller clusters) for particularistic, private interests. That categorisation challenges previous research on contentious politics that centres material versus nonmaterial claims as most decisive for political elites’ strategies.
  - 7 In fact, Gramsci himself understood civil society to be, with political society, intrinsically part of the state (Buttigieg 1995, 4).
  - 8 For a typical recent example of anti-civil society propaganda: Nguyễn Xuân Mườì and Trần Xuân Dung (2019) issued a strongly worded warning against civil society and the hostile forces lurking behind it, which, they assert, aim to take on the communist party and destroy the Vietnamese regime.

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# **PART I**

## Spaces and platforms





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## 2

# FROM ACTIVIST MEDIA TO ALGORITHMIC POLITICS

## The Internet, social media, and civil society in Southeast Asia

*Merlyna Lim*

On 1 February 2021, the Myanmar military seized power in a coup to overthrow the democratically elected government, declared a one-year state of emergency, and installed Senior General Min Aung Hlaing as the head of the state. The coup sparked nationwide protests, drawing hundreds of thousands onto the streets of major cities in the country. Protestors utilised Facebook for information sharing, news updates, and mobilising resistance against the military junta. In June 2021, despite more than 800 civilian deaths, over 5,000 arrests (Thant Myint-U 2021), and an Internet crackdown, protests continued to erupt across the country. Notwithstanding Facebook's recent use for citizen activism, for years, the very same social-media platform had been widely used to mobilise hatred and violence against the Rohingya population (Rio 2021), stemming from anti-Muslim sentiment broadly shared by the majority of the Burmese.

This story reveals a paradox of the relationship between civil society and social media that is not unique to Myanmar. It also speaks to what has unravelled in many other countries, including elsewhere in Southeast Asia. On the one hand, social media seems to facilitate the emergence of grassroots online activism, which can generate on-the-ground protests. On the other hand, it also aided the spread of disinformation, hatred, and even the mobilisation of violence. Since the mid-2010s, scholarly writing on social media and politics has been most concerned with various negative implications of the platforms. Scholars argue that social media has transitioned from a platform for civic activism and a force for freedom and democracy to one of increasing deception and manipulation as it facilitates the proliferation of disinformation and fake news (Sinpeng and Tapsell 2020), assists the spread of hate speech and discriminatory messages (Kyaw 2021), augments populist and extremist voices (Estella 2021), and exacerbates the polarisation of society (Sunstein 2017).

Much of this discourse replicates the trend of much earlier scholarly debate driven by the diffusion of the Internet throughout the 1990s and every single debate on the introduction of new media in the history of media. However, a closer and longitudinal empirical observation would reveal that the relationship between digital media and civil society is complex and does not always fit a progressive-to-regressive transition scenario. In Southeast Asia, various interests, including undemocratic and regressive ones,

have used digital platforms since the introduction of this technology to the region. Early works on the Internet in Southeast Asia, including my own, demonstrate that, in the late 1990s, uncivil groups had already utilised digital platforms to propagate sectarian messages and mobilise hatred (Bräuchler 2003; Lim 2005 2008).

In the over two decades since the Internet's introduction to the region in the mid-1990s, civil societies have incorporated digital technology for various causes, in diverse settings, with differing outcomes. First, such differences reflect, in part, the changing nature of the complex media ecology where digital media has continued to develop, technologically advance, expand to reach more of the world's population, and gradually move from the margin, as alternative media, to the centre, as part of the mainstream. Second, they also reflect the diversity of civil societies, including uncivil elements. As discussed in the introduction of this volume, civil societies are diverse, structured by 'context-specific cleavages that divide or bind citizens, and by "categorical inequalities" based on ethnicity, economy, class, gender, geography' (Hansson and Weiss, this volume). Further, the incorporation of digital platforms, too, reflects civil society's responses to varied socio-political circumstances in which they work, including state control and repression.

A systematic attempt at mapping the relationship between civil societies and digital media over time and across contexts in Southeast Asia is beyond the scope of this chapter. Instead, I offer a historical narrative of the co-evolution of digital media and civil society and provide insights into the implications of changes in the media environment for politics and the transformation of civil society activism in the region. Covering three chronological but overlapped periods spanning from the 1990s to the early 2020s, I present a historical periodisation that follows technological shifts – notably from the static Internet to blogging to social media – and the ramifications of these shifts for civil society. Finally, the chapter highlights the ambivalent role of digital media as space and platform for civic engagement and mobilisation and an exponent of polarisation, radicalisation, and manipulation.

### **Activist media: early Internet and insurgent civil society activism from the 1990s to mid-2000s**

Throughout history, media have been part of power struggles and played a significant role in civil society movements. Mass media exploitation and the utilisation of alternative media are central to social movement communication. In the late 19th century, alternative media emerged in the form of subversive writings, such as José Rizal's *Noli Me Tangere* and *El Filibusterismo*, that helped inspire the nationalist awakening in the Philippines and invigorated Indonesian and Malaysian nationalism. In early 20th-century Southeast Asia, pro-independence activists utilised pamphlets, books, newsletters, and radio in radicalising the majority and developing anti-colonial movements. During struggles for independence, some countries also saw the emergence and proliferation of a political press. In Vietnam in the 1930s, publications such as *Nam Phong* (Southern Wind), *Phong Hoa*, and *Ngay Nay* contributed to a burgeoning public sphere and shaped intellectual currents of nationalist consciousness in various urban centres (Peycam 2012).

Communication media can be used for various purposes, but some are more suited to certain purposes than others. To further their goals, civil society organisations and activists naturally embrace one (or more) of the most convivial media of the day and

turn it (or them) into activist media. The term ‘convivial’ is drawn from Ivan Illich’s (1973, 10) *Tools for Conviviality*, which defines convivial tools as ‘autonomous and creative intercourse among persons and the intercourse of persons with their environment’. Or, in other words, the propensity for sharing and strengthening bonds within a community (Guercini and Ranfagni 2016). Specifically, I use the term convivial (Lim 2003) to describe the potential usages of certain media that, in contrast to those provided by a centrally or hierarchically managed system, provide users with relative freedom and a wider opportunity to connect and collectivise in pursuing their shared vision and goals. Such media include independent radio in 1984’s People Power in the Philippines (Pascual 1990), clandestine newspapers in the 8888 Uprising in Burma in 1988, and a combination of faxes, photocopiers, cameras, and hand-held video cameras in 1992’s Black May in Thailand (Elliott 2007). The early Internet, which featured one-to-one communication, affordable cost, ease of use, and relative technological resistance to surveillance and censorship, was a convivial medium for civil society in Southeast Asia.

Although the Internet had arrived in the region in the 1980s, mainly through research institutions and university networks, it became commercially available only in the mid-1990s. The economic promise of information and communication technologies (ICT) encouraged countries in the region to make it part of their national development plans. The Singapore government invested billions in Internet infrastructure to form an ‘intelligent island’. In Malaysia, too, the government invested enormously in Internet infrastructure, notably by building the Multimedia Super Corridor, a high-tech business centre developed to pave the country’s leap to the information society. In Indonesia, the government established a national plan for Internet development called *Visi Nusantara-21*, emulating the United States’ National Information Infrastructure. Statistical indicators (Table 2.1) illustrate state-sponsored efforts at ICT development. Between 1995 and 2000, the portion of GDP attributed to ICT was rising for many Asian countries. Personal computer ownership and Internet users surged in line with these increases.

Despite a dramatic increase in Internet users within five years, overall Internet penetration in Southeast Asia in 2000 remained very low. Except in Singapore and Malaysia, less than 10% of the population was online. Some scholars of the early Internet argue

Table 2.1 ICT development indicators for Southeast Asian countries (1995–2000)

Country	Personal computers (per 1,000 people)		Internet users (000s)/ % of population			ICT expenditure as % of GDP	
	1995	2000	1995	2000	2000 (%)	1995	2000
<b>Brunei</b>	38.7	70.1	3	30	9.0	N/A	N/A
<b>Cambodia</b>	0.5	1.1	N/A	6	0.0	N/A	N/A
<b>Indonesia</b>	5.0	9.9	50	2,000	0.9	6.1	8.7
<b>Lao PDR</b>	N/A	2.6	N/A	6	0.1	N/A	N/A
<b>Malaysia</b>	37.3	103.1	40	3,700	21.4	5.0	6.6
<b>Myanmar</b>	N/A	1.1	N/A	7	N/A	N/A	N/A
<b>Philippines</b>	9.6	19.3	20	2,000	2.0	2.6	4.2
<b>Singapore</b>	201.9	483.1	100	1,200	36.0	6.9	9.9
<b>Thailand</b>	14.1	24.3	55	2,300	3.7	2.7	3.7
<b>Vietnam</b>	1.4	8.8	N/A	200	0.3	3.6	6.7

Source: World Bank (2021).

that the level of Internet connectivity correlates with the degree of democratic participation (Kedzie 1997; Cooper 2002). Cooper (2002, 74) boldly states, ‘those who have computers and Internet communications find themselves better trained, better informed and better able to participate in democracy’. Following this logic, in the late 1990s in Southeast Asia, nowhere else but in Singapore and Malaysia would the Internet seem likely to impact politics. In contrast, what unravelled in the late 1990s and early 2000s revealed a different reality.

The technical infrastructures of the Internet in the early 1990s looked very different than they do today. While nearly all governments heavily controlled traditional media, the early Internet was less restricted than any other media due to its economic potential and novelty. Degrees to which existing media control extended to the online space varied from one country to another, but, at that moment, governments lacked the ability to control the Internet effectively. In the meantime, activists immediately grasped the importance of widespread communication networks unbound by traditional delimitations of space and time that the Internet brought.

In connecting especially activists in exile and overseas students with issues of their homeland, Southeast Asian diasporas’ political appropriation of the Internet had begun even before the technology reached the masses in the countries. Burmese activists living in exile used the Internet to declare their cause and coordinate their activities on websites such as Free Burma Online in 1995 (Lim 2018). The Internet also enabled these activists to coordinate action on the ground, such as by the Burma Peace Foundation, which provided the International Labour Organization with on-the-ground reporting on human rights issues in Myanmar. In Indonesia, due to the prolonged absence of non-government sources of political information, the ability of the Internet to connect the global and local was crucial. Indonesian students abroad created several major Internet mailing lists and websites that provided free spaces for political dialogue as early as 1988. Years of connectivity among Indonesian students and activists inside and outside Indonesia through these lists was vital to cultivate anti-Suharto sentiment and collective resistance that eventually challenged the New Order regime’s legitimacy. For Timor-Leste, a new country formed only in 2002, digital activism was part of its struggle for independence in the 1990s (Lim 2018). Linking Timorese civil society actors with global networks such as East Timor Ireland Solidarity Campaign, the American East Timor Action Network (ETAN), the Australian Timor Today, and the Portuguese TimorNet, the Internet helped build a transnational network to support Timorese human rights.

Coincidentally, immediately after the introduction of the Internet to the region, Southeast Asia experienced the Asian Financial Crisis of the late 1990s that ignited massive street protests calling for political reform, particularly in Indonesia, Thailand, and Malaysia. The Internet, which states initially embraced to strengthen their economic position, became part of insurgent movements in these countries. The Internet did not cause political uprisings; social and economic crises did. In Indonesia, for example, only less than 1% of the total population was then online. Thus, the Internet was not the primary platform for mobilisation. However, at that moment, given how controlled traditional media were, as in many other countries in Southeast Asia, the Internet was the only source of politically taboo, controversial, or forbidden information. In Indonesia, unfettered access to information and freedom to talk about many things, from politics to sex, generated much excitement for youngsters who went online at *warnet* (cybercafes) all over Indonesia (Lim 2003). Gossip about the wealth of Suharto’s family quickly became the most popular topic among *warnet* users. In the context of the financial crisis,

the offences of the Suharto family were framed as the cause of the nation's catastrophic economic crisis. United by their opposition against Suharto, students and activists of various backgrounds took charge in mobilising a *Reformasi* movement. In May 1998, using different means of communication not overtly controlled by the government – telephone, fax, cellular phones, and email – people mobilised to topple the Suharto government, which had ruled for over 30 years (Lim 2003).

Like pro-democracy movements elsewhere, the *Reformasi* movement reflects a kind of rainbow coalition not unified by ideology or policy change but by their desire for regime change. Consequently, immediately following the fall of Suharto, various groups, including uncivil ones, quickly embraced the Internet for their political gains. Just as it can support civil society in mobilising a historic pro-democracy movement, the Internet can assist uncivil elements of society in mobilising animosity against other groups (Lim 2002). The Internet became a site for the revival of primordial and ethnoreligious identities, such as in the Moluccan sectarian conflict in 1999–2002, where the fighting that broke out between Christians and Muslims killed at least 500,000 people. In this conflict, for groups such as Laskar Jihad (Jihad Troopers) and Laskar Kristus (Warriors of Christ), armed paramilitary groups that claimed to represent Muslims and Christians, the Internet became a primary propaganda tool and site to mobilise hatred and violence. The Internet made it easier for these radical militia groups to widen their audience and reach for resources; by so doing, they expanded the scale and scope of the battleground (Lim 2002, 2005; Bräuchler 2003).

In Malaysia, despite heavily controlling print and broadcast media, the government decided initially not to censor the Internet. In practice, however, the Internet was not free as the government continued to use media-related and libel laws against online dissenting voices. The earliest nationwide digital activism in the country can be traced back to 1998. That September, Prime Minister Mahathir Mohamad abruptly sacked his deputy, Anwar Ibrahim, making extraordinary accusations, widely regarded as politically motivated, of corruption and sexual misconduct. This dramatic event exploded online, provoked a storm of protests that eventually proliferated to the streets, and began a movement called *Reformasi*. Malaysia did not experience a change in government at that time, but the upheaval resulted in political restructuring. Moreover, the public sphere had been widened by the emergence of online alternative sources of information as rivals of the government's mainstream media, such as *Malaysiakini* and *Harakah Daily* (Leong 2013; Pandi 2014; Weiss 2014; Lim 2016, 2018).

In Thailand, when Internet services became commercially available in 1996, civic and grassroots organisations immediately embraced them to mobilise actions. [Thaidemocracy.org](http://Thaidemocracy.org), for example, successfully organised more than 1,500 volunteer teachers to teach in countryside schools (Lim 2018). Some NGOs and pro-reform organisations also set up websites like [Prachachon.net](http://Prachachon.net), which aimed to counter the state's monopoly on information. Like in Indonesia, the Internet was not the primary tool to rally the public, but years of Internet usage for civic actions and generating alternative information contributed to the 1997 mass mobilisation that forced Prime Minister Chavalit Yongchaiyudh to resign. In subsequent years, the Internet continued to be part of political contestation, including the rise (and fall) of populist leader Thaksin Shinawatra and subsequent political divisions within Thai society.

In the Philippines, even though the media landscape was much freer than in any other country in the region, rallies against President Estrada in January 2001 started primarily online. Immediately after the president took office in 1998, anti-Estrada sentiment

began to accumulate in online forums, culminating in more than 200 websites and 100 email lists by the time People Power II commenced (Pabico 2001). One of these forums, [eLagda.com](#), collected 91,000 e-signatures to support impeachment (Bagalawis 2001). Unlike its print version, daily circulation of which was just 260,000, the online version of *The Philippines Daily Inquirer*, [Inquirer.net](#), became the most popular news source in the weeks preceding People Power II; its reporting was critical of the Estrada government. On January 16 alone, [Inquirer.net](#) logged over 5 million hits. The Internet was the primary source of information that stimulated resistance towards Estrada; mobile phones translated this online resistance into streets protests (Rafael 2006). On January 17, thousands of Filipinos mobilised mainly by text messages reading ‘Go 2 EDSA. Wear blk’, converged on Epifanio de los Santos Avenue, a major crossroads in Manila. In the next few days, the protests grew significantly. By January 20, Estrada resigned, marking the triumph of People Power II. Since then, the Internet and mobile phones have continued to be part of mass protests and digital activism in the Philippines.

Meanwhile, Brunei, Singapore, and Vietnam offer different stories. One of the richest countries and few remaining absolute monarchies in the world, Brunei has neither diverse nor free media. The entire media ecology consists of media that the sultan’s family either owns, partly owns, or controls. The government has invested considerably in digital infrastructure, and the online population has grown steadily. However, the increase in users has not led to resistance against the Sultanate or any form of civic activism. Whereas Brunei has an active online discussion community and digital media are not censored, individuals commonly practise self-censorship online (Lim 2018). In Brunei, the state ensures a cradle-to-grave social welfare system, and, in exchange, the population is expected to be loyal to the monarch without having a representative government. Under this social contract, Bruneians’ digital media usage is primarily guided by ‘a high degree of self-restraint and respect for the royal family’ (Li 2012, 29).

Despite public apathy regarding civic and political utilisation of the Internet in Singapore, online space was not free from digital activism in the mid-1990s. Before the Internet became widely available in 1995, an online political expression first surfaced on newsgroups, forums, and bulletin boards. In 1989, online forum [soc.culture.asean](#) was created; it was the first recorded online platform in which Singaporean issues were discussed (Tan 2001). Years later, in 1992, a Singapore-specific socio-political discussion group, [soc.culture.singapore](#), was born. Like elsewhere, these early discussions took place largely among overseas Singaporean students who accessed the Internet through their universities. In 1994, discussions started more domestically with the launch of *Sintercom*, an online forum, the content of which was political despite its claim to be a ‘civic’ organisation (Lim 2018). The late 1990s also saw the emergence of lively political chat boards, including notable IRC channels that fostered gay forums such as #GAM, #SGBOY, and #GSG, and email lists such as the Singapore Gay News List (SigNel) and RedQuEEn!, a list for queer-identified women. The government’s pressure to register as a political organisation forced *Sintercom* to shut itself down in 2001, only to reincarnate as the *New Sintercom* in 2004. The early 2000s also saw the rising popularity of underground political sites such as satirical website *Talking Cock*, newsgroups *The Optical* and [sgForums.com](#), and alternative sites like *Think Centre*, *Singapore Window*, and *Sammyboy* (Portmann 2011).

In Vietnam, the government attempted to control the Internet once it became commercially available in 1997. With the growing popularity of cybercafés in the late 1990s to early 2000s, the government made café owners responsible for their customers’

messages and set up a national monitoring system to ensure that cybercafé users did not see ‘politically or morally dangerous websites’ (RSF 2003). To deter dissidents, the government arrested several activists who digitally published criticisms of the government or religious texts. During a 2002 crackdown on dissidents, Nguyen Vu Binh and Nguyen Khac Toan were arrested in Hanoi cybercafés, found guilty of espionage, and imprisoned for posting material on the Internet calling for democratic change and more respect for human rights (Lim 2018). Then in March 2003, activist Nguyen Dan Que was arrested after emailing a series of statements about Vietnamese media censorship. Cybercafé policing continued until the 2010s, and the state’s control over the Internet continued to be strict. However, as discussed later, Vietnam’s digital space has been unceasingly politically vibrant.

In this section, we have learned that the old-time Internet was a suitable medium for civil society in Southeast Asia. During the period of the early Internet, civil society activists and groups as well as concerned citizens managed to work within and around the technological and regulatory environment to enrich and extend their political spheres. By being convivial, the socio-technical landscape of the early Internet was compliant for civic pursuits. As a novel medium, the Internet was suited to civil society and grassroots citizen action by making it less easy for a small number of groups to control the flow and content of information, knowledge, and ideological or symbolic representations (Lim 2003). However, this does not mean that the Internet cannot also be compliant in the face of undemocratic and uncivil actions. As a convivial media, the Internet lent itself to an ambiguous state of affairs, opening varied trajectories for possible political uses among fractions of society, the state, and corporations.

### **The rise and decline of blogging activism from the mid-2000s to the early 2010s**

The Internet went through some key technical developments that had consequences for how users produce and consume information and how they connect with each other. The shift from static Internet to interactive blogging was one of the main such changes. Technically, this shift represented the evolution from a network of static websites serving content to audiences towards an integrated digital platform serving interoperable and dynamic websites to users. For activists, it provided a new avenue for publishing information vis-à-vis mainstream sources and/or states’ propaganda, and for interaction, discussion, and deliberation. While at times, blogs were utilised for mobilisation, I argue that blogging activism in Southeast Asia was primarily a form of discursive activism, or propagation of alternative discourses that sought to challenge opposing discourses by identifying and exposing power relations and the flawed assumptions in existing mainstream social discourses (Fine 1992, 221). Activists utilised blogs to break social silences on certain issues; by so doing, they disrupted political discourses that justified inequality, discrimination, and various forms of repression. Further, blogger-activists also made their political views and ideological positions visible to each other, paving ways to broker disparate activists and bridge previously disconnected civil society groups, thus expanding activist networks. Blogging became popular in Southeast Asia in the early 2000s with the availability of free platforms such as [Blogger.com](#), [Livejournal.com](#), [Wordpress.com](#), and [Multiply.com](#). Admittedly, political blogs took up only a fraction of the blogosphere. Most blogs served as personal diaries that were sparsely connected and not political in nature. However, the following stories show, political blogs were essential in civil societal repertoires.



Malaysia's story explicitly demonstrates the importance of blogging. By early 2000, with the imprisonment of the *Reformasi* movement's leader, Anwar Ibrahim, oppositional protests largely disappeared from the streets. Yet, online activism remained strong. Alternative news sites such as *Malaysiakini* continued to be popular among Malaysians. Meanwhile, in 2002, blogging activism emerged. Most Malaysian blogs were apolitical, but many top bloggers were political and in opposition to the ruling coalition, Barisan Nasional. From 2002 to 2007, the blogosphere facilitated activists' framing issues of common concern, deliberating about a reform agenda, and building a civic community (Pandi 2014; Lim 2016). As such, it provided the basis and ingredients for the making of Bersih (the Coalition for Clean and Fair Elections), an electoral reform initiative, in 2006 and its continuing movements throughout the 2010s (Leong 2013; Lim 2017). Many top political bloggers became Bersih leaders and activists, some even winning seats in the 2008 elections.

In Singapore, political bloggers gained public attention before and during the 2006 general election. In keeping with its promise for keeping the Internet relatively free (more so than traditional media), the Singapore government allowed blogs to flourish despite a ban on 'explicit political content' and mandatory registration for political bloggers. Various underground political commentary sites discussed earlier continued to operate. Some, like *Think Centre*, *Talking Cock*, and *Sammyboy*, took advantage of the versatility of the blogging format, migrating from static websites to interactive blogs. Singaporean online discursive activism thrives in contentious journalism, journalism that challenges 'the consensus that powerful interests try to shape and sustain through the mainstream media' (George 2006, 3). This activism also helped marginalised groups such as LGBT activists and individuals to cultivate networks of solidarity. In 2000, when public attitudes towards the LGBT community were largely hostile, People Like Us (PLU, a gay rights organisation) applied for permission to organise a public forum and was rejected on the grounds that the society was 'too conservative'. However, PLU and other LGBT groups continued to network online and offline. They held the first public gay pride month, called IndigNation, in August 2005. This event continued for several years, paving the way for the realisation of the first Pink Dot SG in 2009, an event supporting the LGBT community in the country held annually since at the Speaker's Corner, where the government allows public talks and activities without a license (Singapore LGBT encyclopaedia Wiki n.d.).

Blogging started to become popular in Vietnam in 2005, notably through the Yahoo!360 domain launch (Trang 2012). In 2007, with over 3 million recorded blogs, the growth of the Vietnamese blogosphere was described as a 'social phenomenon' or 'a new sort of freedom' (Duong 2017, 375). Like elsewhere, political blogs made up a small part of the Vietnamese blogosphere. However, they played a central role in 'breaking important news items that would have been held up, undiscovered or ignored for some time or forever' (Nguyen 2009, 3). Additionally, these blogs were instrumental in stimulating conversations on public affairs among different segments of the public, especially Vietnamese youth. Early political bloggers openly wrote about human rights violations, religious discrimination, land rights, corruption, and other contentious issues. Examples of such blogs include *Mẹ Nấm* (Mother Mushroom) by Nguyen Ngoc Nhu Quynh, *Dieu Cay* (Peasant's Pipe) by Nguyễn Văn Hải, and *Cong Ly Va Su That* (Justice and Truth) by Tạ Phong Tần. Quynh was arrested in 2009 for blogging about government land confiscation.<sup>1</sup> Meanwhile, Hải and Tần, along with fellow blogger Phan Thanh Hải, collectively formed a 'Free Vietnamese Journalists' Club' network; the three were eventually charged with writing anti-state propaganda. The existence of early political blogs and

millions of other blogs ended when Yahoo decided to shut down Yahoo!360 permanently in July 2009 (Trang 2012). Following Yahoo!360's closure, 2009–2011 saw the creation of new political blogs that challenged the state's propaganda on [WordPress.com](#) and [Blogger.com](#), such as *Bauxite Vietnam*, *Vietnam Redemptorist News*, and *Bao Khong Le* (Newspaper Without Lanes). The rise of political blogging helped activists to network with each other and facilitated the mobilisation of various protests on the ground, notably in Hanoi and Ho Chi Minh City. The government responded by suppressing protests and escalating its crackdown on the blogosphere. Despite the government's jailing of online dissidents, digital activism continues in the country.

In the early 2000s, Cambodia, Laos, Myanmar, and Timor-Leste still lagged in Internet infrastructure development. The Internet population in these countries was low and connections were painfully slow, yet strict regulations applied in all except Timor-Leste, where the government decided to protect freedom of media. In Cambodia, King Father of Cambodia Norodom Sihanouk's participation in the blogosphere and a 'cloggers' (Cambodian bloggers) campaign drove blogging's popularity. The campaign was a nationwide effort to recruit and train young Cambodians to become cloggers, pioneered by a group named the Personal Information Technology Workshops (PITW). Cloggers, in general, avoided talking about politics due to fear of being persecuted. However, a small network of cloggers dedicated themselves to blogging about social and political issues; some of them were active volunteers in PITW. In 2007, they held blogging workshops in 20 universities across the country (Lim 2018). To avoid being banned, these cloggers consciously omitted anything related to politics at the training itself. However, by urging Cambodians to express their opinions and share their concerns on various social issues in the blogosphere, they indirectly turned some students into citizen-journalist cloggers.<sup>2</sup>

In Myanmar, the Internet began to be available to a small segment of the population in 2004, with the establishment of access to a limited package of government-approved websites called the Myanmar Wide Web (Lim 2018). This network blocked international traffic, and the government closely monitored all .mn emails and websites. However, in urban areas such as Yangon, cybercafé users managed to bypass the government's firewalls using proxy servers to evade the censors and access banned sites (Doherty 2010). Despite poor Internet connections and aggressive state surveillance, blogs became a popular platform for individuals to express their opinion on topics from food to fashion to politics. In 2007, political bloggers formed the Myanmar Bloggers Society, whose mission was to provide basic training and workshops for start-ups and the blogging community. In August 2007, they held their first public event, called 'We Blog, We Unite', attended by more than 300 bloggers. A month later, rallies against the military junta unfolded. The 'Saffron Revolution'

caught global attention as bloggers and digital activists flooded cyberspace with grainy images and videos of saffron-robed monks leading large, peaceful demonstrations against the government ... Burmese citizens took pictures and videos, many on their mobile phones, and secretly uploaded them from Internet cafes or sent digital files across the border to be uploaded.

*(Chowdury 2008, 4)*

The government responded by cracking down on the protestors and shutting down the Internet.

Blogging also thrived in the mid-2000s Philippines and post-Suharto Indonesia, where citizens enjoyed greater freedom and access to information. Filipinos and Indonesians

dominated [Multiply.com](#), a clustered blogging platform with over 11 million registered users in 2010; they ranked second and third after Americans, with around 2.6 and 2.3 million users, respectively. Like elsewhere, in these two countries, blogging was largely apolitical. Unlike in more authoritarian states, socio-political blogs did not create a counter-sphere in direct opposition to the government. In Indonesia, blogging pioneers campaigned for positive blogging, meaning 'not being cynical on the Internet' (Jakarta Post 2016), which, to a certain degree, discouraged bloggers from being overly critical of the government. This attitude, in part, reflects a backlash against more critical use of the Internet in the *Reformasi* era, including '*kritik tanpa solusi*' (criticising without giving a solution). Indonesian bloggers celebrated the government's support as the Minister of Communication and Information declared October 27 as the National Bloggers Day as he briefly attended a social gathering of bloggers in Jakarta that day in 2007.<sup>3</sup> Ironically, this Minister was involved in issuing the 2008 Information and Electronic Transactions (ITE, *Informasi dan Transaksi Elektronik*) Law, whose defamation clause has been frequently misused to silence voices that express criticism of the government and vested interests. Blogging activism existed, but it was largely driven by trending social or political issues that mainstream broadcast media publicised. Corruption and personal scandals of politicians, artists, and other celebrities were among the most common trending issues. My research on the top 80 Indonesian socio-political blogs (2009–2011), for example, found that a pornography scandal involving artists Ariel and Luna Maya generated many blog postings and comments while much bigger social problems, such as the mud-flood disaster in the poor area of Sidoarjo and violent attacks against Ahmadiyah members, did not gain any traction (Lim 2013).

In Southeast Asia, blogging emerged as an ambivalent space for activism. In a place where state repression is severe, like Cambodia, blogs can facilitate a social network among disparate activists, which can be used to generate collective action in the future. It can even enable brokerage that allows 'people to organise and assimilate their experiences and deliberate beyond existing political boundaries' (Lim 2016, 4), as demonstrated in the Malaysian case of Bersih. When opportunities present themselves, such as in the Myanmar case, blogs can help activists mobilise for their causes, which may not get the desired result, but does help in disseminating messages and building collective resistance. And yet, due to the skills, time, and resources needed to blog, blogging remains a narrow, elite pursuit. Also, while citizen journalism exists in the blogosphere, in places where media are freer such as the Philippines and Indonesia, mainstream news and broadcast media, driven by consumer interests and ratings, dictate the popularity of topics and content for activist blogging.

While some bloggers continued to maintain their blogs, around the early to mid-2010s, blogging activity generally declined. By the late 2000s, as social media became increasingly popular in Southeast Asia, many bloggers started to embrace these as their primary platforms to share content. In my research on Indonesian and Malaysian blogospheres in 2009–2013, I observed that initially bloggers used Twitter and Facebook to promote links to their blogs, but many eventually stopped blogging altogether. In Indonesia, by the end of 2011, there were 5 million bloggers out of 45 million Internet users; this number declined to 3 million in 2015, while the online population increased to 88 million. Low social presence seemed to push activists towards blogging. In contrast, the larger audience network and relative ease of use of newly emerging social-media platforms resulted in a pull effect. Another reason for the migration is the fact that blogs are easy to track, making political bloggers vulnerable to state surveillance.

By the early 2010s, as more and more online dissidents migrated from blogs to harder-to-control Facebook and Twitter, as discussed in the next section, social-media activism in Southeast Asia had become more vibrant.

### Civil society and the rise of algorithmic politics from the late 2000s to present

Social media’s introduction to Southeast Asia marked a different period of digital activism. On the one hand, social media provide affordances for civil society groups and activists to communicate and interact with each other, form associational networks, distribute content, and mobilise mass activism. On the other hand, social-media networks are vast, content is over-abundant, attention spans are short, and conversations are parsed into diminutive sentences (Lim 2013, 644). In this milieu, civil society must work against the ‘shrinking soundbite’ (Lim 2013, 651) and algorithmic biases that privilege simple or simplified and emotion-provoking extreme content (Lim 2020). During this period, civil society activism has worked amid the rise of *algorithmic politics*, marked by the prevalence of binary populist frameworks and *algorithmic enclaves* that are largely unfavourable to civic and democratic pursuits. Furthermore, civil society also operates against increasing states’ control and surveillance.

By early 2021, there were 464 million social-media users in Southeast Asia, from a population of 671 million (69%). With little progress made in developing broadband infrastructure, 99% of users accessed social media through mobile phones. With over 887 million connections (132%) (Data Reportal 2021), mobile phones outnumbered people. Facebook is the primary social-media platform in Southeast Asia (see Table 2.2). It swept across the region by the late 2000s initially as a tool to keep in touch with friends beyond the usual in-person meetings. However, as usage expanded exponentially and the platform itself developed new features, the ways people use Facebook multiplied, and their time on it lengthened. While complete statistics are unavailable, WhatsApp has also become very popular. Indonesia alone had 68 million users in 2020 (Iqbal 2021). Averaging 6 hours and 54 minutes a day, Southeast Asian users spend more time online than the global average. At close to 11 hours a day, Filipinos rank first

Table 2.2 Internet, mobile phone, and social media shares in Southeast Asia

Country	Total population (in millions)	Internet (%)	Mobile				Facebook (%)	YouTube (%)	Twitter (%)	Instagram (%)
			phones (%)	Social media (%)	social media (%)	Facebook (%)				
Brunei	0.4395	95.0	129.3	99.0	98.3	90.2		18.1	70.5	
Cambodia	16.83	52.6	125.8	71.3	70.7	89.5		0.9	12.2	
Indonesia	274.9	73.7	125.6	61.8	61.2	65.7	42.6	6.6	39.9	
Laos	7.33	48.4	79.1	49.1	48.9	64.2		1.1	8.9	
Malaysia	32.57	84.2	122.8	86.0	65.0	92.5	81.7	12.9	54.0	
Myanmar	54.61	43.3	127.2	53.1	53.0	63.1			3.3	
Philippines	110.3	58.0	138.2	80.7	79.7	101.5	59.7	9.6	18.3	
Singapore	5.87	90.0	145.5	84.4	83.4	74.3	84.7	33.4	47.7	
Thailand	69.88	69.5	129.7	78.7	78.1	84.9	54.3	12.2	26.6	
Timor-Leste	1.33	45.1	109.7	33.1	32.6	46.5		0.3	9.2	

Compiled by the author from Data Reportal (2021). Percentages of Internet, mobile phone, social media, and mobile social-media users are of total population. Facebook, YouTube, Twitter, and Instagram shares of audience are per potential advertising audience, or total population aged 13+.

Table 2.3 Freedom in Southeast Asia

<i>Country</i>	<i>Freedom in the world</i>	<i>Freedom of the net</i>	<i>World press freedom index</i>
Brunei	Not free	–	154
Cambodia	Not free	Partly free	144
Indonesia	Partly free	Partly free	113
Laos	Not free	–	172
Malaysia	Partly free	Partly free	119
Myanmar	Not free	Not free	140
Philippines	Partly free	Partly free	138
Singapore	Partly free	Partly free	160
Thailand	Not free	Not free	137
Timor-Leste	Free	–	72
Vietnam	Not free	Not free	175

Compiled from Freedom House (2021), RSF (2021).

globally. Malaysia, Indonesia, and Thailand fall within the top ten, at 9:17, 8:52, and 8:44, respectively (Data Reportal 2021). With such ubiquitous and intense usage, social media has become more and more integrated into everyday activities, including politics. Thus, civil society and grassroots activism unsurprisingly embrace social media. However, the degree to which social-media-fuelled activism has resulted in successful mass mobilisation differs from one place to another, depending on the socio-political context where the activism is carried out and the issues and/or agenda it pursues.

Unlike in the early days of the Internet, in the social-media era, governments have greater ability to control digital space using various technical and legal tools. In 2021, there is no country with ‘free’ Internet; overall, Timor-Leste is the only Southeast Asian nation considered ‘free’ (Table 2.3). The region scores poorly on the press freedom index (Table 2.3), with all but Timor-Leste among the bottom half of 180 countries. In some countries, the government has taken measures to control speech online by employing draconian laws and pressuring platforms to censor content, block accounts, and remove critical posts. Meanwhile, social-media companies, including Facebook, have largely conformed with governments’ demands to take down content deemed to violate national laws. In addition to extending existing criminal laws, such as Indonesia’s defamation law and Thailand’s lèse-majesté law, to online space, governments have imposed cybersecurity and anti-fake-news laws with vague parameters for what speech is criminalised. These laws allow the government to increase data surveillance and crack down on dissent under the prettexts of defending cybersecurity and combatting fake news.

Most Southeast Asian countries have passed laws on electronic transactions, and 9 out of the 11 countries have implemented cybersecurity laws, with Laos and Timor-Leste planning to pass theirs in 2022. In some countries, notably in Vietnam and Thailand, cybersecurity laws have been used to allow the government unauthorised access to private data and computer systems and to silence dissent. In 2013, the Vietnamese government passed a decree known as ‘Decree 72’ (which became a cybersecurity law in 2018) prohibiting social-media users and bloggers from posting anything other than personal content. Similarly, the government of Laos passed a repressive Internet law in 2014 to criminalise the dissemination of vaguely defined ‘false and misleading information’ against the ruling party and content that undermines the ‘peace, independence,

sovereignty, unity, and prosperity of Lao PDR' (Palatino 2014). In 2019–2021, the governments of Cambodia, Myanmar, Singapore, and Thailand passed anti-fake-news laws that critics alleged were meant to stifle dissent. After its much-criticised anti-fake-news law was revoked in 2018, in early 2021, Malaysia passed an emergency law penalising COVID-19-related fake news. Similarly, Vietnam announced a law forbidding the spread of fake news in 2020 as a pandemic-related security measure.

These laws have real implications for civil society activism in social media. In 2021 alone, every country reportedly had pursued investigations, arrests, or convictions for social-media content using these laws (Freedom House 2021). In Indonesia, the defamation clause of the transactions law (ITE) has been misused to criminalise journalists who reveal corrupt and unethical behaviour by prominent individuals (Ningtyas 2019). As a result, the number of online defamation cases in the country has increased dramatically from just 5 in 2009–2010 to 768 between 2016 and 2020 (Mann 2021). In Thailand, 164 individuals were charged with *lèse-majesté* within a year from November 2020, 83 of them for posting messages deemed critical of the monarchy on social media (TLHR 2021). In Vietnam, the number of 'prisoners of conscience' grew from 75 in 2013 to 128 in 2019, of whom around 70 were serving jail terms for online activism, mainly on Facebook and YouTube (Amnesty International 2021). Then, in August 2021, the ruling regime deployed Force 47, a 10,000-person military unit whose task is to quell online dissent in the country (Kumar 2021).

Notwithstanding such a repressive environment, grassroots activism continues to flourish. In Cambodia, Laos, Myanmar, Thailand, and Vietnam, activists and citizens have not ceased to dissent despite their governments' relentless crackdown on free speech and the arrest or persecution of high-profile social-media activists. In Vietnam, Facebook has become a monitoring tool for detained activists, 'to organise visits and vigils', and 'to solicit donations for political prisoners' (Wallace 2017). In 2021 in Myanmar, Facebook and Twitter, in tandem with on-the-ground coordination, were utilised to mobilise against the military junta. In Thailand in 2020, with the hashtag #FreeYouth, young Thais used Twitter to rally anti-government street protests (Sinpeng 2021).

In Malaysia, Bersih activists fully incorporated social media into their repertoire. By 2015, prior to the fourth Bersih rally, 70 Facebook groups had been created in addition to existing blogs (Lim 2016). YouTube, Twitter, and WhatsApp were also used frequently. Relabelling itself Bersih 2.0, the movement successfully expanded its network and its rallies, from just 30,000 in 2007 to 200,000 in 2015 (Lim 2016). In 2015, Global Bersih, the global version of the movement, worked through social media to help overseas Malaysians organise synchronised rallies in more than 90 cities worldwide.

In relatively free Indonesia and the Philippines, social-media-based protests revolved around trending socio-political issues, such as corruption and controversial bills. For example, in 2007, thousands of Indonesians joined 'one million Facebookers' to protest the arrest of two senior members of the national Corruption Eradication Commission (KPK, *Komisi Pemberantasan Korupsi*) (Lim 2013). In 2015, the movement re-emerged on Facebook and Twitter using the hashtag #SaveKPK. In the Philippines in 2013, people utilised Facebook, Twitter, and text messages to organise the 'Million People March' rally calling for the total abolition of the graft-tainted pork-barrel fund, which has traditionally been a source of corruption. In both cases, the movements were framed in a populist binary framework of the people against corrupt elites. Here I refer to populism as the idea that society is divided into two antagonistic camps: a morally good we 'the people' versus corrupt and self-serving they 'the elite' (Mudde 2016, 25).

Rather than embodying a specific ideology, populism represents a political logic and discourse that involves a unifying appeal to the entirety of the political public against a common enemy, especially corrupt political elites (Laclau 2005).

Beyond anti-corruption movements, many other social-media-fuelled movements in these two countries and elsewhere in Southeast Asia were framed in a similar binary framework. In Indonesia, these include cases of Prita Mulyasari, a nursing mother of two who complained about the poor service she received at an international hospital in a private email and was found guilty of defaming the hospital, fined, and sentenced to six months in prison (Lim 2013); and of a 15-year-old boy who inadvertently stole a pair of sandals a policeman left outside a mosque during Friday prayers and was harshly beaten. Protests materialised on Facebook and on the ground – coins collected to pay Prita Mulyasari's fine, in the first instance, and a mountain of sandals, in the second. But the activism did not challenge the roots of the problem: a draconian Internet law (ITE) used to frame Mulyasari or poverty and abuse of power in the 'Sandal Scandal'.

In the Philippines, political scandals continue to be the most mobilising issues on social media. Many scandal-related materials circulate on Pinoy social-media platforms as evidence of elite corruption, such as alleged recordings of politicians calling on supporters to cheat for them or video leaks of political bribery. Scandal-driven social-media campaigns successfully highlight problems of corruption in the country but have limited systemic impact.

The most prominent activism involving both the Philippine and Indonesian social-media spheres is the #MaryJane campaign for Mary Jane Veloso, a Filipina maid set to face a firing squad for allegedly dealing drugs in Indonesia in 2015. Filipinos rallied behind Veloso, but Indonesians' voices on social media predominantly supported Jokowi's tough stance on the death penalty for drug-related crimes. Neither a human rights nor an anti-death-sentence narrative gained traction. However, the #MaryJane campaign mobilised successfully over social media using a binary populist framework of little people who are victimised by corrupt elites. In Indonesia, local support for other foreigners convicted on drug charges was virtually non-existent, but Veloso garnered wider sympathy framed as an innocent single mother of two who had been duped into carrying narcotics into the country.

With the ascendancy of the shrinking soundbite and algorithmic biases, it is not easy for activism to permeate the social-media environment. My research in Indonesia, with some relevance elsewhere, has demonstrated that successful mobilisation on social media depends on a constellation of several factors. Issues that are more likely to go viral and translate into mass activism encapsulate simple/simplified narratives, involve low-risk activities, are congruent with dominant metanarratives, and are uncontested by a powerful competing narrative in the larger media environment (Lim 2013). In this milieu, it is easier for reductionist narratives, such as issues that are inherently populist or strategically mobilised using populist framing, to permeate the networks.

Further, in the last decade, social media has become more algorithmic, which has implications for civil society activism and politics in general. Designed primarily to drive revenue focusing on targeted advertising, social-media algorithms are not neutral. On the contrary, they are biased towards superlative contents, which tend to generate extreme reactions (Lim 2020).<sup>4</sup> A recent revelation from a Facebook whistle-blower confirmed this observation: the platform's ranking algorithm treated emoji reactions (love, haha, wow, sad, angry) as five times more valuable than generic 'likes' (Merrill and Oremus 2021). This preference explains the pre-eminence of controversial and

extreme posts in social media, including those from far-right, ultranationalist, extreme fundamentalist, and other radical groups.

The incorporation of social media into politics has resulted in what I call *algorithmic politics*, or politics that centres its modus operandi around the algorithmic manoeuvring of issues with a core purpose of dominating media spheres to steer public opinion. The concept of algorithmic politics arises as political actors see the possibility of manipulating algorithms to influence citizens' political choices, especially during elections. Beyond electoral politics, social-media algorithmic biases and the pre-eminence of algorithmic politics have also impacted how citizens associate and engage collectively with each other. They facilitate the emergence of *algorithmic enclaves*, 'discursive arena[s] where individuals, afforded by their constant interactions with algorithms, interact with each other and collectivise based on a perceived shared identity online for defending their beliefs and protecting their resources from both real and perceived threats, usually from a common enemy' (Lim 2020, 194). Such enclaves confine groups of users in echo chambers of shared identities and perceived threats, producing multiple forms of tribal nationalism where 'social media users claim and legitimise their own versions of nationalism by excluding equality and justice for others' (Lim 2017, 444). For nearly every political issue, algorithmic dynamics make the binary voices of pro-/anti-enclaves visible while rendering the voices of 'Others' invisible. These dynamics make it more difficult for civil society to mobilise around complex issues – e.g., human rights, justice, or gender equality. On the contrary, for uncivil groups and actors, especially those who resort to fundamentalist or extremist rhetoric, an algorithmicised social-media environment offers fertile ground to mobilise.

From the meteoric rise of Joko Widodo (a.k.a. Jokowi) from mayor of Solo to his victory in the 2014 Indonesian presidential election, to Duterte's success in the Philippines' 2016 presidential election, we have witnessed the role of the social-media campaign industry and the prevalence of algorithmic politics. Undeniably, genuine grassroots activism reinforced Jokowi's campaign, including by progressive activists and civil society groups. However, the campaign centred on the work of professional marketing strategies to build his persona, branding him an 'anti-corruption outsider' and a 'commoner'. Both Jokowi, a centrist, technocratic populist (Postill 2018), and his rival, oligarchic populist Prabowo (Aspinall 2015), embraced algorithmic politics. Their campaigns employed cyber trolls, buzzers (paid campaigners), and online celebrities. Beyond the elections, these practices have further polarised and deepened divides in the country; nearly every issue is framed per anti- or pro-Jokowi sentiment. Hence, right-leaning political actors continue to exploit anti-Jokowi sentiment to further their agendas. Conversely, any criticism against the government, including against problematic policies and regulations, risks being labelled as anti-Jokowi, leaving little room for progressive and pro-justice voices.

In the Philippines, in a phenomenon described as 'weaponisation of a digital workforce' (Ong and Cabañes 2018), President Rodrigo Duterte adopted algorithmic politics by allegedly employing a cyber-army to storm social-media platforms to attack critics and post pro-Duterte sentiments. Duterte's brand of populism, often compared to that of Donald Trump, is not only compatible with but also amplified by the social-media environment. For instance, Duterte has exploited social media to revive the 'red-tagging'<sup>5</sup> of activists as supporters of the communist insurgency. Red-tagging is an oversimplified, hashtag-able, and meme-able practice that rapidly shrinks the space for civic activism in social media and may put activists in danger. Human rights activists



who have been red-tagged reportedly have endured harassment and even death threats from those who accuse them of being unnationalistic and unpatriotic.

In Thailand, algorithmic politics have further amplified on-the-ground polarisation. Social media have become an essential part of a prolonged political rivalry between pro-establishment, pro-monarchy Yellow Shirts (defenders of *lèse majesté*), and the Red Shirts, anti-establishment, pro-democracy, and against political and economic inequalities. In Thai social media, any progressive civil society activism risks being labelled anti-monarchy. On Facebook, algorithmic enclaves of *lèse majesté* defenders such the Social Sanction (SS) and the Rubbish Collection Organisation (RCO) successfully mobilise pro-monarchy and ultra-royalist branches around nationalism and patriotism (Sombatpoonsiri 2018). Through ‘patriot trolling’, they collectively monitor and report online *lèse majesté* cases to the police and, at times, encourage physical violence against the accused (Sombatpoonsiri 2018).

In Myanmar, since 2012, Facebook has become a fertile ground for Buddhist ultranationalists who have exploited algorithmic politics to mobilise anti-Muslim sentiment (Rio 2021). To be clear, this movement predates the social-media era. However, Facebook has made it easier for the movement to mobilise around anti-Muslim rhetoric, frequently using extreme speech and disinformation. Facebook has not only allowed extreme speech targeting the Rohingya, but algorithmic dynamics also have increased its visibility. Employing hypernationalistic narratives framing Muslims as unpatriotic, an imminent threat to the Buddhist majority, and even terrorists, ultranationalists have amplified existing divides and anti-Muslim sentiment in Burmese society.

Stories from this period show that social media, like the old-time Internet, can serve both democratic and undemocratic activism. However, social media, mainly through algorithms that privilege popularity over quality of content, amplify the propensity for simplified, dramatic, or sensational narratives to be highly visible. Thus, binary populist framings prevail. Activists and civil society groups can use the combination of social-media affordances and algorithms to rally the masses against an undemocratic government or other undemocratic actors, frequently by framing the opponent as the enemy of the people. However, undemocratic and uncivil elements can also use these means to further their agendas, particularly to mobilise animosity against ‘Others’.

## Conclusions

My historical narrative of digital media and civil society in Southeast Asia suggests that technologies have diverse and complex effects in different countries at different moments in history. Such differences stem not only from specific national contexts but also from the nature and development of civil societies themselves and the changing nature of the media environment, particularly as social media have increasingly become the default platforms for political contestation. Over two decades since the arrival of the Internet in Southeast Asia, not only has the online population grown exponentially, but so has the capacity of governments to control the technology, and digital space itself has become highly commercialised and increasingly algorithmicised. In this milieu, activists continue to appropriate and re-appropriate digital media to suit their agenda.

Importantly, digital media, especially social media and their algorithms, were not designed for democratic political purposes. They are commercialised social spheres where individuals can partake in the consumption, production, and distribution of information, stories, ideas, and knowledge. Most of these activities revolve around personal

pursuits in the content world. Clicking on screens can both connect and disconnect us from each other in complex and countervailing ways, altering or perpetuating long-standing patterns of political engagement. Digital media can facilitate, amplify, and even accelerate processes entailing collective action and social movements. By so doing, they have helped civil society movements in various places, including Southeast Asia, to build networks, disseminate information, organise themselves, and mobilise masses to challenge the status quo. However, digital media, in the form of an early static Internet, blogging, or social media, do not create a fertile environment for progressive democratisation where none exists, nor can they by themselves force reform on a reluctant regime prepared to use violence and repression as tools.

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### **Notes**

- 1 Quynh was released nine days later after promising to close the blog. Yet she resumed her blogging about social injustices, land grabbing, and other related issues. In October 2016, Quynh was arrested again while visiting a political-prisoner friend. In 2017, she was sentenced to 10 years' imprisonment for distributing propaganda against the state (Lim 2018).
- 2 Information about cloggers, PITW, and their activities was based on my personal interviews with four young political cloggers, conducted in Phnom Penh in 2007.
- 3 Many Indonesian bloggers interpreted the minister's gesture as the government's acceptance of the importance of bloggers in the public sphere – as a victorious moment for bloggers. However, my informant says Minister Mohammad Nuh actually knew little about blogging and nothing about Indonesian bloggers' activities. He accepted the invitation to open this gathering for its media and public visibility. Being unprepared for his opening speech, the minister asked my informant what to say. My informant replied, 'Why don't you declare today as the National Bloggers Day? That would make them very happy' (personal interview, November 2007).
- 4 Social-media algorithms are designed, first, to keep users engaged long enough for their patterns of behaviour to be tracked and sold as commodities to advertisers. Second, algorithms serve to cater to advertisers' need to reach their target markets (Lim 2020). Social-media algorithms include many factors, and social-media platforms keep changing formulae to suit their needs. However, the basic principles of social-media algorithms are machine learning, through which the algorithm learns from users' past behaviour, and sorting, which is a typology that puts elements of a list in a certain order, such as numerical or lexicographical (Lim 2020).
- 5 Red-tagging or red-baiting is the act of labelling, naming, and accusing individuals or groups of being left-leaning communists and enemies of the state. Red-tagging in the Philippines is a relic of the Cold War and, given the country's status as a former United States colony, a remnant of 1940s McCarthyism.

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### 3

# CONTEMPORARY ARTS IN AND FOR CIVIL SOCIETY

*Minna Valjakka*

#### **Introduction: arts, rights, and envisionings**

Every person has the right, individually or in association with others, to freely take part in cultural life, to enjoy the arts and the benefits of scientific progress and its applications and to benefit from the protection of the moral and material interests resulting from any scientific, literary or appropriate artistic production of which one is the author.

*(ASEAN Secretariat 2013, 10. Article 32)*

[A]rt is also found to replace the missing political arena and recreate a space of sociability through 'imagined worlds'. Art establishes then a sense of community with the public in an alternative space where the political power cannot intervene – imagination. By the use of allegory, metaphor and a coded language, complicity with the public is created. Art can also be a *refuge*, a means of survival, because it recreates a forbidden, lost past as well as projecting a missing future.

*(Preda 2012, 64)*

Regardless of limited possibilities and supplies, creating art became a lifeline for Burmese artist Htein Lin (b. 1966) during his detainment in Insein, Mandalay, and Myaungmya prisons in 1998–2004. Artistic practices kept him busy and held despair at bay. As Htein Lin explained in an interview, he took part in the democratic uprising of 1988, but since 1995, he had fully concentrated on arts and, in particular, on painting. All the same, he was imprisoned as a presumed opposition activist. As a political detainee, obtaining suitable materials for painting, collaborating to create poetry books, and sharing his works with fellow prisoners worked as acts of defiance and gave him a meaning to exist. Once, supported by his two cellmates, Htein Lin managed to persuade the guards to allow him to organise an art exhibition in their cell. Diverging from normal procedures, the guards agreed to open all the other cell doors simultaneously and allow the 40–45 detainees to attend this event for three to four hours. The day before the exhibition, Htein Lin created invitations for each cell on tiny pieces of paper. In the morning, the

prisoners prepared themselves for this special occasion by taking showers and getting as groomed and dressed up as possible. He fondly recalls the exhibition and is proud to have organised it because it allowed the prisoners ‘to feel like we are civilized – even if we are in prison’ (Htein Lin, interview with author, 5 August 2021).

This affective and inherent significance of the arts and the envisionings they offer – even in dehumanised conditions where human rights are nonexistent or severely restricted – confirms Caterina Preda’s (2012) perceptions of the many roles art takes on in contributing to civil society, even under authoritarian regimes. Htein Lin’s artistic oeuvre created during his imprisonment highlights the arts’ possibilities to do so even in the most unlikely locations. His continuing artistic engagement with civil rights and ongoing injustices elucidates the need to examine in detail the continuously changing conditions and forms of agency of contemporary arts and artists in relation to the transformation of civil societies in Southeast Asia. As Preda (2012, 58) asserts, through imagination and ‘by its autonomous stance, art provides a fictional space ... to transcend the oppressive surrounding reality’, even if that might be only briefly in a prison cell, as was the case with Htein Lin’s art exhibition, or through co-created handmade books of poetry circulated from one detainee to another. Providing ‘a space of sociability’, art can become a vital method of survival, or as Preda (2012, 64) further asserts, ‘a *refuge*’. While (re)creating alternative envisionings for an impermissible past or future, the arts’ power lies in their ability to provide (im)material tools of resilience to cope with the unjust realities of the present.

When mirrored against the ASEAN Human Rights Declaration’s reference to arts and culture in Article 32, quoted above (ASEAN Secretariat 2013, 10), Htein Lin’s artistic practices highlight core questions of the arts as a part of shared human rights. Still, whether citizens can freely enjoy and benefit from arts is, by definition, controlled by the changing perceptions of the (in)appropriateness of arts in each society. A long tradition of artists, cultural practitioners, and multidisciplinary collectives with (in)tangible artistic practices addressing societal injustices and oppression across Southeast Asia test the acceptance of arts. Concerns of the people and their rights were voiced already during the colonial period. They were particularly raised through literature, poetry, music, and visual arts (such as painting, theatre, and woodblock prints), which were displayed, shared, and performed both in private and public spaces by a great diversity of actors and agents. In the post-war period, informed by postcolonialism, heightened awareness of diversified methods of socio-political participation through arts and culture gained further ground among transnational networks eager to enhance knowledge exchange and reach broader audiences. Simultaneously, the new nation-states were also keen to employ arts to foster national identities and to support their preferred political ideologies. Through allegories, symbolism, and de-/reconstructed myths, arts in general, but especially visual art (e.g., monuments, sculptures, and paintings) became a powerful way to legitimate new power and challenge colonial legacies. This development, in turn, enhanced the possibilities for arts and artists not only to dismantle such narratives but also to provide other kinds of envisionings, even though arts remain a primary target of censorship especially in authoritarian conditions.

The reverberations of the radical 1960s sparked socio-politically sensitive artistic engagements also in Asia.<sup>1</sup> International cultural and political tendencies – avant-garde, social realism, punk, democratisation, pacifism, anarchism, and communism, among others – inspired experimental protagonists from all domains of arts and culture. They started to explore novel artistic practices, collective strategies, and innovative venues to

advocate for socio-political and cultural issues important not only for their local and regional peers but also for transcultural communities. Questioning the hierarchic fascination with ‘fine art’ that ‘Western’ art-historical canons established became one of the defining features of both modern and contemporary art across Asia. Such aspirations continue to inform various aims to decolonise perceptions of arts today.

Given how local and national cultural policies have inevitably shaped each art movement and art form (e.g., music, literature, theatre, and performance art) in each Southeast Asian country, they all have their specific trajectories in relation to political ideologies and civil society discourses and distinct resonances with transnational flows. Each art form has its own strategies of distribution to multiple transnational (counter-) publics, tactics of aesthetic negotiation to avoid censorship, and methods to encourage civic participation. These all depend on how the art form manifests at all levels of creation, distribution, and evaluation. Furthermore, as Htein Lin’s art exhibition in a prison cell indicated, the temporality of many artistic practices, lack of documentation, and ephemerality of affectiveness add to the challenge of analysing the socio-political impact of arts. Because of these difficulties, the intricate interrelations of arts with civil society have not yet been properly recognised and conceptualised. Therefore, I suggest, it is likely that arts in general, but visual arts in particular, have more meaningful positionalities and effects for unfolding and restructuring civil societies in Southeast Asia than has been previously acknowledged. Consequently, a detailed historical analysis or a generalised theorisation of multiple art forms and their contribution for civil society across the region is neither a feasible nor a meaningful approach here. Rather, with a focus on contemporary arts with selected case studies from Myanmar and Singapore, I investigate what kind of changing modes and positionalities contemporary arts take – and are allowed to have – in the cultivation of civil societies across Southeast Asia, in Asia more broadly, and in international interrelations.

My study is primarily informed by art historical and socio-political studies on arts’ possibilities to enhance societal and political change, including Preda’s insights on the roles of art in the shadows of repression, with a specific focus on civil society discourses. Izabel Galliera’s (2017) research in the post-socialist contexts of Eastern Europe provides primary inspiration for the theoretical framework. She finds that socially engaged arts, with the help of curatorial and institutional practices, translate the subversive and emancipatory potential in ‘social capital’ into ‘cultural capital’, ‘symbolic capital’, and ‘political capital’ to generate a viable civil society (Izabel Galliera 2017, 10–11, 24–32). As ‘the result of complex negotiations and contentious dynamics, unfolding among artists, curators and funding institutions’, art projects generate ‘inclusive public spheres as democratic forms within emerging civil societies’ (Izabel Galliera 2017, 2). I intend to unravel such currencies and their both local and translocal characteristics in Southeast Asian contemporary arts. By extending the analysis also into the realms of global contemporary art worlds, I wish to provide a topical and locally situated framework. This study is grounded in my long-term multi-sited research in the region and beyond. Interviews and informal discussions with a range of professionals and volunteers involved in arts in Asia, Europe, and North America have provided fundamental insights for the analysis.

Whereas Myanmar and Singapore significantly differ in terms of governance, religions, cultural policies, and infrastructural support for arts, they both demonstrate the importance of adapting versatile and multidisciplinary artistic tactics and approaches for aesthetic articulations of sensitive issues, such as the freedom of speech. My focus on these two distinct geopolitical localities in Southeast Asia highlights the



interconnectivities and collaborations that enable viable rhizomatic networks of arts at multiple stages of civil society in (semi)authoritarian circumstances. As I have proposed elsewhere (Valjakka 2021), these organic informal networks include and extend beyond artists, art institutions, foundations, non-profit organisations (NPOs), private citizens, officials, curators, audiences, scholars, and art critics and while doing so establish temporary spaces and spheres to re-negotiate the interrelations among contemporary arts, the state, political discourses, people, and civil society.<sup>2</sup>

In the growing presence of (in)direct forms of advocacy through arts, political censorship, and instrumentalisation of arts, I propose that a more comprehensive investigation of the intricate dynamics and the multi-layered forms of shared agency among multidimensional arts networks would contribute to a nuanced understanding of how contemporary arts and artists actively create in and for civil societies. Instead of seeking fixed definitions of the arts or their roles within or in relation to civil society, we can better understand the power of contemporary arts through attention to changing interrelations among partially overlapping – and occasionally even contradicting – positionalities, enacted simultaneously across spaces, roles, practices, and strategies. By examining forms and levels of agency, how arts transgress national borders, what kind of potentiality contemporary arts have, and what challenges they face in diversifying socio-political citizenship, I aim to contribute to discourses on contingencies and conceptualisations of civil society, rights, and civic participation especially in multi-ethnic societies with varying political ideologies.

### **Arts and civil societies: discourses and practices**

When society is experiencing revolution and citizens, new to empowerment, are striving to build civil society and establish more egalitarian structures, art can rise to the challenge of illuminating and driving change, rather than merely describing disturbing realities. Conceptual approaches in Southeast Asian art operate to make sense of and sometimes activate this re-ordering world, their corraling of allusion and subtext providing structure to works that fulfil a public calling.

*(Lenzi 2014b, 23)*

There are several reasons why the arts, in their form and production, provide a site from where we can observe and experience aspects of political life that we cannot possibly achieve in any other way.

*(Negash 2004, 188)*

To comprehend the current diversity of artistic positionalities in and for civil society, any analysis needs to be contextualised amid intricate geopolitical histories and their multi-layered impressions on the arts. Yet, the task of general theorisation of the arts' fluid roles in between and for the state, the political, and citizens is complicated by the scarcity of scholarly studies explicitly addressing these questions within the framework of civil society. Notwithstanding studies in the social sciences on, for instance, civil society (Alagappa 2004; Ogawa 2018), civic spaces (Douglass, Ho, and Ooi 2008), transnational activism (Avenell and Ogawa 2022), and student activism (Weiss and Aspinall 2012), attention to the contributions of arts remains rare. It therefore seems as if the political and social studies do not yet recognise the arts and artistic agencies,

such as museums, galleries, and artists, to exist within the core domain of civil society in the region.

An informative exception is Koh and Soon's (2018) consideration of 'independent local theatre space' as a profoundly political form of civil society in Singapore. This insight provides an opening towards acknowledging the essential role of arts as a privileged medium to convey knowledge of and for political life, as Negash (2004) asserts. In her study of arts during authoritarian regimes in Chile and Romania, Preda (2012) discusses the necessity to examine both the various roles of arts and their related mechanisms and strategies. Arts can be employed as an instrument of the regime or against it. In the first case, dictatorial regimes use both positive (enforcing) and negative (suppressive) mechanisms to ensure the creation of preferable art. Policies for arts and culture may come in different guises, ranging from depoliticisation to censorship and from persecution of artists to officially commissioned encomiastic art. To work around these policies and to deconstruct the 'officially constructed reality', artists have employed a multitude of artistic strategies to ensure primary roles for art to critically reflect, to expose violence, and to provide refuge from surrounding circumstances and even serve as a replacement for politics (Preda 2012).

In authoritarian conditions, subversive artistic practices may be confined to small circles of like-minded supporters. The socio-political impact of a specific artwork or event hence remains limited. But if we accept that social movements are an inherent part of civil society, the historical long-term importance of varied forms of arts and their collaborative efforts in recreating political discourse and space becomes quite evident, as demonstrated, for example, by civil rights movements in the United States (Reed 2019) and the *minjung* movement in South Korea (Park 2019). In addition, new forms of socio-political participation in the 21st century are further diversified by innovative 'protest art' and more broadly through 'art activism', 'participatory art', 'collaborative art', and 'socially engaged art'. Among these partially overlapping tropes of arts, those most closely related to civil society are often the varied artistic and creative practices created as forms of resistance, manifested especially as interventions in public spaces (see, e.g., Lee 2017). Yet, the arts' potential to contribute to civil society is not to be reduced to the purview of antagonistic confrontation. My long-term interdisciplinary engagements with contemporary arts in East and Southeast Asia have made it clear that there is more than meets the eye if we care to look beyond the streets and media narratives.

In the realms of visual arts and research on these, the long historical interrelations with civil society, and with human/civil rights in particular, are most clearly acknowledged in the world of theatre in its multiple forms and contexts (see e.g., Frame 2006; Becker, Hernández, and Werth 2013; Rashid 2015). Practitioners, scholars, audiences, and representatives of varied NGOs perceive community theatre, often emerging as independent groups outside the institutional theatre, as invaluable for fostering socio-political participation and, hence, a more inclusive civil society (van Erven 2001; Chong 2011, 115–118, 123–127, 135). In the 21st century, thanks to technological innovations, documentary films are another pertinent form of visual arts that civil society organisations (CSOs) and activists employ as an advocacy and pedagogical tool. These films often focus on human rights issues and interrelated social injustices (Hjort and Jørholt 2019).<sup>3</sup>

While a plethora of studies examine modern and contemporary arts in terms of political and societal change in the 21st century, surprisingly few studies of art history explicitly address arts' connection to civil society. Existing studies and exhibitions on Asian and Southeast Asian art and art movements with their international trajectories

provide invaluable groundwork for understanding the aesthetic strategies of and socio-political conditions for contemporary arts and their possible iconoclastic and subversive practices.<sup>4</sup> With conviction that arts have the power to facilitate socio-political transformation, art historians, curators, and artists often call attention to the possibilities for how 'art can rise to the challenge of illuminating and driving change' (Lenzi 2014b, 23). Yet, however undeniable the socio-political potential of contemporary arts, it is also unquantifiable. Therefore, scholars, art critics, and curators often cannot prove causality or fully theorise contemporary arts' contribution to civil society. In their groundbreaking study, Turner and Webb (2016), for instance, examine in great detail how contemporary Asian artists, through their artworks displayed in art institutions, address human rights issues as citizens and worldmakers. What remains missing is analysis of socio-political parameters that shape these artistic activities and what kind of reactions they cause in or outside contemporary art circles.

Kapur (2007) discusses such interrelations in her studies of Indian art through concepts of secular and citizen artists and how they intertwine in contemporary art practices. Drawing on Chatterjee's (2003) distinction among state, civil society, and political society,<sup>5</sup> she asserts the importance of 'a more situational idea of citizenship, making it imperative that we acknowledge historical dilemmas of identity and advance specific instances of radical partisanship within the nation-state and outside of it, within civil society and across the more volatile ground of the political' (Kapur 2007, 422). Amidst the transformative conditions of Indian democracy under a forceful state, artists have employed varied methods to 'take political dissent beyond the protocol of civil society'. This has further led them to seek how to 'be both inside the nation and outside the state in their interpretative rendering of the political' (Kapur 2007, 426). By joining forces with activists, intellectuals, and citizens, artists can take multiple roles within civil society, vis-à-vis the state, in the public sphere, and within the political arena of India.

These modalities of artistic citizenship have gained growing attention with expanding fields of public art and beyond (Elliott, Silverman, and Bowman 2016), but their findings do not yet adequately explain the multiple fronts where arts interact with civil society. While contemporary arts' possibility to contribute to civil society development often originates from an artist's or an art collective's envisioning, layers of shared agency by curators, museums, non-profit art organisations, art institutions, galleries, collectors, citizens, and (social) media further enhance and disseminate these effects. Hence, besides investigating artists' roles and intentions, questions of how and to what extent related forms of agency may (or may not) reshape civil society discourses beyond circles of art enthusiasts and in relation to official policies, international art markets and CSO are relevant for future studies.

Moreover, *other professionals* besides artists also initiate contemporary arts projects and practices within and for civil society. The commonly perceived role of the artist as the core figure of artistic resistance should be adjusted to consider the increasing impact of shared agency and citizenship. For this to happen, not only do we need to extend our focus beyond artists, but we also need to take account of structures, affinities, and alliances. Many informal community groups, non-art-focused NPOs, INGOs, and IGOs (e.g. Greenpeace, Oxfam, and United Nations organisations), and transnational companies both support and commission art projects to advocate their own agendas related to the betterment of rights and improved living conditions in Southeast Asia. At the same time, an independent art gallery may exhibit and sell an artist's works to financially support their dedication to advocate human rights,

or to donate the profits to charity. These intricate realities further problematise possible preconceptions of civil society and its agents as non-commercial actors, shaped by leftist politics, based on anti-capitalism, or demanding democratic political reformation as artist-citizens. Instead of focusing either on art activism in public spaces or on professional artists and their works in art institutions, I propose a more comprehensive approach based on an acknowledgement and critical investigation of multi-layered, translocal shared agency and its dynamics infiltrating throughout and in between the state, public space, the political arena, (art) markets, art institutions, NPOs/INGOs, and civil society.

### Myanmar: political contraventions and reverberating artistic insurgencies

During his imprisonment in 1999, Htein Lin was to meet the Head of the International Committee of the Red Cross. To express the grim conditions of his confinement, Htein Lin took a bar of soap, the weekly ration for two prisoners, and, with a piece of bamboo from his sleeping mat, created a fraught human detainee that the representative agreed to smuggle out (Fig. 3.1). In 2007, while living and working as an artist in London, Htein Lin discovered that this soap carving was displayed at the International Red Cross and Red Crescent Museum in Geneva.<sup>6</sup> He received an image of it, but it was not until 2014, after resettling back in Yangon for a year, that Htein Lin started to consider producing a work based on the original design. He persistently sought out Shwe Wah soap, a memento and a signifier of his childhood under the socialist government – an era of limited knowledge, brainwashing, and propaganda that rendered everyone a prisoner (Htein Lin, interview with author, 5 August 2021).

For his first solo exhibition, *Story Teller*, held at the Goethe-Institut in Yangon in 2015, Htein Lin created an installation, *Soap Blocked*, of more than 1,000 human detainees



Figure 3.1 On the left: Htein Lin, *Prisoner object: carved soap figure*, Mandalay Central Prison, Myanmar, 1999. In the middle and on the right: a detail and an installation view of Htein Lin's *Soap Blocked* at Singapore Art Museum in January 2017.

Source: Left: Collection of the International Red Cross and Red Crescent Museum, Geneva. MICR/COL-1999-115-1. Middle and on the right: Collection of Singapore Art Museum. Photographs by the author.

arranged as a map of Myanmar on the floor and placed the poster of the first soap figure on the wall. A second edition reached more international audiences at a group show, *Silent for a While: Contemporary Art from Myanmar*, exhibited by the 10 Chancery Lane Gallery in Hong Kong in 2016. Due to limited space in the gallery, this installation, entitled *Soap Block*, had only around 450 pieces. After the exhibition, the M+ museum acquired the installation, leaving the artist with the option to recreate another from the remaining pieces. Later the same year, a third edition of 1,345 pieces was displayed in the Fifth Singapore Biennale, attaining more global audiences and ending up in the Singapore Art Museum's permanent collection. In varying shades of ivory, ochre, and red, the carefully carved detainees each crouch slightly differently in the tightly confined space of their prison cells, conveying to viewers both personal and shared conditions of mental and physical imprisonment. Displayed this time together with the poster and six books relating to the socialist era, the affective aspects of the installation vibrate between past and present, suppressed and uncensored freedom of expression and existence (Fig. 3.2). According to the curatorial statement:

*Soap Blocked* returns to the original moment of the artist's desperate, clandestine plea. The installation maps and reflects the experience of thousands of political prisoners in Myanmar in recent decades. The work amplifies autobiographical resonance into a starkly visceral monument to the collective helplessness that was experienced under socialist military rule.<sup>7</sup>

These soap figurines demonstrate the multi-dimensional possibilities for how creating, sharing, and displaying art can be actions defending humanity, which extend from the emergence under restrictive circumstances to varying manifestations and impermanent positionalities across different spatio-temporal and institutional contexts. The account of *Soap Blocked*, its origins and gradual unfolding can be taken as an allegory of the struggles of civil society in Myanmar and the arts' locally grounded but also transnationally linked modes of documenting, commemorating, and advocating for issues that lie at the core of civil society discourses. Relying on translocal networks of shared agency for creation, preservation, collection, display, and viewing – by individuals, non-art-focused NPOs, private galleries, and local and regional art institutions – the work has the potential to affect people and to remind them of the realities of authoritarian conditions under which political expressions are constrained, but arts may still provide means to reflect, document, criticise, and advocate.

Through migration, international support, and locally emerging civil society with its art spaces in Myanmar, and mirrored against the military coup d'état in spring 2021, *Soap Blocked* epitomises many of the roles, challenges, contingencies, and forms of agency that contemporary arts take on at the personal, communal, institutional, and societal levels today. By actively using the resources available, artists create temporary spaces for socio-political discourse. The material fragility and everydayness of every soap detainee also bears witness to the urge for freedom, representational politics, and human rights in the shadows of varying political ideologies and levels of censorship in Myanmar, Hong Kong, and Singapore. Through intertwined reverberations of social, cultural, symbolic, and financial capital by varied agencies, pieces of ordinary soap gain significance as symbols of political capital in an authoritarian context and beyond because the artworks are collected by two art institutions in East and Southeast Asia and the first figurine is permanently displayed in Geneva.

Even if Htein Lin did not create the first soap figurine until 1999, during his imprisonment, it was born out of the ramifications of the revolutionary struggles against the authoritarian socialist regime in 1988. Whereas the suppression of the movement led to confinements, exiles, and more severe censorship also for arts and artists, socio-economic reforms in the 1990s ushered in a transitional phase in governance, civil society and arts, and their interrelated challenges to re-formulate regional and international relations. The changing spatio-temporal conditions for, and composition of, the emergent civil society during transitional decades informed by humanitarian crises, religious tensions, and ethnic alignments have garnered detailed academic attention (see, e.g., Kyaw Yin Hlaing 2004; James 2005; South 2008; Fink 2009; Stokke, this volume). Yet, as McCarthy (2018) elaborates, even more research is needed to exemplify how modern civil society may evolve under military rule regardless of suppression, how the military may co-opt traditional elements (e.g., Buddhist *sangha*), and what kind of impact these processes may have on the post-military period. Political liberalisation and progressive change since 2011 raised hopes for democratisation and enabled growing translocal partnerships, which were not always unproblematic (see Cheesman, Skidmore, and Wilson 2012; Fink and Simpson 2018).

Political shifts have profoundly shaped the modes, places, and norms of and for arts in general. Whereas Myanmar is praised for its Buddhist (or ‘traditional’) arts, the emergence of modern, Western notions of art has not been unproblematic. Despite varying restrictions and presumed isolation, artists in Myanmar have established diversified strategies to manifest themselves not only as modern and contemporary artists but also as citizens and activists, in and beyond national borders. At the end of the 1970s, but more particularly in the 1980s, regardless of the lack of resources, funding, institutions, infrastructure, and official support, artists started to establish their own spaces, collectives, and informal meetings (Galloway 2018). Gaining and circulating information and ideas on arts, also from abroad, relied on personal connections and informal networks. Social capital was the key to gaining and developing cultural capital, the knowledge about arts and artistic discourses.

To some extent, an interest in addressing issues raised by attempts at modernisation aligned with nascent notions of civil rights and hence connected with an aspiration for socio-political change, even if arts could not gain political capital. The 1990s were defined by strict censorship but were also marked by a gradual opening to international art worlds and markets. This led the artists to seek new artistic methods (e.g., performance art), both to address local and international audiences and to maintain the integrity and identity of their artistic expression. The beginning of the 21st century brought support from regional and international foundations for collaborations and knowledge exchange in arts, some of which the 2007 Saffron Revolution temporarily interrupted. For instance, in 2003–2007, Jay Koh and Chu Chu Yuan managed an independent, non-profit resource development centre, Networking & Initiatives for Culture & the Arts (NICA) in Yangon. However, already by 2008, many new activities and local NPOs, such as New Zero Art Space, had been launched, marking a turn towards a more viable local art scene.<sup>8</sup> The gradual flow of financial support from foundations and the international art market started to enhance both social and cultural capital by building local and translocal networks of arts.

Reforms towards more civilian governance in 2011 introduced new possibilities and challenges for all forms of arts (Diamond 2017). Participating in international exhibitions and bringing international artists to Myanmar became more feasible, but different types of censorship emerged, too, from powerful public factions such as religious groups (Carlson 2016). Artists’ freedom of expression was continuously at stake,

in particular for those interested in voicing socio-political concerns. Some exhibitions which were not possible to organise in Yangon were instead moved abroad, for instance to Hong Kong (Carlson, interview with author, 26 August 2021). Yet, in resonance with the political transition, contemporary arts gained a more prominent role. Together with economic growth and supported by international galleries and NGOs/NPOs, the local art scene started to diversify and strengthen. More art exhibitions and events were organised and some diaspora artists returned. Flows of financial capital for and in arts grew, and contemporary arts became more closely aligned with civil society discourses.

As an example, since re-opening in Yangon in 2014, the Goethe-Institut provided a free and open space for artists to explore artistic languages with nonconventional ideas. According to then-director Franz Xaver Augustin, it was a great pleasure and privilege to support the artists at an intriguing time of building towards a more open society. Besides consolidating art exhibitions, the institute hosted open discussions about the role of arts alongside a focus on supporting civil society through education and access to knowledge and information (interview with author, 18 September 2021). Augustin shares the notion with Rolf Stehle, the former director of the Goethe-Institut in Malaysia, of how artists and activists encourage citizen participation, which is closely related to democratic processes in the region: 'Artists and activists give aesthetic or discursive input creating critical discourse, which is a precondition of change. They serve their communities and support the creation of stable civil societies' (Stehle 2017, 9). Besides many other local, regional, and international CSOs, the Goethe-Institut increasingly supported and engaged with local and international arts in Myanmar, establishing new spaces to do so.

Yet, the presence of regional and international NPOs and NGOs can have both a positive and a negative influence on arts. Together with arts and artists, they may become part of the problem. In the worst case, although unintentionally, contemporary art projects may enhance traumatic memories of societal injustices and trigger new conflicts, especially if created amid tensions among ethnic and religious groups in public space and without careful consideration of specific circumstances of the location. Kelly Flynn, head of a programme at a dedicated multi-donor fund for peace support in Myanmar, emphasised these complex questions of risks and challenges relating to the work of NPOs and NGOs (interview with author, 22 August 2021). To what extent, she asked, may their own agendas interfere with and even reformulate local needs, or cause more issues – also in terms of arts? Although arts are continuously used for seeking reconciliation, mitigation, and empathy worldwide for unprivileged and mistreated communities,<sup>9</sup> implementing arts 'from above' or 'outside' can cause further tensions, too. Hence, in her donor role, Flynn employed a detailed reviewing system for all arts initiatives. Only after due consideration of the possible benefits and risks of the art project for the people it was planned for would the fund decide whether to support an initiative. More times than not, they declined public-serving art-based project proposals because the possible harm to local people was far more evident than positive outcomes (Flynn, interview).

The military coup on 1 February 2021 re-ruptured socio-political conditions again. It stimulated an unprecedented number of people to engage with artistic and creative practices on the streets to resist the regime and to demand their rights. Drawing inspiration from previous and current social movements and their radical creativity (e.g., from Thailand and Hong Kong), Generation Z in particular passionately employed the symbolic capital of arts and creativity to advocate civil disobedience and to gain international attention (e.g., the three-finger salute from *The Hunger Games* as the international gesture of resistance) (Jordt, et al. 2021).

The social and cultural capital that the older generation of artists had gained throughout years of personal involvement in arts provided inspiration and support for winning political power for the people and defending the emergent position of civil society in spring 2021. International art exhibitions, auctions, and events were launched to create attention and raise ideological, political, and financial support for those resisting the military coup. Several local cultural professionals and art organisations joined forces to write an open appeal ‘to support us in our fight for democracy’ (PEN Myanmar 2021). Some artists also sent their politically sensitive artworks abroad, while some have surreptitiously kept documenting injustices. They are finding new methods to maintain, circulate, and safeguard the arts, defying the continuous risk of imprisonment or exile. New forms of symbolic resistance have manifested in all forms of arts, and regardless of ongoing suppression, artists have not been completely silenced. Htein Lin is actively involved as the chair of the Association of Myanmar Contemporary Art (AMCA), the establishment of which was planned to be announced on the same day the military seized power. He summarised: ‘in 1988 we were fighting against socialism and military rule that we had experienced. But now, the battle is about what we fear we might lose’ (Htein Lin, interview with author, 5 August 2021).

### **Singapore: depoliticisation of arts and subtle strategies**

Htein Lin’s *Soap Blocked* has clear political and critical tonalities, but exhibiting the work in Singapore caused no major challenges even if the local art scene is known to be under close government scrutiny. According to local curator Louis Ho, the majority of Singaporeans are familiar with the repressive history of Myanmar’s military government, so the work was not considered too sensitive. Instead, most local viewers seemed to appreciate the aesthetics rather than the politics that the work expressed (interview with the author, 5 August 2021). These notions closely resonate with Lee’s (2017, 74–79) observations that whereas art biennales provide platforms for experimentations with new audiences, they may also mute the political significance of artistic practices. However, it is often claimed that arts in Singapore are allowed to be critical of other countries’ conditions but not of their own. The limitations for artistic expressions’ political aspirations have inspired artists and supporters of arts to adopt specific tactics and strategies (Valjakka 2021). For instance, creating art in prison was a deliberate decision for Htein Lin to survive, while the imprisonment of Seelan Palay (b. 1984), a Singaporean artist, turned into an unplanned yet inherent part of his commemorative performance, *32 Years: The Interrogation of a Mirror*, in 2017 (Fig. 3.2).

Palay spent two years charting his performance, its particularities, and possible repercussions under existing socio-political conditions. His multi-layered symbolism, which borrowed from the political, symbolic, and cultural capital of three sites and their histories, and from metanarratives of Singapore (e.g., the Singapore Tourism Board slogan, ‘Passion Made Possible’), cannot be fully unravelled here. Suffice it to summarise that the spatio-temporal aspects of the work bring together Palay’s personal lived reality, current political discourses and practices that maintain what he perceives as ‘a Kafka-esque’ society, and socio-political histories that are erased from sight, such as imprisonment without a trial. The number 32 refers not only to the number of years of Singapore’s longest confinement and house arrest, of Dr. Chia Thye Poh, but also to Palay’s own age at the time of his performance (Seelan Palay, interview with author, 5 October 2019; see also Palay 2022).



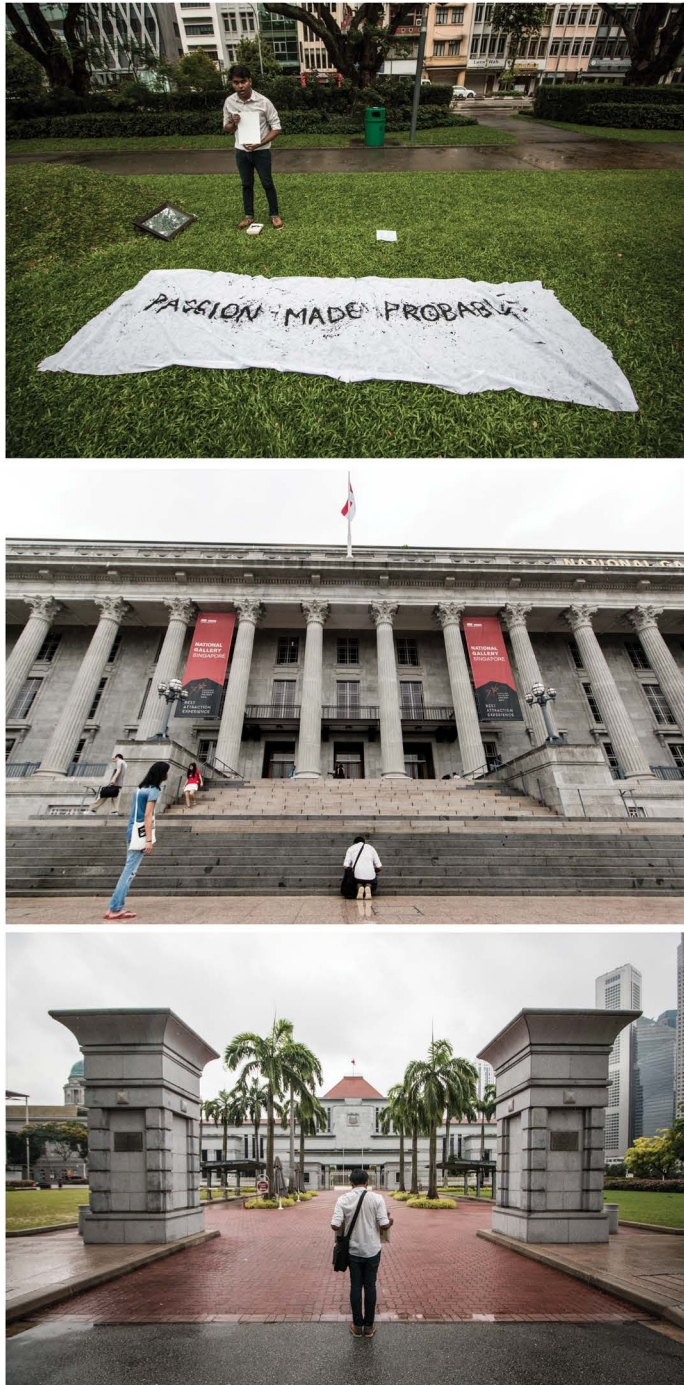


Figure 3.2 Seelan Palay, *32 Years: The Interrogation of a Mirror* (2017). Above: [part 1](#) in the Speakers' Corner. In the middle: [part 2](#) at the National Gallery. Below: [part 3](#) at the Parliament House.

Source: Courtesy of the artist.

Palay was licensed to hold a speech at the Speakers' Corner, a zone in a public park reserved for Singaporeans to speak out after registration, but he also planned to extend his performance beyond this permitted area for civic participation to the stairs of the National Gallery and to Parliament House – without knowing for sure the repercussions of his performance. At Parliament House, he refused to follow the security guards' request to leave and was duly arrested by the police. Palay could not anticipate the state's response, but for him, the state was an active co-performer. This became evident when the state decided to charge him and found him guilty of participation in 'a public procession without a permit' under the Public Order Act. Palay was fined and the state destroyed three objects from the performance it confiscated. Instead of paying the fine, which to Palay would have meant accepting the verdict, he chose to be jailed for two weeks (Palay, interview; Palay 2022). While the performance itself lasted only for around 2 hours, the media coverage of the trial, social media reactions, and the imprisonment prolonged the spatio-temporal effects far beyond what he originally intended. Palay's carefully considered bodily gestures, the exact locations where he stood or kneeled, his drawings on a mirror, specific books and quotations he included, and a banner all deliberately draw upon the political, cultural, and symbolic capital of the state within these varied sites. However, instead of merely reflecting these tangible sites back with his mirror, Palay transformed them into his personal artistic language that he first left open for audiences (art circles, the people, and the state) to interpret as they preferred.

Imprisonment was not the ultimate aim of Palay's performance, but it became the key point the public noticed: the sudden realisation of limited rights related to arts, and to citizenship in general, raised interest in the status of civil society in Singapore. The varying modalities and historical phases of civil society and how these have shaped specific notions of citizenship are beyond the scope of this chapter,<sup>10</sup> but to investigate the arts' positionalities, four major aspects require highlighting. First, the People's Action Party (PAP) has carefully cultivated civil society, especially since the revival of the concept itself in the 1990s, with selected means and rhetoric comprising what Lee (2010) identifies as 'gestural politics' that seemingly aim to encourage civic participation (e.g., in the Speakers' Corner). Lee discusses in detail how the Singapore government has redefined and constrained civil society for its own ends. Therefore, 'the gesture of civil society is more pertinent than its substance': citizens are kept 'away from *real* political activities such as political lobbying, protests, campaigning, or even politically induced violence' by allowing them to busy themselves with apparently civic pursuits (Lee 2010, 72–85). Secondly, intertwined with nation-building, the PAP has encouraged citizens to understand citizenship as a privilege, defined by the responsibilities of and pride in being Singaporean instead of civic rights (Chua 2000, 63; Lee 2010, 86–87). Thirdly, in an environment that emphasises ethnic harmony, as Chua (2003, 31) elaborates, 'severe limits [are] placed on civil society organizations with exclusive ethnic constituencies, whether Chinese, Malay, Indian or Eurasian, in a constitutively multiracial polity'. Fourthly, arts and culture are ideological sites to cultivate civilised and cultured citizens in this multi-ethnic and multireligious society (Chong 2011, 16–47). These circumstances lead to the paradoxical situation in which 'every discourse on civic and/or civil society in Singapore is highly politicized, for the act of depoliticization, if at all possible, is always-already political' (Lee 2010, 85). Hence, Singapore provides an interesting case study for examining how contemporary arts renegotiate new modes and space for envisionings amidst limitations confronting both civil society and arts.

Singapore's specific history as a colonial port and its multi-ethnic population, with specific cultural heritages, artistic bequests, and related values, shape perceptions of arts' socio-political roles and purposes. Since most of the population is ethnic Chinese, major socio-political events in 20th-century China have had repercussions for Singapore's cultural politics and arts, too. For instance, Chinese theatre groups acknowledge that addressing socio-political issues through theatre emerged with the May Fourth Movement in Beijing in 1919. This historical trajectory continues to shape their current perceptions of the role of the theatre today (Chong 2011, 119; Kok Heng Leun, interview with author, 3 August 2021). Since World War II, artists and politicians alike have increasingly recognised arts' possibility to permeate and mobilise people. While some artists and cultural workers have been inspired by the societally transformative power of leftist movements around the world, the banning of communism and the censorship of related cultural productions from 1960s onwards have shaped arts and their de- and re-political positionalities in the past and today, as Palay's performance also indicates. Standing still and holding a mirror in a park would be considered an apolitical gesture in many neoliberal societies, but in the Singaporean context, authorities interpret it as an illegal political assembly.

The PAP's aspiration to transform Singapore into a Global City for the Arts, announced in 1991, and articulated in Renaissance City Plans in 2000, 2005, and 2008, make clear the aims of promoting arts and their socio-economic role. These cultural master plans have guided structural, cultural, and policy transformations, including mitigating censorship and developing world-class infrastructure for arts (Chong 2011 29–47; Lee 2016). This has not been a linear or homogenously evolving advance across artistic fields. Scholars and practitioners debate whether official censorship has become more lenient or not in the past decade. Changing parameters, depending on site, topic, form, and practice, provide opportunities and challenges. For instance, if artworks are displayed to be sold in a commercial art gallery, there is no need to apply for the licence demanded of public, non-commercial art exhibitions. Private galleries thus have more leeway to show artworks with socio-politically sensitive topics.

Nonetheless, Singapore is commonly known, especially among arts-sector professionals, for its 'governmentalisation of culture' (Lee 2010, 8). Besides enforcing laws and regulations, Singapore's government employs funding to monitor arts and civil activism. A myriad of contemporary arts programmes and projects have been initiated not only to support the art scene but also to improve local living conditions and both local and international tourism. Because maintaining social harmony is a top priority, the financial resources poured into the arts do not necessarily enhance freedom of expression but strengthen an appropriate expression of arts, as the ASEAN human rights statement at the beginning of this chapter also recognises. In places, this has resulted in depoliticisation of arts and avoiding directly addressing race, religion, and other political issues defined by 'out-of-bounds' markers. It is quite a challenge to survive as a contemporary artist, art collective, or space without the art grants governmental institutions control. Therefore, preserving one's artistic integrity versus voicing political criticism at the risk of losing future funding opportunities is a concern many artists share. Some may prefer to evade unwanted attention from the government. Even though this can be interpreted as a form of self-censorship, it could also be seen as strategic manoeuvring that leaves possibilities for other than antagonistic means to create affects. Some artists prefer to work independently and without governmental funding, but many employ fluid positionalities in relation to the state, the political, and civil society, depending on which method works best for the specific artistic project (Valjakka 2021). Given the

socio-political conditions of contemporary arts, employing directly confrontational methods is not always the most effective approach. More subtle methods may enhance socio-political changes more successfully.

Such artistic positionalities, working gently within and for a more multivocal civil society, are not uncommon in Singapore. An illuminating example of long-term engagements is BRACK, an independent art group that has evolved from a Singapore-based platform into a collective of socially engaged artists in Southeast Asia. As a platform, BRACK was working with civil society groups and artists to create spaces for people to come together, whereas at the time of writing, its focus as an art collective has shifted to questions of how artists can use their artistic and often embodied practices to challenge existing worldviews. Hoping that participation through unconventional modes of interacting and sharing could raise new channels for understanding and empathy, the aim is to work within and along civil society. To investigate questions of identity, self, and community, the focus lies on forms and acts of gathering through collaborative artistic practices. Co-founder Alecia Neo's (b. 1986) projects focusing on care practices, *Between Earth and Sky* (2018) and the ongoing *Care Index*, launched in December 2020, (Fig. 3.3) further illuminate these aims (Alecia Neo, interviews with author, 18 August 2021; 5 March 2022; see also BRACK 2022).

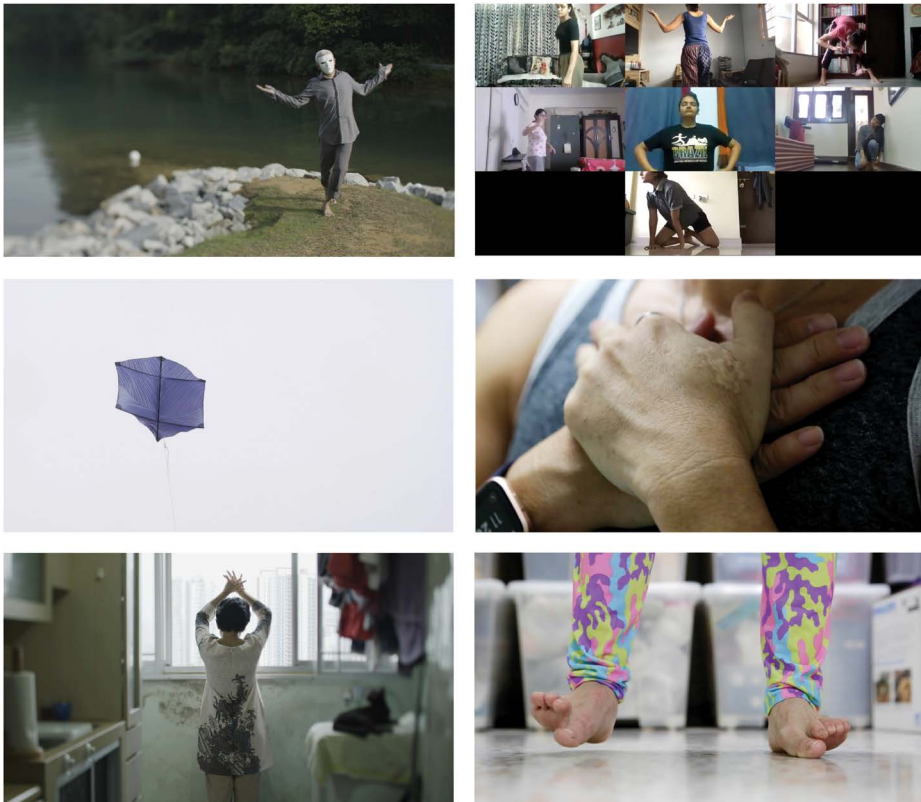


Figure 3.3 On the left: Alecia Neo, *Between Earth and Sky* (2018). On the right: Alecia Neo, *Care Index: Dance Nucleus Element Residency. The Listening Biennial* (2022).

Source: Courtesy of the artist.

Regardless of social norms and somewhat ambiguous regulations, the rights of the LGBTQ+ communities, migrant workers, and other vulnerable minorities, such as the homeless, have been addressed both in contemporary arts and by civil society groups, emerging both within and parallel to civil society. Yet, negligence towards and stigmatisation of those with mental disorders and their caregivers are still less acknowledged parts of human rights and social justice discourses. Through varied artistic methods, including movement workshops, performances, and co-creation of kites, the year-long project *Between Earth and Sky* (2018), created in collaboration with artists Sharda Harrison and Ajunta Anwari, and nine caregivers for people with mental illnesses in Singapore, aimed to address these issues. The artists directly shared their social, cultural, and symbolic capital with caregivers, who then recreated ways of self-expression appropriate to their own personal needs for reflection, experiences of caregiving, and related emotions. *Between Earth and Sky* restored hope and faith among the people involved. It enhanced caregivers' abilities to seek and make known their personal situations and to generate understanding and solidarity within the group and with multiple audiences. The collaborative manifestations of the project were further shared in numerous formats in art galleries, movie theatres, community spaces, and in an NPO for caregivers, all of which lends symbolic capital to the project and the caregivers' contributions. The main aim of the *Care Index*, performed in online and on-site workshops in Singapore, in the region, and beyond, is to continue to collect and examine the multitude of embodied everyday gestures of care and whether they can be shared with broader communities across national borders (Neo, interviews; see also Neo 2022).

For Neo and BRACK, caring is at the core of an equal and inclusive civil society. What these art projects relating to care, healing, and solidarity among and in between individuals, communities, and networks indicate is the relevance of subtle artistic gestures to enhance knowledge exchange on practical issues of civil rights and participation; they also provide accessible methods and spaces for people who do not have the means to participate in political debates on these matters. While doing so they also resonate with Preda's (2012) findings regarding how arts can replace politics. Alecia Neo acknowledges being aware of the art projects' limited impact on socio-political change. What they can do is open up new perceptions and layers of understanding on how to prioritise issues for political debates, although in the end, other groups and representatives need to pursue changes in policies.

### **Mediations and reverberations**

Temporarily occupying key physical spaces is symbolically powerful in the processes of shaping institutional sites of power. The 'capital' in social capital can thus be conceptualized as a collective asset employed by its participants to bring forward a dissenting yet inclusive civil society.

*(Galliera 2017, 11)*

Contemporary arts and their social capital can be employed both for and against civil society. As Galliera (2017, 10) reminds us, social capital bears both positive and negative connotations, and its emancipatory potential is not self-evident. In a similar vein, Lee (2017, 85) elucidates how the political power of street protests is not 'inherently signalling progressive change' and that their 'social currency and cultural capital' can be employed for even contradictory political aims when, for instance, mediated through

artistic practices on the global art scene. Indeed, the potential of contemporary arts to secure permanent and tangible societal change, even if created within and for civil society or in the name of resistance and subversiveness, is disputable. Yet, regardless of the risks brought about by multi-layered shared agency and its modes of dissemination to varied audiences – who might not be able to recognise the intertwined aspects of political, cultural, and symbolic capital of the artistic and curatorial processes – contemporary arts continue to reshape the sites of and places for civil society in Southeast Asia.

While new cultural policies, (self-)censorship, and instrumentalisation of arts are the three main modalities with direct impact on contemporary arts across the region, contemporary arts and artists are not only passive or reactive partakers. Instead, as these case studies reveal, through varied artistic tactics and strategies, artists employ available materials, informal (trans)local networks, and spaces to create possibilities, even ephemeral ones, to address and advocate for socio-political issues. They show how any site, from a prison cell to an international art museum and from a park to an online workshop, can be transformed by arts and through affective aesthetics as a space, at least temporarily, for civil society. These complex and contested processes often rely on multidimensional social, cultural, and symbolic capital to recreate new modes of political capital, especially for those who lack access to political arenas. Hence, the contemporary arts actively reformulate their own dynamic and fluid socio-political positionalities that are not only inevitably and actively interrelated with, but also, to some extent, autonomous from the state, civil society, and political society. This ‘interpretative rendering of the political’, as Kapur (2007, 426) articulated, is not only taking place ‘both inside the nation and outside the state’, but also through translocal collaborations. Modes of civic participation outside or in the margins of democratic institutional settings are becoming ever more significant, especially in (semi)authoritarian contexts. Regardless of contested circumstances, contemporary arts provide innovative platforms for such participation through alternative envisionings of the future.

Some artists remain sceptical about the possibilities of contemporary arts to raise concrete support for civil society because contemporary art scenes are not strong enough and only a small section of the population in Southeast Asia is interested in contemporary arts. Yet others are more convinced that the cumulative affects kept alive by continuous mediations and reverberations through time and space will gradually create a more significant position for contemporary arts in and for civic participation and discourses of more equitable societies. Consequently, some are keener to define themselves as dissidents and citizen artists, while others are more reluctant to be seen as activists, even if they take part in a politically informed exhibition or project. Besides personal perceptions, varying socio-political conditions and situated understandings of citizenship explain these differences to some extent. For instance, some Singaporean artists are not comfortable with the denotation of ‘citizen artist’ because of the ways in which the government has employed the arts and ‘cultural citizenship’ for national identity building. Currently, notions of citizenship and citizen resonate with nationalism – an ideology that artists do not wish to promote.

The forms and scope of contemporary arts created within or for civil society are not necessarily distinctly subversive or antagonistic. Not all contemporary arts are political and not all political arts contribute to civil society. Therefore, a more holistic analysis is needed, one that is locally grounded but opens up to multi-scalar regional and international trajectories and includes multivocal shared agency in, of, and for contemporary arts created within and for civil society. By documentation and commemoration,

contemporary arts have the power to side with understanding and sympathy and to prevent amnesia. By means of criticism and (in)direct advocacy, artists not only sustain hope and courage but also provide alternative platforms and tools for people to voice injustices and seek reconciliation. Across Southeast Asia, contemporary arts continuously substitute for a socio-political arena even under (semi)authoritarian conditions and for people lacking possibilities for political participation.

## Notes

- 1 For a recent discussion of the socio-political impact of the ‘radical 1960s’ in Asia, see Derichs and Ali (2021).
- 2 For a preliminary study on art(s) and ecosystem(s) in Indonesia, see Valjakka (2020).
- 3 A range of organisations, activists, and film makers organise international film festivals and events annually. For more information, see e.g., Human Rights Film Network (2021) and World Movement for Democracy (2021).
- 4 See, e.g., Guillermo (1987); Taylor and Ly (2012); Ade and Ching (2016). On some of the most illuminating exhibitions, see Lenzi (2014a); Igarashi and Kuroda (2018); Bae, Seng and Suzuki (2019).
- 5 See Chatterjee (2011) for a more comprehensive discussion.
- 6 The Museum has a collection of more than 360 prisoners’ objects in the ‘Defending Human Dignity’ area of the permanent exhibition *The Humanitarian Adventure*.
- 7 From the author’s fieldnotes.
- 8 For illuminating art-historical studies, see Galloway (2018) and Aung Min (2017). For a detailed analysis of the censorship of arts in different eras, see Carlson (2016) or Fink (2009, 209–225). Ching (2011) elaborates the challenges for emerging contemporary arts from the mid-1990s until 2011.
- 9 For instance, Oxfam International (2021) has organised Rohingya Arts Campaigns to raise both empathic and financial support for refugees across the border with Bangladesh.
- 10 For analyses see Koh and Ooi (2004); Lee (2010); Soon and Koh (2017); Koh and Soon (2018).

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# 4

## SPATIAL PERSPECTIVES

### Civil society activism as struggles for space in urbanising Southeast Asia

*Rita Padawangi*

Why do we need to consider spatial perspectives in discussing civil society in Southeast Asia? One reason is that Southeast Asia has been one of the most rapidly urbanising regions in the continent. Levels of urbanisation vary across countries, but generally urbanised areas have increased from only 15% in 1950 to a projected 50% by 2025. This rapid urban transition coincides with the end of World War II as one of the significant turning points in Southeast Asia's civil society (Hansson and Weiss, this volume). Political reform outcomes have evolved and fluctuated, but cities continue to be engines of development in the region. Economic inequality has also widened.

An often forgotten, taken-for-granted physical space works in relation to social space to shape civil society dynamics. The range of civil society activities, from apolitical to political, manifests in a variety of spaces, in both social and physical senses. What, then, is the relationship between cities and civil society? My attention to cities in this chapter offers a way to emphasise directly the importance of space and spatial perspectives in understanding Southeast Asia's civil societies.

Discussions of the role of civil society activism, whether in terms of political reforms or more mundane civil society campaigns, have not sufficiently assessed how such activism relates to urban transitions. Judgements of whether civil society activism has been 'successful' or has 'failed' in political reform often suffer from a disturbing lack of awareness of spatial perspectives. Studies have suggested that political and economic decentralisation of power affect development of cities and regencies, as shown in the cases of Indonesia and the Philippines (Bunnell et al. 2013; Porio 2012). Direct local elections, along with local governments' autonomy to structure their budgets, open possibilities to bring local-scale development projects into electoral politics as campaign promises. These local development projects are likely to have immediate impact on voters' everyday lives and, eventually, on many aspects of activities in civil society. These projects represent progress as technical interventions, and they influence political discussions in the public sphere. The more rapidly urbanising a region is, the more possibilities there are for new development projects.

Civil society activism, therefore, is more complex than what the democratisation literature often suggests (Hansson and Weiss, this volume), and certainly touches on more than electoral politics and local economic decisions. The roles of civil society

organisations in the public sphere ideally involve both consent and dissent. Yet, urbanisation, with its domineering technocracy, complicates this public sphere by presenting a view of development as an undeniable technical need to progress. This is a discourse that can well lead to intolerance of dissenting views of development projects. An immediate contradiction is that these development projects require space; they can (and do) take spaces away from existing uses and existing groups of people. These projects entail political processes and power inequalities, which often involve marginalising the voices of those whose spaces are taken away. The Southeast Asia region, where rapid urbanisation involves burgeoning technocratic projects, offers a reminder of the need for spatial perspectives to understand civil society dynamics.

When it comes to assessing cities and their spaces (which can be both the context and the subject of civil society activism), in general, a critical lens from a spatial perspective is necessary to look beyond pragmatism and technicalities. Studying the linkage between the city and civil society requires tracing political dimensions in the social production of space. How does civil society activism relate to urbanisation in Southeast Asia? What are the roles of urban spaces in the shaping of social movements in Southeast Asia? In response to these questions, I look at the relationship between civil society activism and urbanisation through two dimensions in which civil society and urbanisation intertwine in Southeast Asia: (1) urban issues as social movement agendas; and (2) city spaces and the built environment as contexts for civil society activism. Much of the material I discuss in this chapter derives from my observations over more than a decade's fieldwork in several cities in Southeast Asia.

The discussion in this chapter highlights the paradoxical role of cities in civil society activism and social movements. As places in which political and economic interests are concentrated among a relatively dense population, with relatively advanced infrastructure, cities have become sites in which civil society activists from various regions meet, showcase their agendas, and challenge the social-political establishment. Concurrently, cities are also places in which societies reproduce social problems and inequalities; urban issues themselves are among those social movements address. The closeness between physical and mediated spaces in the city and the processes in which these spaces came to be may make cities fertile grounds for civil society's political activism and democracy. Ironically, given this context, cities are also fertile grounds of developmentalism. Proponents of urban projects often present them as technical solutions to bring progress, although their origins and implications in fact embody political interests. Cities as sites for technocratic development may make them fertile grounds for depoliticisation, with shrinking social spaces for dissent, as we observe amid the seemingly unstoppable urban developmentalism in the region. Given the persistent trajectory of urbanisation in Southeast Asia, and concomitant trends towards political and economic decentralisation, it is imperative to address urban social movements and the role of cities in civil society activism to comprehend political reforms and democratisation, both on the local and the national levels.

### **In search of the common good in spatially fragmented landscapes**

The emphasis on the common good as a binding rule towards which a civil society works presumes its members agree on what constitutes that common good. In other words, the members of that society play their roles in constituting the agreement and in abiding by it. Such a process indicates a certain level of democracy, in which people can have their

say in accordance with institutions, rules, and regulations to preserve their vision of the common good. By doing so, society members also safeguard their individual interests.

There is a tendency in conceptual discussions to assume that such a democratic culture directed towards the common good has only started recently in the Global South (e.g. Jensen 2006, 53). This assumption is rooted in the problematic construction of nation-states as *the* units of analysis that define who would share that common good, while nation-states themselves are by-products of colonialism (Anderson 1983). Many systems of rules and regulations, such as legal codes or maps, persist from colonial times. The establishment of the nation-state as the administrator of public control, with a Lockean idea of civil society, in exchange for individual citizens' relinquishing their interests, may become a pseudo-colonial project in Southeast Asia. Meanwhile, not having a history of colonisation does not automatically result in lesser contradictions between the nation-state and civil society. A case in point is Thailand, in which polarisation in civil society grew along with economic modernisation that brought a new structure of economic patronage under new elites, rather than traditional elites (Sombatpoonsiri 2020). Increasing polarisation makes it challenging to identify the common good that can bind civil society, or even to discuss possible different versions of the common good that can coexist.

One might question whether there are universal values that cut across any society and can evoke a sense of common good across social boundaries. These possible universal values, such as environmental justice, social justice, or religious freedom, have interested scholars who study social movements for democratisation and human rights. Southeast Asia is home to civil society activists who engage in such advocacy, even in places under authoritarian regimes (Koh and Soon 2012; White 2015). What drives these civil society activists may not be preserving their individual interests, and 'moral courage' might be a factor motivating resistance movements for social change (White 2015). While universal values may offer compelling arguments to transcend spatial contexts, in reality, access to engage in those universal values is uneven in an unequal society. Without good civic infrastructure in each neighbourhood, it is less likely that all will share equal self-confidence to participate in advocacy for these universal values, increasing the challenges in working towards achieving them. Rather, 'citizens with high resources may multiply their capacities and influence on their subjects, issues, and interests' (Hoelt et al. 2014). In my observations of Indonesian activist networks over more than a decade, a few activists have expressed concern that advocacy for universal values has become both increasingly concentrated among the middle class and above, and contradictory, as efforts are less grounded in the experiences of the poor. Ultimately, which social groups are involved does still matter in the way these universal values are operationalised and pursued. Inequalities in political power, economic power, and other aspects of society are rife and exacerbated by the historical persistence of these inequalities.

The relationship between cities and civil society has long been a subject of interest, but scholars have mixed views of how the urban – that is, societal life within cities – affects dynamics in civil society. One view is that if cities are places with a relatively dense population, market economy, and competition for land, they will be places where ruthless competition, vice, and self-interest will challenge public welfare. Therefore, cities will not be conducive to shaping the civic virtues of a society – as Jefferson wrote in 1786, in contemplating the relationship between land and civic virtue (Newton and Sullivan 2005). This view contrasts with the Hegelian view, which posits that the limitations of land, trade, and town life would cultivate collective values in civil society.

Debate on these contrasting views continues. Each has its merits, but in general, they are explorations into the role of both natural and built environments in shaping visions of the common good a civil society requires.

### **Southeast Asia's urban transition**

Many studies of civil society in Southeast Asia have focused on the post-independence period, but urbanisation affected societal life before that. The arrival of European traders and the subsequent colonisation of most of Southeast Asia marked the development of a new social hierarchy. Changes in the landscape to facilitate social and economic activities within this social hierarchy perpetuated the societal order through physical manifestation in the built environment – for example, the segregation of European residences and assignment of ethnic enclaves to particular geographical locations. Another change in the built environment was the shifting of economic centres away from traditional inland centres of kingdoms to ports, following the expansion of international trade. Intensification of activities on the coast empowered the economies of those with close connections to trade. Infrastructure developments to support colonial trade, urban centres, and ports marked the geographical hierarchy between agricultural production and urban traders. Cities also displayed uneven geographies within their territories, with the main economic centre and infrastructure geared towards colonial civic districts, while indigenous settlements came to support the supply of labour.

Exponential rates of post-independence urbanisation brought more changes to the landscape. Large industrial zones grew as the global economy shifted to a new international division of labour (NIDL) that outsourced manufacturing to developing regions. Arguably, the emergence of industrial zones might have paved the way for labour activism, but as economic transformation from agricultural to industrial resulted in uneven development, it also resulted in uneven experiences as labourers encountered this new economy. Rather than giving rise to a working class as a strong and consolidated base for organisation in civil society, economic transformation separated the industrial-sector working class from the land, landless peasants, and informal labourers. For example, while some individuals work as long-term labourers, others work on short, project-based contracts; others still are in other precarious jobs. Some peasants may continue farming in between industrial zones, while others connect with the industrial economy by providing services without working directly for manufacturing industries. The combination of these possibilities results in a mixed geography of *desakota*: in-between rural and urban.

However mixed geographies have become, communities may operate separately in their everyday lives. Such separations become more profound when people are also spatially fragmented. Industrial zones in the NIDL era became larger than ever before as scales of commodity production were geared towards the global market. Cities emerged as economic hubs that connect Southeast Asia's societies globally. Several cities in Southeast Asia grew rapidly to become 'primate cities' (Rimmer and Dick 2009) that account for a significant portion of their respective countries' gross domestic product (GDP). Their population grew rapidly in the first decades after the end of World War II, and several have become megacities with more than 10 million population. Rapid urbanisation has become the backdrop to an increasing need for public services and related infrastructure, combined with governance systems that were imposed by or partially inherited from colonial structures that had not dealt with such scales. For example,

the land ownership system that is essential to spatial governance in Indonesia was only partially reformed after the colonial era. The Agrarian Law of 1960 was supposed to offer an early basis for spatial governance that would better recognise traditional forms of land ownership than the colonial-era law did. However, access to convert land titles according to the new law was uneven; some did not receive information on how to proceed, and the process could be subject to extortion, depending on the reliability of local authorities. As a result of these rapid-urbanisation and administrative issues, city governance is fragmented, with some forms of central government in cities or countries with limited capacity, while some smaller communities directly affected by the lack of services and infrastructure provide services for themselves.

Cities in Southeast Asia have subsequently become social, economic, and political centres. Concentrations of wealth in these cities have made them landscapes of intense economic activity and political processes. As political centres, they are also 'command centres' for localised policies that are implemented further away. The reach of cities' powers is not only because cities are centres for political organisation, but also because they are where powerful actors in the economy are concentrated. Manufacturing industries and agribusinesses mostly have their headquarters in cities that may not confront the everyday situations where these companies operate, but instead face other economic powers that also concentrate in cities, as well as political elites. For example, owners of businesses that deal with oil-palm plantations, real estate projects elsewhere, or mining operations, are unlikely to be at those sites, but are more likely to stay in an urban centre. Meanwhile, cities are also homes of the working class and those with aspirations for upward economic-class mobility, but who are less powerful in political and economic negotiations. These individuals are more likely to be marginalised when new urban development projects take place. Given social and spatial fragmentation in cities, they may be neither directly visible nor easily understood by those from different communities.

### **Urban issues and civil societies in Southeast Asia**

Civil societies in Southeast Asia have grown in these socially-spatially fragmented landscapes. These fragmentations in themselves pose challenges to efforts to exchange ideas and find common ground, let alone to discover common interests and activities. Spatial fragmentations are further complicated by nation-state systems that oblige different communities to imagine themselves as 'one nation'. The both popular and academic framing of civil society per an assumption of nation-state categorisation contributes to preserving such imaginings, even when only partially in line with everyday experiences. Reforms get more attention from international audiences, including scholars, when they fit the scale of the nation-state, as exemplified by case studies of People Power in the Philippines in 1986 and Indonesia's *Reformasi* in 1998. Yet, these uprisings were spectacles of resistance against powerful dictators whom activists characterised as 'common enemies', while everyday experiences of social and economic marginalisation have received less attention, and at most have been generalised as commonly experienced difficult situations. For example, analysts have recognised the role of women who protested over the difficulties in meeting daily needs during the 1997 economic crisis, which led to the beginning of *Reformasi* protests in Indonesia in 1998. However, afterwards the role of civil society in subsequent electoral politics received overwhelmingly much more attention than did the connections between

women's everyday experiences and political forces. In fact, female activists continued their work among the grassroots, but lacking an analytical framing of that grassroots work as occupying political space. Without sufficient attention to smaller-scale everyday experiences that contribute to the build-up of spectacle, academic discussions, analysis, and follow-up post-reform social practices have neglected underlying social and spatial fragmentation.

Furthermore, considering civil society only as organised spheres that engage formally in policy-making would paint another pessimistic picture. Non-governmental organisations (NGOs) and political parties, while valuable to study, often negotiate in ways that may cause them to adjust their agenda. Civil society participation in formal politics through these organisations may well involve exclusions, problems in representation, and other pragmatic considerations that may be contradictory to the social change that they pursue. Such participation is more likely to be part of conflict regulation than to address societal issues (Gerard 2014). That said, the view is likely to be different when the vantage point is from the ground rather than from the realm of formal policy-making. Insufficient attention to grounded experiences of uneven landscapes could lead to hasty conclusions that civil societies have failed to achieve political reform.

A spatial perspective would point to two distinctive factors in Southeast Asia's rapidly urbanising landscapes. First, political powers are inseparable from economic powers, and in the region, economic powers are inseparable from large developers who have accumulated their wealth throughout decades of post-World War II rapid urbanisation. Assuming political reform has succeeded just by the spectacle of toppling a common enemy totally misses underlying economic currents that have much power to shape the direction of Southeast Asian political life. Second, policymakers and practitioners alike too often paint Southeast Asia's rapid urban development as pragmatic and necessary progress, while these developments carry political interests and are linked to political actors. The assumption of necessary pragmatic progress is an anti-political perspective on urban development, as it frames debates and dissent as antagonistic to progress. This pattern is not exclusively Southeast Asian, but Southeast Asia as a region can provide insights into how the apolitical framing of urbanisation misses the much-needed realisation that civil societies are spatially embedded. Urbanisation and development projects are political, and it is important to see urban spaces, infrastructure, and the like as political spaces.

### **Urban spaces as political**

While the political aspect of civil society activism spans a wide range, city spaces are always political. They embody dominant/subordinate relations of power and efforts to preserve, dismantle, or negotiate power structures. Taking city spaces as contexts for civil society activism requires seeing urban spaces as landscapes of power. The configuration of city spaces, regardless of formal planning processes, reflects political, economic, and social inequality. Racial segregation, for example, whether it is by choice or forced, reflects how political, economic, and social powers are unevenly distributed across racial groups. No spatial segregation comes naturally; it is always the result as well as a driver of social relations among diverse population segments. The more urbanised an area is, the denser and more diverse it likely to be. Such diversity applies to various social groups: races, religions, ethnicities, genders, economic classes, political parties, social castes, professions, and others.

The ubiquitous association between urban development and progress presumes formal-bureaucratic planning processes as the way to manage such dense and diverse spaces. Nevertheless, these formal bureaucratic processes are subject to political processes and competing interests. Governments are formal administrators of spatial configurations within their jurisdiction, both urban and rural, but many politically and economically powerful actors who can affect these configurations, as through lobbying and other means of persuasion, are in urban areas. For example, Erik Harms' (2012) observations of Ho Chi Minh City's urban poor documented how the government's notion of 'a beautiful, breathable, and orderly city' legitimised evictions, even among evictees themselves. Yet, even without beautification as an image to justify projects, those who are less powerful have less access to the formal-bureaucratic planning process. Eli Elinoff's study (2021) of the railway settlements of Khon Kaen documented the struggles of the urban poor to complete the paperwork required to secure their tenure. They were unable to hire staff or to lobby upwards. Challenges in navigating paperwork and bureaucracy were also noticeable in the case of evictees in Bukit Duri, Jakarta who sought to secure land to rebuild their settlement, even after they had won a lawsuit against eviction in 2017 (Jakarta Post 2018; Shatkin and Soemarwi 2021). Paperwork and bureaucracy, as manifestations of formal processes, are often more accessible to and navigable by the economically and politically powerful.

Civil society activism in Southeast Asia sits within this context: amidst powerful developers that keep growing in power through rapid urbanisation, largely taken-for-granted management of land based on economic valuation and financialisation, and societal structures that are affected by post-World War II developments, industrialisation, and economic restructuring. Management of space in urbanising Southeast Asia is largely influenced by economic valuation and financialisation of land, leading towards inequality of access that governments that either lack capacity or work in tandem with economically powerful actors rarely mitigate. Consequently, land developers have become political forces in the region. Yet, discussions of political reform often miss these contexts (Padawangi 2014).

A spatial perspective offers at least three important contributions for grasping civil society dynamics. First, insights into the political economy of spatial governance are crucial in sensing social issues that may become common concerns of the society. Second, attentiveness to how political, economic, social, and cultural dimensions connect across spatial scales, from macro to micro, would lead to a better understanding of how social issues in one place connect to others, and eventually to a better understanding of how common concerns develop across diverse groups. Third, the ability to comprehend concerns on the ground from groups on the margins of society would provide avenues to understand how actions are shaped, from common concerns, to activities and strategies for social and political change.

To demonstrate how much a spatial perspective can add in analysing civil society dynamics in Southeast Asia, I will draw on two examples. The first is Jakarta's high-profile 2017 gubernatorial elections; the second is the network of housing-rights advocates in Southeast Asia. The first case will illustrate the importance of the political economy of spatial governance in assessing civil society dynamics, and the extent to which ignorance of that aspect is counterproductive to a discussion on civil society in Southeast Asia. The second case illustrates not only the possibility of thinking beyond nation-state boundaries, but also the challenges in understanding how the everyday pragmatism of spatial arrangements is political.



### ***Spatial segregation: the 'blind spot' in analysis of civil society?***

The 2017 gubernatorial elections in Jakarta remain the most polarised local elections in Indonesia to date, and captivated local, national, and international analysts at the time. The incumbent governor, Basuki Tjahaja Purnama, took office in 2014 as the deputy when the governor at the time, Joko Widodo, was elected president. Hence, the 2017 elections were the first time he ran as the main gubernatorial candidate, even though he was the incumbent. As a Christian Chinese Indonesian, he was a double-minority candidate, given the context of Muslim-majority Jakarta and Indonesia in general. Although his deputy, Djarot Saiful Hidayat, was a Javanese Muslim, much of the public attention was on Purnama, as he often grabbed news headlines for his hard stances on urban projects. Two of the most controversial projects under his reign were the Jakarta Bay reclamation project and the Ciliwung river embankment, known locally as *'normalisasi'*. Both projects were connected with flood mitigation, a top concern in Jakarta, along with traffic jams. Although Purnama-Hidayat (Ahok-Djarot) came out on top in the first round of elections with three candidates, they did not secure the required 50% of popular votes, so they had to go through a run-off against the runner-up. Their votes slightly decreased in the run-off; the pair lost the election to Anies Baswedan and Sandiaga Uno. Purnama was subsequently tried in court and jailed for two years for statements during his gubernatorial reign for which he was accused of blasphemy against Islam.

Academic writings about the gubernatorial elections pointed to the significance of race and religion in Purnama's electoral defeat. Scholars have attributed Purnama's loss to the history of ethnic discrimination against the Chinese in Indonesia and the uneasy relationship between Purnama and Muslim clerics, especially with the brewing blasphemy charge that was pinned on his speech about an often-cited Koranic verse at Kepulauan Seribu (Thousand Islands), an archipelago in Jakarta Bay. Some supporters – Jakarta's civil society, as some analysts would claim – also formed a 'Teman Ahok' (Friends of Ahok) initiative to support Purnama's campaign as an independent candidate, by collecting copies of identity cards of those who pledged support and selling merchandise to raise funds. By early 2017, the initiative claimed to have surpassed the required minimum of 1 million identity cards, although in the end Purnama ran under Partai Demokrasi Indonesia Perjuangan (PDIP, Indonesian Democratic Party of Struggle), the largest political party, with which both his running mate, Hidayat, and his former gubernatorial-mate-turned-president, Widodo, are affiliated. Considering the broad popular support and satisfaction with his performance that pre-election surveys suggest Purnama enjoyed, analysts blamed racial and religious sentiments for his defeat. Spectacles of anti-Ahok street mobilisations were linked to the Islamic Defenders Front, an Islamist organisation with a history of military and police backing, known as a 'troublemaker' for its vigilante operations (Wilson 2017). These vigilante linkages became the basis for some analysts to claim that citizen's mobilisation around religious arguments constituted 'uncivil society' (van Tuijl 2019).

Such analysis, while referring to actual events, missed a spatial perspective on Jakarta's gubernatorial elections and the political role of urban spaces. As Indonesia's primate city, Jakarta is both a political and economic centre, in which spatial contestations affect and are affected by political powers. Yet, many gubernatorial race analyses did not pay sufficient attention to urban space even when space was at the forefront of the campaign agenda. It was already widely known that, as governor, Purnama had conducted the

highest number of forced evictions, taking over the status of ‘eviction king’ from former governor Sutiyoso, despite having governed only three years (2014–2017) to Sutiyoso’s ten (1997–2007). The majority of those forcefully evicted during Purnama’s administration were Muslim, and all of them were from lower-working-class neighbourhoods. Analysis of the election results shows that Purnama lost votes mostly in districts with forced evictions (Gani 2018). The statistical correlation is consistent with the fact that the urban-poor network in Jakarta, which is a coalition of civil society groups from various urban-poor settlements, demanded a no-eviction commitment from the gubernatorial candidates but only managed to secure it from Anies Baswedan, Purnama’s rival in the run-off.

The case of Jakarta’s gubernatorial elections in 2017 thus serves as an illustration that while race and religion presented an appealing vantage point from which to assess the political role of civil society, these factors only offered a partial understanding, and one that perpetuates social polarisation. The blind spot in repeated emphases on race and religion was the fact that Purnama had openly acknowledged his welcoming gestures to powerful developers with political and economic weight in the planning of spaces in Jakarta and beyond. Some known developers in his circle included the owner of the Agung Sedayu Group, with whom he had lunch every month and chatted about such issues as trade, taxes, and politics. At one point, Purnama mentioned that the developer had informally complained in their chats that the land-reclamation permit for a large real estate project in Jakarta Bay ‘took a long time’ (Adzkie 2016). Previously, Purnama also authorised admitting several grown children of developers’ CEOs as interns at City Hall; these included the children of the CEOs of Sinarmas, Lippo Group, and Artha Graha. The internship came with access to various locations, programmes, and offices, despite criticisms of potential conflicts of interest (Aziza 2015).

Without taking Purnama’s own admission of his friendliness with Jakarta’s largest developers seriously, political analysts and scholars who pinned the election results on identity politics alone practically ignored the political role of the urban poor network in the campaign against forced evictions. By doing so, these analyses indirectly dismissed the urban poor as a segment of civil society worthy of political influence. The sole focus on identity politics – assuming Teman Ahok to be a legitimate civil society group that pressed for political influence and the other side to be uncivil society – resembles a binary argument that one is acting for the common good and the other is not. Such a view ignored the importance of economic class and class-based spatial segregation in the city in the making of urban politics. Popular support for both candidates reflected a plural civil society based not just on race and religion, but also on economic class, as is more apparent when we deploy spatial perspectives. These spatial perspectives can range from ground-up observations of civil society groups, particularly those on the margins of society, to a macro view, as Edbert Gani’s (2018) study of geographical voting patterns demonstrates. There have been efforts to acknowledge the politics of space in civil society dynamics (for example, Savirani and Aspinall 2017), but we still need more such studies to provide more grounded analysis of civil society in Southeast Asia.

The risk of aspatial views is that analyses of civil society activism highlight elite activists, or middle-class professionals at the very least, but not those on the margins. Advocates for social and political change, for example those for human rights and women’s rights, rely on representatives of civil society groups who are privileged enough to get media coverage or positions in NGOs, rather than those who attempt to survive at the margins of society and are likely to deal with the day-to-day consequences

of swimming against the taken-for-granted commodification of space. In addition to their lack of resources – not just of ‘social capital’ (Putnam 2000), but also of space and time – to participate in political efforts, groups at the margins of society may also have insufficient confidence to push openly for political change, because of their continuous experience of social disadvantages (Hoeft et al. 2014). Civil society at the margins often becomes the object of charitable mobilisation, such as fundraising to alleviate shortages of services or to mitigate the impacts of floods on livelihoods (see also Sciortino’s chapter in this volume). Viewing marginalised groups as objects of charity aligns with technocratic approaches (Rigg 2016) that are prevalent not just in urban development, but also in service-oriented civil society organisations (Padawangi and Vallée 2017).

This call to bring in the experiences of marginalised groups as part of civil society is not new. Previous critical conceptual inquiries have critiqued civil society for excluding the ‘underclass’ – those who live on the margins socially and economically, noting that ‘civil society participation may even widen social inequality, as citizens with high resources may multiply their capacities and influence on their subjects, issues, and interests’ (Hoeft et al. 2014, 404). Widening social inequality may pave the way to polarisation in civil society, as Jakarta’s 2017 gubernatorial election demonstrated. We can also observe such patterns in the case of Thailand, in the division between those who back the traditional monarchy and those who favour politicians who campaign on issues of economic welfare (Sombatpoonsiri 2020). Exacerbated by scholars who miss spatial inequalities, civil society’s organisational affiliations can become realms of intellectuals and middle-class activists (see Mudhoffir 2021), geared towards elite interests that align with the majority and thwart the interests of the poor (Clarke 2013). Although this critique is insufficient to capture the breadth of civil society dynamics at the grassroots level (Clarke 2013; Pontoh 2021), some reform activists from civil society who have been covered in academic publications (for example, some activists in Lee 2016) have been absorbed within the national political stage and become part of the cyclical reproduction of political-economic domination and subordination.

What is new in integrating spatial perspectives – defined here as viewpoints alert to physical-social space inseparability in understanding civil society – is not attention to marginalised groups, but the critical understanding of how everyday lives, no matter how mundane, can potentially build towards political life. Marginalised groups, such as the economically and spatially marginalised urban poor, can relate deeply to this everyday apolitical-political spectrum. As an urban-poor leader expressed several times in a discussion in which I took part in Jakarta: ‘Only the rich can afford to not vote. The poor has no choice but to vote’. More effort to connect grounded concerns with politics on various scales and to see these on-the-ground experiences as important parts of the political is crucial. Spatial perspectives become the tool to do so, as they connect the scales from macro to micro and vice versa, and as they potentially open discussions of how common concerns can inspire action across social groups.

### ***Spatial perspectives on housing-rights activism in Southeast Asia***

We now turn to the next case study, housing-rights activism in Southeast Asia. Housing is a basic need of society and requires relatively permanent and immobile physical occupation of the landscape. Securing spaces for housing becomes more challenging as societies urbanise: population density increases in rapidly urbanising areas, but the distribution of space is uneven because of unequal political and economic power

participants exercise in the planning process. Advocacy for housing rights is closely related to that for access to land tenure, as insecure land tenure lies at the root of many communities' insufficient access to adequate housing. On the one hand, since housing provision is part of social welfare, housing is usually a government portfolio, be it a local or national government. On the other hand, housing has also become a commodity, and in a rapidly urbanising region, demand intensifies along with density; hence, the housing market has become one of the most lucrative in Southeast Asia. Related to previous discussions, this context also boosts the economic, and eventually political, influence of property developers.

As the interests of large developers to obtain profits align with governments' need to provide housing as evidence of their achievement, housing provision often involves private developers. The role of civil society in such schemes is usually depoliticised, as housing provision becomes a transactional relationship between consumers and providers. In such transactional scenarios, economic class is a determinant of inequality. Furthermore, the relative immobility of housing makes physical location matter as it bears consequences for the inhabitant's economic opportunities and for profit margins in the housing market. Those who do not have adequate access to housing, however, are likely to have less access to economic opportunities. As a result, their political power is also reduced. When the private property regime dictates distribution of land space, the extent of a local constituency's citizenship is also affected. Those without property ownership – housing or land – are likely to be second-class citizens, in the scheme of 'propertied citizenship' (Roy 2003) that dominates many cities in developing regions, including those in Southeast Asia.

In many instances, the appearance of houses also determines their owners' image as worthy citizens. From evictees' submission to their displacement in Ho Chi Minh City to make way for something more beautiful (Harms 2012), to Khon Kaen's urban poor's concern with paving their new homes with tile to look good (Elinoff 2021), housing beauty becomes another layer of a citizenship regime. Those who do not comply with this beauty-citizenship regime can be accused of being illegal, such as evictees in Bukit Duri, Jakarta, whom the governor accused of being squatters on government land despite the fact that a good number of them had land certificates (Nailufar 2017). These cases consistently demonstrate how 'propertied citizenship' expands into 'beautified-propertied citizenship', in which beautiful properties are associated with developer-built real-estate complexes, while residents of self-built settlements become lower-class citizens (Harms 2012; Padawangi 2018b).

The campaign to secure housing rights relates to the role of civil society in housing provision, involving residents as well as other activists who may not live there. From seeking access to planning process, to securing land tenure, to actual building construction, advocacy for housing rights straddles across political advocacy, lobbying, and service provision. Bringing civil society into the process is already a political endeavour in itself, as it challenges power inequality over spatial distribution. Many of these initiatives, however, operate on a pragmatic level because basic need-fulfilment carries a sense of urgency; failure means depriving a community, household, or individual of means of survival. The importance of delivering actual services and houses makes partnerships with community architects, for instance, a strategic means of fulfilling professional training requirements where direct service delivery is necessary. While in some cases participation in housing provision results in increasing self-organisation and empowerment among the urban poor (Archer 2019; Taylor 2019), in other cases the 'participatory'

process can entail exclusion. It may be groups that policymakers view as less cooperative who are excluded, those who are stigmatised among participants (Elinoff 2021), those with different ideologies, or those who are not willing to be co-opted.

The strategies, activities, and dynamics of relationships within and among civil society groups in housing rights activism bridges pragmatism and political affects. A wide spectrum of civil society groups are involved in housing advocacy, from community-based organisations for their own locales, to NGOs that work with several communities, organisations that liaise with governments and financing institutions, and religious organisations. These groups also vary in their position along the spectrum from pragmatic to political. In my study of several urban-poor housing activist campaigns/groups in Jakarta, all of them were concerned with housing rights, but their strategies for engaging with other groups or government institutions differed among locations even within the same city (Padawangi 2018a). In many cases, housing activists do not only include members of affected communities, who are usually the urban poor, but also professionals such as community architects as mediators who bring their ‘expertise’ to design houses. These dynamics have been documented in Thailand (Archer 2019; Elinoff 2021), the Philippines, Cambodia (ACHR 2004), Myanmar, and other parts of Indonesia (Taylor 2018).

The spread of housing activism in Southeast Asia has led to a network that connects across nation-state borders, as demonstrated by the Community Architects Network (CAN) and the Asian Coalition for Housing Rights (ACHR). While these transboundary networks are interesting in many ways, their civil society dynamics are complex. Such networks meet the characteristic of having common interests and shared activities to support those interests, but civil society–government relations in particular nation-states or local territories do not bind them. Activists in the network – both advocates and urban-poor community leaders – may visit each other’s sites to exchange experiences and share thoughts (Elinoff 2021; Taylor 2018). Yet, political and economic situations may result in fragmented civil society groups even within one locale, each with their own interests and nuanced position along the pragmatic-political spectrum.

The root of these nuances is that housing is both physical and political. What further complicates matters is that housing is not just about an individual building but is always part of a settlement, which requires some form of organisation. Being political means being open to disagreements in discussions on housing, such as on how to negotiate in the face of a looming eviction threat, but the requirement of a physical manifestation of housing as a common settlement means activists expect to reach a consensus – that at some point they *should* resolve their disagreements. In reality, some disagreements linger and result in mutual suspicions. When eviction-threatened communities become political, strategise accordingly, and raise arguments in defence of their settlements, they may eventually be evicted even after years of struggles, such as in the cases of Pom Mahakan in Bangkok (Herzfeld 2016), the Khon Kaen railway settlement (Elinoff 2021), and Bukit Duri in Jakarta (Padawangi 2018b; Putri 2020).

On the one hand, the risk of losing homes often becomes the main consideration in becoming more pragmatic than political. On the other hand, the fact that housing is a basic need, under the ambit of supposedly technical urban planning, also opens the possibility of housing rights advocacy as a political civil society movement that may not be seen as ‘overtly’ political. Hence, there is a potential for housing rights advocacy to be visibly vocal even in the context of complicated versions of democracy such as in Thailand (Elinoff 2021) and the Philippines. The pragmatism of basic-needs provision

often leads to civil societal involvement in these initiatives being less identified as political activities and strategies; hence, these efforts may cultivate experiences in grassroots organising, even under a relatively authoritarian regime. Urban spaces are political, and therefore all civil society roles in reconfiguring these spaces are political, regardless of scale. Nevertheless, there remains a lingering question of the extent to which housing rights advocacy can continue to be political beyond the fulfilment of immediate basic needs. The difficulty of acknowledging these needs as political is inseparable from taking for granted market-driven approaches in the distribution of land and space in general.

### **A spatial turn in analysis of civil society**

I started this chapter with this question: Why do we need to consider spatial perspectives when we discuss civil society in Southeast Asia? To summarise my response to that first question, we need spatial perspectives when we discuss civil society in Southeast Asia, first, because the region itself is rapidly urbanising, setting up cities and urban development – which may well have impacts beyond cities themselves – to be important contexts of civil society activism. Second, it is pertinent to view space beyond its technical reality and to consider the social and physical as inseparable dimensions that allow space to be both pragmatic and political. Cities may politicise or depoliticise civil society, depending on how technical activists in civil society view urban development as being. Cities in Southeast Asia, however, are diverse and are becoming more complex as they become more populated. On the one hand, civil society may become more fragmented as that diverse population is spatially segregated through market and social mechanisms. On the other hand, civil societies may form networks across geography through cities as the nodes of these networks.

How does civil society activism relate to urbanisation in Southeast Asia? And what are the roles of urban spaces in the shaping of social movements in Southeast Asia? The chapter also began with these two subsequent questions. Civil society activism in Southeast Asia offers a reminder of how urban spaces are political realities. Explains Rigg (2016, 199), ‘all development is political. Attempts by governments and assorted agencies to suggest otherwise and imagine that development can be treated as an apolitical technocratic exercise are fundamentally and profoundly flawed’. The depoliticisation of provision of space through the domination of (capitalist) markets as the only system for spatial distribution is an obstacle, not just for communities at the margins of society to assert themselves as political actors beyond being vote banks during elections, but also for academics to be able to analyse their power struggles beyond the urgency of basic-needs fulfilment. Recognising space as both pragmatic and political is key in looking at civil society spatially. Advocating for the housing rights of urban-poor communities by members of the urban poor themselves may serve their own interests, but civil society’s mobilising for itself in the margins is, in itself, a political statement. Whether these spatial contestations grow into cross-class solidarity for the common good of society more broadly depends on various factors that allow political claims to grow. Some contests grow more political, others become apolitical, and others may fluctuate depending on what political opportunities open. Through assertions of economic and social concerns in policy-making realms, civil society activists at the margins assert themselves as political actors.

Failure to recognise cities and urbanisation as elements of the political in Southeast Asia would lead to premature judgements of civil society and its activism as futile.

Interventions in urban spaces are essential, from small-scale occupation of space for household needs, to community arrangements to utilise common space for shared activities, to large-scale demonstrations in streets and squares; they are expressions of civil society as a political actor. Therefore, big demonstrations such as People Power in Manila, student protests in Bangkok, anti-authoritarian *Reformasi*, or the recent anti-corruption *Reformasi Dikorupsi* demonstrations across cities in Indonesia, while important as spectacles of collective effort, are not the sole determinants, nor the only expressions, of those civil societies' political assertions. Without transformations in processes of urban development and planning, civil society activism for political reform is challenging, because the management of space will continue to perpetuate social inequalities, power imbalances, and economic disparities.

Experiences in Southeast Asia demonstrate that civil society analysis requires a spatial turn. Spatial perspectives allow analysts to connect across different scales and enable a more nuanced understanding of the social-political change that civil society activism brings about. With spatial perspectives in mind, judgements of the 'success' or 'failure' of civil societal activists as political actors would be no longer so relevant. Neither would be the dichotomy between 'civil' and 'uncivil' societies. Whenever there is access to space, even if it is limited to residential areas, there are opportunities to intervene in those spaces, from physical alterations, to transient occupations, discussions, or everyday encounters. Any intervention on any scale is political and builds towards a notion of a civil society that is not overdetermined by nation-state territorial boundaries that are problematic for understanding societal dynamics in Southeast Asia. It is true that many issues of spatial accessibility may stay on the pragmatic level and be somewhat depoliticised, but so long as there is access to space, depoliticisation is incomplete. Additionally, with growing access to cyber space (Lim 2019; also Lim, this volume), although virtual spaces are also subject to inequalities, they offer possibilities to connect across localities without being totally dependent on nation-states as sole gatekeepers for information. Access to space – both social and physical – is pertinent to any form of civil society, as space allows straddling between the apolitical and the political. When considered collectively, access to space becomes the starting point for shaping common interests and pursuing activities as a civil society.

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## 5

# LEGAL MOBILISATION AND CIVIL SOCIETY

## On the use and usefulness of strategic litigation in Southeast Asia

*Adriaan Bedner and Ward Berenschot*

On 16 May 2013, Indonesia's Constitutional Court issued a ruling that meant an important victory for the petitioner, the Indigenous Peoples' Alliance of Nusantara (AMAN). AMAN had requested a review of the 1999 Forestry Law, claiming that the way in which this statute defined customary forests as state forests was unconstitutional. This contested definition gave the Indonesian state legal control over the territory of Indonesia's many indigenous communities. The Constitutional Court was one of the many avenues AMAN deployed to challenge this excessive claim and to prevent the state from providing concessions to mining, palm oil, timber, and pulp and paper companies on indigenous communities' land. The Court ruled that the term 'state' in Article 1 (6) of the Forestry Law – 'customary forests are state forests located in indigenous peoples' territories' – should be deleted. A small change, but one with considerable implications, as it would mean that the land rights of indigenous communities are original in nature and do not derive from an ultimate right of the state (Bedner and Van Huis 2008: 170–171). At the time, this judgement was considered a formidable breakthrough in the rights struggles of indigenous communities. Within Southeast Asia, it established Indonesia as at the vanguard of judicial activism in matters concerning human rights and proved the effectiveness of legal mobilisation as a strategy for citizens to influence public policies.

However, after eight years, AMAN's legal victory has lost some of its lustre. Implementation of the Constitutional Court's ruling has blunted its critical edge: while formally acceding to the Court's demand to recognise customary land, the Indonesian government has continued to enforce strict criteria for communities to qualify as 'indigenous' (called *adat* in Indonesia) (Van der Muur 2018; Bedner and Arizona 2019). As a result, the number of communities that have regained control over their land has remained extremely limited (see KPA [Konsorsium Pembaruan Agraria] 2019).<sup>1</sup>

AMAN's appeal to Indonesia's Constitutional Court is an example of a worldwide trend in which civil society organisations incorporate legal strategies within their repertoires of contention to further a collective cause. Also referred to as public interest litigation or cause lawyering, these strategies are now usually labelled 'legal mobilisation'. This term refers to the practices of individuals or civil society organisations invoking legal rights and using litigation to pursue public interest goals (cf. Tam 2012, 4;

Handmaker 2019; Lehoucq and Taylor 2020). Legal mobilisation has become an increasingly common element of NGO strategies – so much so that observers have referred to this development as a ‘rights revolution’ (Epp 1998) and speak in glowing and hopeful terms about its potential to ‘overcome political blockages, channel important information to political and bureaucratic actors ... and hold states accountable for incomplete commitments ... while benefiting ... the under privileged’ (Brinks and Gauri 2008, 6; see also Franco 2008).

In this chapter, we will discuss the characteristics of legal mobilisation in Southeast Asia and its role in the strategies of civil society organisations aiming to strengthen citizen rights. Employing and synthesising studies on two fields of NGO activism – land conflicts and labour rights – we will explore how regularly NGOs in the region make use of legal mobilisation strategies, how they employ them, and how effective these strategies have been. To this end, we couch our analysis in a brief comparative analysis of the ‘legal opportunity structure’ (cf. Schramm 2020) shaping legal mobilisation strategies. We limit our analysis to the four Southeast Asian countries where legal mobilisation is most viable and most common: Thailand, Indonesia, the Philippines, and Malaysia.

On the basis of our analysis, we conclude that, while particularly Indonesia, Thailand, and the Philippines have legal frameworks of justiciable rights that are conducive to legal mobilisation, civil society organisations do not employ legal mobilisation as a preferred means to achieve their goals, with their use of Indonesia’s Constitutional Court as an outstanding exception. When organisations turn to the court system, they mostly do so to seek redress for specific complaints or conflicts; they rarely employ the legal system in a systematic way to achieve changes in governmental policies or laws. We observe that a vicious cycle is at work here: because of the reluctance of NGOs to turn to the courts to promote legal change, the legal systems in the countries under study face limited pressure to become more activist. The limited use of legal strategies, moreover, reduces the incentive for courts and legislators to develop consistent lines of precedent and strengthen citizens’ rights, which, in turn, discourages civil society organisations from employing legal strategies.

This chapter proceeds as follows. We first provide an analysis of the ways in which the character of legal systems across Southeast Asia shapes (and curtails) the scope for legal mobilisation. Subsequently, we discuss legal mobilisation strategies concerning land conflicts and labour. To foster comparative analysis in a relatively short essay, we will engage in paired comparisons: for land rights, we discuss legal mobilisation in Indonesia and the Philippines; for labour rights, we focus on Malaysia and Thailand. These analyses are based on a comparative reading of available studies on NGO activism in these two fields.<sup>2</sup>

### **Legal mobilisation and legal opportunity structures in Southeast Asia**

With legal mobilisation, we refer to the practices of individuals’ or civil society organisations’ invoking legal rights and using litigation to pursue public interest goals. While the term is sometimes used to describe a more general invocation of legal rights, in this chapter, we focus specifically on the use of litigation for the purpose of advancing public aims that exceed individual interests. When the pursuit of an individual interest before a court has implications for a wider group or for state policy and when the plaintiff is aware of this broader interest, such a case will fall under our definition. An important feature of legal mobilisation is that its main objective need not be winning a case, but it may be part of a political strategy to draw attention to an issue, to start a

debate on extending the scope of a particular right, or even to enable the media to write about something that they could otherwise not openly address.

To understand the usage and effectiveness of legal mobilisation in Southeast Asia, we need to start with a brief comparative analysis of the legal context facing civil society in the region: to what extent are conditions conducive to legal mobilisation, and are there any clear differences among the countries we discuss? Building on scholarly studies concerning legal mobilisation (e.g. De Fazio 2012; Vanhala 2012; Schramm 2020; Gauri and Brinks 2008), we employ the concept, ‘legal opportunity structure’ to analyse these conditions. We focus on three key aspects of legal opportunity structures: the availability of a legal framework of justiciable rights, the degree of independence of the judiciary, and the availability of resources for civil society. While relevant, the broader issue of the political opportunity structure facing civil society, such as the (un)democratic character of prevailing political regimes, is already discussed at length in other contributions to this volume; therefore we will not address it directly here.

A first indispensable condition for effective legal mobilisation is the presence of a *legal framework of justiciable rights*. Legal mobilisation strategies require the availability of a rights framework that provides the basis for judicial review of laws, regulations, and/or policies. These rights may be constitutional or statutory in nature or have their basis in judicial precedent. While no country in Southeast Asia is completely devoid of such rights, there are major differences among them. A country like Myanmar has hardly any legally acknowledged citizen rights, while on the opposite end, countries like the Philippines, Indonesia, Malaysia, and Thailand have legal systems that provide extensive legal protection of citizens (Harris and Lang 2015, 31). All four have subscribed to the major international human rights conventions,<sup>3</sup> Malaysia’s constitution has included a bill of rights from when it became independent in 1957, the Philippines adopted such a bill when it enacted a new constitution in 1987, Thailand adopted a comprehensive constitutional bill of rights in 1997 (retained in its subsequent 2007 constitution), and Indonesia followed suit in 1999–2002. Particularly Indonesia, the Philippines, and Thailand have quite extended lists of social-economic rights, in the Thai case mainly formulated as duties of the state, including the right to (or duty to provide) housing, health, a proper environment, and education.

An exceptional issue is the right to property, which is of special importance in cases concerning land. In Indonesia, it is curtailed by Article 33(3), which grants the state control of all natural resources. As we will explore below, this has had considerable negative effects for rural communities wishing to defend their land against incoming mining or palm oil companies.

Malaysia has a somewhat less extensive rights framework, as its illiberal democracy has generated a more restricted legal environment (Weiss 2006, 30). A number of laws and court verdicts have curtailed access to constitutionally guaranteed rights and, consequently, ‘rights thus remain, in many ways, aspirational standards’ (see Elias 2015, 234). For example, Malaysian courts emasculated the right to life in 2003 when in the Bakun Dam case, the Court of Appeal argued that economic growth was more important than the environment and therefore the right to life could not be used as grounds for review of the decision to build the dam in question (Boyd 2012, 191).

In all four countries, these rights are justiciable. Following the common law tradition, Malaysia and the Philippines have given the power of constitutional review to the ordinary courts with the Federal Court and the Supreme Court, respectively, at the top.<sup>4</sup> In Indonesia, the Supreme Court and the Constitutional Court share this power, while in Thailand the

Constitutional Court has exclusive power of constitutional review. Constitutional courts provide a particularly promising avenue for legal mobilisation, as their purpose is directly to review statutory clauses. This means that one does not need to bring an actual case concerning an infringement on a right to court and pursue it to the highest level to get a final decision. The establishment of the Constitutional Court in Indonesia in 2003 caused a surge in legal mobilisation: between 2003 and 2013, NGOs brought 119 cases to the court (see Nardi 2018, 249, 256). These cases yielded some impressive results, such as lifting the ban on the Indonesian Communist Party, reversing the privatisation of the water and electricity sectors, and ensuring the possibility of registering a wider range of faiths on identity cards. During its early years, the court upheld more than a quarter of all petitions and was considered ‘unusually activist’ (Dressel and Inoue 2018, 158).

Yet, a favourable legal framework matters only if civil society organisations are allowed to engage in public interest litigation – in other words, they need to be granted legal standing. This standing to sue can be a major hurdle for NGOs, as in Thailand until 2007, when citizens were not allowed to petition the Court directly but could do so only indirectly, through normal courts or institutions as the Ombudsman of the National Human Rights Commission. In 2007, this changed, but citizens still need first to exhaust all other legal options (Tonsakulrungruang 2018). In both the Philippines and Indonesia, judges themselves have extended the rules on standing (Lin 2015, 595). Indonesia’s Supreme Court already allowed NGOs to bring public interest cases to court since 1989 (Sonnenfeld 2002), while its Constitutional Court has recognised almost unlimited rights of standing (Hendrianto 2015). Similarly, the Philippine Supreme Court assumes that people have a legal interest in public matters in their capacity as citizens and taxpayers. By contrast, Malaysia has been much more restrictive in this respect: NGOs cannot file a case on behalf of communities or groups of people who do have legal standing; the role of NGOs is limited to assisting them (Harding and Sharom 2007, 61–64).<sup>5</sup>

A second condition concerns the *independence of the judiciary*, in particular, of the highest court involved in public interest litigation. Legal mobilisation strategies are more likely to be successful when the judiciary is independent from the executive and willing to uphold cases in the face of resistance from ruling elites, even if this requires expanding interpretations of certain rights. This independence is shaped not just by formal, institutional guarantees but also by informal practices such as patronage and judicial corruption.

Once again, courts differ greatly in this respect. In terms of formal guarantees of judicial independence, Indonesia and the Philippines do relatively well, as (the scope for) political involvement in the appointment and transfer of judges is limited (even though, occasionally, such involvement cannot be ruled out; see Hendrianto 2016). Particularly in the Philippines, judges have felt emboldened and independent enough following the democratic reforms after 1987 to engage in considerable judicial activism, which provided a stimulus for public interest litigation (Dressel 2011, 530–531; Sanchez Urribarri et al. 2011). In Malaysia and Thailand, however, courts have been more politicised: it has been argued that Thailand’s Constitutional Court basically serves the purpose of keeping the old elite in power (cf. Hirschl 2009), while Malaysia’s court system has been under severe political pressure from the ruling party for over four decades (Tew 2016, 678–681). Indonesia and the Philippines are not without problems, either, as their judiciaries have been reported to suffer from corruption, access problems, and incidental political interference (Dressel 2011, 531; Crouch 2019). A particular problem in Indonesia is underdeveloped legal discourse, which enables wide judicial discretion (Bedner 2016).

The weak independence of the judiciary is particularly noticeable after courts do issue progressive rulings that favour NGO claimants. In the case of Indonesia's Constitutional Court, political elites tightened their grip over the appointments and everyday functioning of the Court. The result is not only that corruption has entered the Court (with two former constitutional judges convicted of accepting bribes) but also that the Court has become more conservative (Dressel and Inoue 2018, 179–180).<sup>6</sup> The fate of Indonesia's Constitutional Court illustrates an important aspect of the legal opportunity structure in Southeast Asia: a rise in judicial activism is often quickly followed by political backlash and a subsequent decline, narrowing the chances for those pursuing litigation to realise their rights. This pattern can also be observed in Thailand. Although the Thai Constitutional Court was never so activist as their Indonesian colleagues, initially they showed their independence through fairly unbiased hearing of cases and they upheld a number of important petitions concerning gender equality, the right to property, and freedom of occupation (Tonsakulrungruang 2018). However, over the years, the Court has become increasingly politicised and 'the growing ideological ties between judges and elites ... since 2006 have eroded the court's political neutrality'. This has made the Constitutional Court one of the least successful constitutional courts in Asia (Dressel and Tonsakulrungruang 2019, 16–17).

These examples of limited judicial independence should be interpreted in the context of the oligarchic nature of politics across Southeast Asia. As economic and political elites are very closely connected, and economic power often serves as a conduit to political power (and vice versa), civil society organisations deal with state institutions that are often controlled by political elites representing key economic interests. This oligarchic nature of politics in the region not only fosters a regular undermining of the independence of the judiciary but also constitutes a major obstacle to efforts to strengthen citizen rights through legal reform.

The assessments that the World Justice Project makes of the quality of the rule of law in Southeast Asia reflect this reality: Singapore and Malaysia score highest (0.78 and 0.57, respectively, on a scale from 0 to 1) with Indonesia (0.52), Thailand (0.50), and the Philippines (0.46) scoring somewhat lower.<sup>7</sup> In short, the four countries we focus on are not far apart, and it seems that, in all four, problems with judicial independence and oligarchic politics discourage civil society actors from taking recourse to the courts.

A third key issue is *the availability of material and legal resources to those who want to bring a suit to court*. Appealing to legal rights in public forums requires organisation, time, and money, and going to court requires the same plus legal expertise. As Epp has argued, 'a support structure for legal mobilisation is a necessary condition for sustained high-court attention to rights. A support structure makes extensive rights litigation and sustained judicial attention to rights possible' (Epp 2011, 409). The same argument applies to access to alternative bodies such as National Human Rights Commissions or ombudspersons: these avenues have little impact without the presence of organisations capable of using them. Rosser and Curnow (2014) include such organisations among 'support structures for legal mobilization'.

In this regard, available assessments provide a mixed picture. On the one hand, all four countries have long histories of civil society organisations' employing legal mobilisation strategies. In Indonesia, activists established a very influential Legal Aid Institute (LBH) in the early 1970s. LBH carefully selected cases for their publicity value and referred to itself as a 'locomotive for democracy' (Lev 2018). Post-New Order Indonesia has seen a number of spectacular cases of public interest litigation in which organisational support

Table 5.1 Opportunities for legal mobilisation – comparing legal systems across Southeast Asia

	<i>Malaysia</i>	<i>Philippines</i>	<i>Indonesia</i>	<i>Thailand</i>
Legal framework/justiciable rights	Moderate	Very strong	Strong	Strong
Independent judiciary	Moderate	Moderate	Moderate	Very weak
NGO support structure for legal mobilisation	Moderate	Strong	Strong	Moderate

from NGOs played a key role, like AMAN's constitutional court case, mentioned above (see, e.g., Rosser and Curnow 2014; Tjandra 2016). Civil society organisations have also played an important role in protecting the Constitutional Court from attempts to circumscribe its powers and thus actively participated in protecting the opportunity structure for legal mobilisation (Nardi 2018, 256–258, 264).

A recent study describes the Philippines' NGO community as 'passionate, vibrant and broad'; the Philippines also has a long history of small peasants' mobilisation (Schramm 2020; also Dressel 2011, 534). The same applies to labour organising (Hedman 2001, 932). Even the authoritarian Marcos regime sustained a 'robust support structure' for legal mobilisation, which led to surprising attention of judges for human rights, including social-economic rights (Epp 2011, 409). In the 1990s, 'Alternative Law Groups' formed to connect and support a growing network of legal aid organisations across the Philippines (see Franco, Soliman, and Cisnero 2018).

Even in Malaysia's illiberal democracy, a vibrant civil society developed with considerable attention to legal aid (Weiss 2006), while Thailand's civil society emerged from successful student protests in the 1970s focused on direct political action, but gradually started exploring the possibility of creating the constitutional conditions for litigation in the 1990s (Munger, Thoviriyavej, and Rabiablok 2021).

Table 5.1 summarises this very brief comparative assessment of the opportunities for legal mobilisation in Malaysia, the Philippines, Indonesia, and Thailand. We conclude that while these countries do have legal frameworks that provide guarantees of citizen rights and promising avenues for legal mobilisation strategies, such strategies are hampered by distrust of the judiciary and, to a lesser extent, by the limited number of NGOs with the legal knowledge required.

### **Legal mobilisation in practice: struggles for land and labour rights**

So, given this context, how do civil society actors actually employ the legal system in practice? How important are courts in the strategies of civil society organisations to achieve their goals? We will try to answer this question by looking at civil society activism in two fields: land and labour rights. For each, we compare two countries: Indonesia and the Philippines for land rights, Thailand and Malaysia for labour. Within limited space, we aim to provide brief sketches of how civil society organisations do (and do not) employ the courts in their campaigns, for what purpose, and how effective these efforts have been.

#### ***Land rights in Indonesia and the Philippines: a negotiated affair***

Rural Southeast Asia is undergoing a period of rapid transformation as large tracts of agricultural land are turned into plantations, mines, and residential areas. This leads to numerous land conflicts since rural communities (often supported by NGOs) endeavour

to defend their access to land against incoming companies, or to regain land taken from them. These communities are struggling not just against unyielding companies, but also against state policies and regulations that tend to favour the interests of companies over their rights. The intensity of this struggle, and its widespread nature across Southeast Asia, makes this an interesting case study to explore whether and how civil society organisations are adopting legal mobilisation strategies.

In both Indonesia and the Philippines, the land rights of rural citizens have been curtailed, but Indonesia is the more extreme case. The state has constitutionally declared its ownership of all land. Attempts at land reform in the 1950s and 1960s failed and the state rejects private or community ownership of land in areas officially designated as *kawasan hutan* or forest areas – currently encompassing around 63% of Indonesia’s territory. In non-forest areas, private rights need to be registered in order to be recognised (Bedner 2016). Many, if not most, rural Indonesians are consequently forced to rely on customary law and informal methods of land registration to organise their land dealings, in particular in forest areas. The status of land as state domain (*tanah negara*) has enabled the Indonesian state to provide land concessions to companies for mining, agro-business, palm oil, and other forms of exploitation. The result is that while such companies have a firm legal basis for appropriating land, communities feel that this land is being stolen from them. In many cases, their formal legal position is weak, but in some cases, community members have registered land or are in a position potentially to claim a preferential right (Bedner 2016).

Nonetheless, only few land conflicts between rural Indonesians and companies end up in court. A recent study of 150 major conflicts between communities and palm oil companies (Berenschot et al. 2022) found that communities rarely submitted their grievances to a court: they filed a court case for only 40 (27%) of the conflicts studied. Aside from the difficulty of substantiating land claims, the lengthy procedures, high costs, and perceived corruptibility of judges all discourage communities from bringing their grievances to Indonesia’s legal system. Instead, in most conflicts (73%), communities rely on informal mediation, led by local authorities. Campaigns are mostly directed at convincing local politicians and officials to agree to help broker compromises between companies and communities.

As a result of this reliance on such mediation, most land conflicts are not settled on the basis of laws or citizens’ rights but rather, on the basis of the relative bargaining position of communities and companies. As communities’ bargaining position is generally rather weak, this research project found that most conflicts (68%) end up unresolved.

A recent study of 18 court cases concerning conflicts between rural communities and palm oil companies, too, found that few cases were decided on substantive grounds (see Peterson et al. n.d.). Communities’ claims tend to be either dismissed on procedural grounds or decided per a very narrow, formal reading of the law. This study also reinforces the conclusion that litigation tends to be a relatively ineffective strategy to achieve actual on-the-ground results: in 2 of the 3 (out of 18) cases in which the court did arrive at the substance of the case and uphold claims against companies, the resulting judgements were never implemented – even though these cases had gone all the way up to the Supreme Court.

These studies suggest that many Indonesians involved in land conflicts are wary about the prospects of resolving their grievances through litigation. This conclusion can be extended to the practices of well-known national NGOs such as AMAN, Konsorsium Pembaruan Agraria (KPA, Consortium for Agrarian Reform), and Wahana Lingkungan



Hidup Indonesia (WALHI, Indonesian Forum for the Environment), which mostly focus on achieving redress in individual cases. The consequence of this tendency to avoid going to court is that judges seldom arrive at evaluating the merit of land claims and thus cannot build a solid basis of case-law extending community rights. Moreover, as precedent is hardly recognised in Indonesian law (e.g. Bedner and Wiratraman 2019) and these particular land conflicts cannot be taken to the Constitutional Court (they need to go through the entire legal system before arriving at the Supreme Court), one legal victory in court concerning a particular case offers little prospect for achieving structural change. For these reasons, strategies to address the widespread land conflicts in Indonesia tend to revolve around pursuing negotiated settlements and political lobbying rather than litigation.

Some studies paint a similar picture of land conflicts in the Philippines. Annette Schram concluded that NGOs seldom choose to go to court. Like their Indonesian counterparts, they instead turn to government agencies, officials, and politicians to help them enforce the law, which seems to offer better prospects of success than detouring through the judiciary (Schramm 2020, 229–230). NGOs only go to court as a last resort (Golub 2007, 58–59).

However, it is questionable whether this view is justified. To start with, there are a few key differences between the Philippines and Indonesia. The most important one is that the basic legal framework in the Philippines is much more favourable for landless farmers and indigenous communities than it is in Indonesia. The Philippines rejected the ‘regalian doctrine’ – meaning that all lands in the public domain belong to the state – in introducing a legal framework for land reform in 1988 (Comprehensive Agrarian Reform Program or CARP) and by adopting a law recognising indigenous communities’ communal rights to land in 1997 (the Indigenous Peoples’ Rights Act or IPRA). Both laws are implemented by government agencies specifically created for that purpose, the Directorate of Agrarian Reform (DAR) and the National Commission for Indigenous Peoples (NCIP) (Prill-Brett 2007, 16–17). While these programmes have met with formidable resistance, large parts have been successfully realised (Prill-Brett 2007, 21–22). This means that the legal mobilisation to create legal change – as initiated by AMAN in Indonesia – is less necessary in the Philippines’ case.

What we do see in the Philippines is something we might call ‘counter legal mobilization’. This means that NGOs mobilise against economic elites’ attempts to use the Supreme Court as a means to undermine the rights of indigenous communities. In 1998, retired Supreme Court judge Izaganiz Cruz and lawyer Cesar Europe – ‘as citizens and taxpayers’ – challenged the constitutionality of basic IPRA provisions, arguing that ancestral rights to land were subordinate private rights to the state’s rights over natural resources. While the claimants sued the government and the National Commission on Indigenous Peoples, a host of indigenous people’s representatives and NGOs joined on behalf of the defendant. Both in the first instance and in a subsequent review, the Supreme Court upheld the constitutionality of the challenged provisions, but it was a close call: in the first judgement, the IPRA survived in a Court split 8 to 7 (Carino 2001; Prill-Brett 2007, 16–17).<sup>8</sup>

The seeming scarcity of land disputes in courts in the Philippines is also misleading. Jennifer Franco has argued that, in fact, ‘many rural poor are using state law to claim land rights’ (Franco 2008, 991). However, the large majority of cases are brought to a special adjudication board, which is part of the DAR. This board has jurisdiction over all CARP-related land conflicts and – in contrast to the courts – it has faced a rising number of cases (Cruz and Manahan 2014, 19).

In summary, unlike in Indonesia, in the Philippines, rural land dwellers have had little need to change the state's legal framework through legal mobilisation. However, they have deployed legal mobilisation to defend it. Moreover, the DAR's adjudication board has provided an alternative type of court, which has been relatively accessible to them through NGOs able to provide the legal literacy needed to bring a successful claim and to elaborate a legal framework sustaining their position. Franco maintains that a 'proactive, integrated political-legal strategy' has been crucial for success (Franco 2008, 992; see also Franco and Borrás 2007).

### ***Labour rights in Thailand and Malaysia: limited strategic litigation***

In the past 50 years, Southeast Asia has transformed from an agricultural region to a major exporter of industrial products. All countries in the region today have sizeable labour forces and different degrees of unionisation. Unions are supported by the ILO, unions from rich countries, and transnational, national, and local NGOs. Nonetheless, labour in Southeast Asia is politically weak. Market liberalisation, the informalisation of labour, outsourcing, and migration of workers have all reinforced the power of companies and promoted flexible legal regimes. In some countries, for instance, Vietnam, all trade unions belong to a single confederation controlled by the Communist Party, while, in a country like Myanmar, the absence of freedom of association has made it near-impossible to establish trade unions.

Thailand and Malaysia do allow freedom of association, albeit with constraints. Thailand has had laws allowing for the establishment of trade unions and collective bargaining agreements since 1975. Most of this legislation is still in place, but it imposes fairly strict requirements on the right to strike, severance pay, trade union rights, and other labour-regulation tools (Charoenloet 2015). Migrant workers are not allowed to establish or join trade unions (Campbell 2013, 132), nor can trade unions represent employees in firms that employ fewer than ten (Brown 2016, 203). In practice, trade unions have remained weak, fragmented,<sup>9</sup> and often captured by state elites and capital. Thailand's union density of only about 4% is lower than that of Indonesia (7%), the Philippines (8.7%), and Malaysia (8.8%).<sup>10</sup> Labour inspection is also weak, and many firms reportedly dodge minimum-wage standards (Leckcivilize 2015). On top of that, more than 60% of the labour force are employed in the informal sector and hence fall outside the scope of the labour-law regime (Kongtip et al. 2015, 1–3).<sup>11</sup>

This is the legal context in which NGOs (remarkably often headed by women) have focused on issues related to workplace health and safety, reform of the social security system, outsourcing, etc. (Brown and Ayudhya 2012, 120–125; Munger, Thoviriyavej, and Rabiablok 2021). Many of these NGOs have their roots in the 1973 student movement and are well-established (Munger 2014, 31, 41, 48). Like the trade unions, they are often supported by transnational NGOs and international branches of trade unions in Europe and the US (Foran 2001, 29; Brown 2016, 203). They constitute a community of practice that now spans at least four generations (Munger, Thoviriyavej, and Rabiablok 2021, 4).

In 2001, these NGOs and trade unions together established the Thai Labour Solidarity Committee and started a campaign for realising human and labour rights, which registered some initial success (Kongtip et al. 2015, 5). However, according to Brown and Ayudhya, this campaign and subsequent ones have failed to address the structural causes of adverse labour conditions, while political developments in Thailand since the rise (and fall) of Thaksin Shinawatra have led to rifts between NGO leadership

supporting the urban elites wishing to get rid of Thaksin (the ‘yellow shirts’) versus workers and ordinary union members who have tended to support Thaksin’s movement (the ‘red shirts’) (Brown and Ayudhya 2012, 129–131; see also Elinoff 2014). Of importance for this chapter is that, according to the same source, these NGOs have not used the courts for their purpose but have mainly petitioned employers and parliament (Brown and Ayudhya 2012, 126).

This limited usage of courts to achieve structural legal change has a few notable exceptions. In 1999 – during the most liberal period in Thailand’s history – the NGO Friends of Women filed a case on behalf of 30 Burmese labourers whose employer had imprisoned them. The employer claimed that Thai labour law did not apply to them because they were foreigners. The judges ruled that the labour law did apply, setting the stage for many other suits on behalf of undocumented migrant workers in the labour courts (Munger, Thoviriyavej and Rabiablok 2021, 21–22). Furthermore, in a high profile case against Triumph International, the labour courts were used to fight the dismissal of a trade union leader (see Meesen 2013).

Despite these exceptions, the general pattern is that labour unions and NGOs rarely use courts to achieve policy or legal reforms and there are no other examples of labour-related court cases’ leading to the overturn of government policies. According to Munger, Thai NGOs tend to use the courts only to address individual grievances (such as a dismissal), while rarely engaging in strategic litigation to achieve reform or strengthen labour rights because the ‘support structure for legal mobilization’ is lacking (Munger 2014, 48–49, 55). The focus of NGOs’ legal strategies has generally been on obtaining remedies for individual cases. Thailand has special, tripartite labour courts, which even migrant workers have successfully accessed. Local NGOs like Yaung Chi Oo, the Migration Assistance Programme (MAP) Foundation, and the Joint Action Committee for Burmese Affairs (JACBA) have played key roles in assisting them, informing workers (many of whom are from Laos and Myanmar) of their legal rights, and helping them to formulate legal claims (Campbell 2013: 140, 145; see also Foran 2001, 29; Munger, Thoviriyavej, and Rabiablok 2021, 15 ff.).

Some observers argue that the labour courts have been captured by authoritarian forces, making them ‘ineffectual’ (Brown 2016, 204, 206–207, 210). The problem seems to be that, while labour courts do regularly rule in favour of workers, these rulings are often not implemented. An example is a protracted conflict between Goodyear and the Tire & Worker Union about outsourcing, collective bargaining, and union membership between 2000 and 2010. In this dispute, the labour courts ruled three times in favour of workers who were unfairly dismissed. However, the company ignored the rulings or took other measures to the same effect as the ones that the court had judged unlawful (Hewison and Tularak 2013, 257–259). Other scholars have reported cases in which the labour courts upheld claims for compensation but where it was unclear whether they were implemented (e.g. Foran 2001, 22–24).

An important obstacle seems to be the ‘statist’ inclination of the Thai judiciary: while reportedly less prone to corruption than, for example, Indonesia’s, the Thai judiciary is typically conservative and unlikely to go against government policies (Munger 2014, 50). Finally, bringing complaints concerning labour to court can be risky. There are reports of firms’ taking complaining workers to court for defamation, sometimes leading to convictions (Dutta 2020, 4–8). As a result, Thai courts have been unable to change the structural political conditions that favour capital over worker interests (Brown 2016, 208).

The second country we consider is Malaysia, which differs from Thailand in that its industry is more advanced and produces for the ‘higher end of the market’. Even though much of its workforce is more skilled than in Thailand, a strong labour movement never developed in Malaysia and freedom to associate in trade unions remains a problem. The Malaysian legal framework for industrial relations was established during the 1950s and 1960s and has remained largely unchanged since (Crisis and Parasuraman 2016, 218). Malaysia has not acceded to ILO Convention 87 (Freedom of Association and Protection of the Right to Organise) and has made reservations in its accession to ILO Convention 98 (Right to Organise and Collective Bargaining) (Miles and Croucher 2013, 413). Workers in free trade zones are not allowed to join a trade union unless more than 50% of all workers in a factory agree (Crisis 2010, 589, 597–598; Ramesh Kumar, Ramendran, and Yacob 2012, 533). Outside these zones, employers actively prevent their workers from joining trade unions. Nonetheless, Malaysia’s 8.8% union density is a little bit higher than Thailand’s (Miles and Croucher 2013, 413). Furthermore, just as in Thailand, a number of labour-related NGOs are active in Malaysia (Croucher and Miles 2018, 295).

The problems of labour result mainly from the semi-authoritarian nature of the Malaysian state, which has consistently maintained tight control of labour in its pursuit of economic development (Miles and Croucher 2013, 413; Crisis and Parasuraman 2016, 215). Before the law was abrogated in 2012, the Malaysian government even regularly used the Internal Security Act to prevent workers from establishing unions or striking. The government strictly monitors unions and worker gatherings, and strikes and rallies need prior permission from the government (Ramesh Kumar, Ramendran, and Yacob 2012, 534). As in all other fields of social life in Malaysia, ethnic division has also posed problems for unionisation (Croucher and Miles 2018, 296). Malaysia, moreover, has many migrant workers, who often work in dire conditions and cannot join unions. In 2008, it was estimated that a quarter of the labour force were migrant workers (Crisis 2010, 597–598, 605), a number that has only increased since.

Nonetheless, there are quite a few NGOs supporting workers’ rights, and these organisations have adopted legal strategies. Just like Thailand, Malaysia has a system of labour courts to adjudicate industrial conflicts and to protect the rights of workers. These courts suffer from similar problems: the cases take long and rulings that favour workers often remain unimplemented. Another problem with the labour courts is that they can be used by employers to prevent worker action. While a case is pending in court, the workers involved are not allowed to go on strike. Miles and Croucher report a case in which workers planned to go on strike on Monday, which they announced the Friday before (following a legal obligation); in response, their employer filed a claim at the labour court on Saturday to prevent the strike (2013, 418).

Yet, in some cases, the (labour) courts have provided effective protection to workers through novel legal interpretations. A good example concerns cases about so-called constructive dismissal, meaning that workers terminate their contracts due to unacceptable behaviour by their employers. In these cases, the employer is liable for damages. A judicial precedent in Malaysia’s apex Federal Court opened this avenue in 1988.<sup>12</sup> These cases are not easy to win, because the burden of proof is on the worker, who has to provide evidence of improper conduct by the employer. Nonetheless, the labour courts have upheld the majority of the 663 claims made under constructive dismissal between 2009 and 2013, often awarding substantial damages (Muniapan 2015, 294–295). Another example of effective legal mobilisation concerns a campaign for trade union recognition and collective bargaining at Euromedical Industries in the state of Kedah,

which started in 1983 and lasted for more than 15 years. Despite persistent efforts of the company's management to prevent unionisation, collaboration between Malaysian and Danish labour unions led to a number of court victories, after which the company finally recognised the labour union (see Wad 2013, who argues that such forms of collaboration have become increasingly common).

Yet, as in Thailand, despite such success stories, labour unions seldom employ the courts in their campaigns for labour rights. They apparently expect more from direct political action than from lengthy court procedures. This tendency seems at odds with a trend during the past decade of labour issues' becoming part of the political debate again, with NGOs, followed by trade unions, increasingly framing these issues in human rights terms (Croucher and Miles 2018, 303). Together trade unions and NGOs have campaigned, for example, for a national minimum wage (2008), for a compulsory weekly day off for domestic workers (2008), to prohibit employers' deducting fees from migrant workers' wages (2009), and for the legal position of migrant workers (2008 and 2010) (see Croucher and Miles 2018, 303). Yet all these campaigns focused on political mobilisation, ignoring the courts.

In short, this overview indicates that, just as in Thailand, courts in Malaysia do not play a central role in most labour campaigns but still have provided a rallying point, and that NGOs seem aware of the possibilities of legal mobilisation. In both cases, the judiciary tends to favour corporate interests, but it has sided with labour against company interests on several occasions.

## **Conclusion**

Only a minority of countries in Southeast Asia have legal systems that make them suitable for legal mobilisation. These include Indonesia, Thailand, the Philippines, and Malaysia, all of which have the necessary legal opportunity structures as well as vibrant civil societies with sufficient legal know-how and material resources to combine political campaigns with legal action. Given also the availability of a court system that gives such petitions a friendly hearing, legal mobilisation can become an important form of political action. The outstanding example in the region is the Indonesian Constitutional Court. This Court was established especially to deal with cases involving citizen rights and it has demonstrated an impressive degree of judicial activism, reversing many important statutory provisions and even entire statutes.

However, Indonesia's Constitutional Court is exceptional. Thailand's Constitutional Court is characterised by problems with standing and a steep decline in judicial activism over the years, while the Philippines and Malaysia have no special constitutional courts. The procedure to bring a case to the attention of their Supreme or Federal Court is long and cumbersome. This is also the case in Indonesia for lawsuits outside the jurisdiction of the Constitutional Court, which have to find their way slowly up through a system deemed corrupt and erratic before they are judged by a Supreme Court that has never matched the Constitutional Court's independence.

Indeed, in the two fields of civil society activism we examined – land and labour rights – civil society organisations mostly appeared reluctant to take recourse to courts. While court cases are neither absent nor always fail, in general, NGOs and trade unions tend to prefer political lobbying over litigation to achieve legal change and in individual cases, prefer various forms of alternative dispute resolution. The Philippines proved an exception to some extent, which has to do with the relatively favourable situation

concerning land rights of local communities. Here we also noticed the phenomenon of ‘counter legal mobilization’, meaning that NGOs do defend their position against legal attacks in court. Finally, special adjudication boards for land cases deal with considerable numbers of claims and seem to function rather well. By contrast, in cases of land conflicts in Indonesia, NGOs try mediation rather than litigation. Reasons to avoid litigation include the difficulty of proving land claims in court as well as negative perceptions regarding the length of trials, implementation of judgements, and judicial corruption. Similarly, our survey of legal mobilisation strategies concerning labour rights in Thailand and Malaysia indicates that going to court takes much time and effort.

And if NGOs do engage in litigation in these fields, they seldom do so with the objective of policy change. When NGOs turned to the court, their cases mainly involved attempts to seek redress for individual grievances or particular conflicts. While we could only focus on struggles for land and labour rights in this short chapter, studies on other fields, such as health and education (e.g. Susanti 2008) or pollution (Nicholson 2009), suggest that these findings apply more broadly.

Importantly, this reluctance to engage in legal mobilisation cannot be mainly attributed to weak legal protections or inadequate laws. While we noted some variation – for example, land rights are better protected in the Philippines than in Indonesia and labour rights have less legal support in Malaysia – in general, the applicable legal framework does provide considerable opportunities for litigation and establishing precedents favourable to those seeking justice. This is also evidenced by our observation that when NGOs actually did turn to courts, they achieved some noticeable victories. We speculate that the problem lies less with the content of the law than with distrust of the judiciary and the ineffectiveness of judicial decisions in individual cases. In all four countries, the courts are operating in contexts of oligarchic political systems where everyday governance is highly skewed towards the interests of political and economic elites. As a result, NGOs seem to share the widespread perception that these elites can use bribes and personal connections to obtain favourable court rulings or avoid the implementation of unfavourable court rulings. Such perceptions may discourage activists from recourse to the courts.

The downside of this understandable distrust of the legal system is that it limits the pressure on the judiciary and government to improve regulation. Studies in the fields discussed in this chapter contain various examples of how strategic litigation can serve to clarify and strengthen existing law and generate pressure to improve this legal framework. If such means are not used, the effect in the end is erosion of the legal system as a structure to control the executive and the legislative. A vicious cycle seems to be at work here: as the perceived unreliability of legal systems discourages civil society organisations from employing legal means to achieve their aims, the effect of this lack of engagement is that legal systems have no incentive to improve.

## Notes

- 1 In 2020, the formal recognition of customary forests remained limited to 65 customary law communities and covers only a very small area of 35,150 hectares (Dhiaulhaq and Berenschot 2020).
- 2 We are grateful to Dorien Conway for the excellent literature review she conducted for this chapter.
- 3 A partial exception here is Malaysia’s refusal to ratify the International Convention to Eliminate Racial Discrimination (ICERD).

- 4 Malaysia has a parallel, non-federal system of Islamic courts. This makes legal mobilisation concerning family law for Muslims more difficult than, for instance, in Indonesia, where the Islamic courts are a special branch of the judiciary under the Supreme Court.
- 5 We have found no evidence that these rules have been relaxed.
- 6 A telling example is a petition the Family Alliance brought in 2018 to change the criminal code so as to include a ban on homosexual relations, which was only defeated by a 5–4 vote. Another example is the rejection of the petition against the Blasphemy Law, a statute that drastically circumscribes freedom of religion.
- 7 See <https://worldjusticeproject.org/rule-of-law-index/global>.
- 8 For the actual court ruling, see <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/36882> (accessed 20 January 2022).
- 9 Thailand’s political struggle between ‘red shirts’ and ‘yellow shirts’ has further divided the labour movement.
- 10 For these statistics, see <https://ilostat.ilo.org/topics/union-membership/> (accessed 28 February 2022).
- 11 Separate legislation has covered informal workers since 2010, but its scope is limited and it is extremely hard to implement (Kongtip et al. 2015, 18).
- 12 See *Wong Chee Hong v Cathay Organisation (M) Sdn Bhd* (1988) 1 MLJ 92, SC.

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## **PART II**

# Place within politics



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## 6

# CIVIL SOCIETY AND EFFORTS AT REGIME CHANGE IN SOUTHEAST ASIA

*Andreas Ufen*

Regime change does not only include the transition from authoritarianism to democracy, but also autocratisation processes such as democratic breakdown or backsliding (Lührmann and Lindberg 2019). But who are the main actors behind these transformations? Linz and Stepan acknowledge that civil society organisations (CSOs) ‘can help transitions get started, help resist reversals, help push transitions to their completion, help consolidate, and help deepen democracy’ (Linz and Stepan 1996, 9), but they still focus on the rational strategies of regime and opposition elites during democratisation. They treat civil society, contentious politics, social movements, etc. rather as secondary factors. According to such transitologists, regime change as democratic transition usually begins with splits among authoritarian elites (O’Donnell and Schmitter 1986). In contrast to this approach, this chapter highlights the important role CSOs play before and during regime change.

Civil society comprises, per Muthiah Alagappa,

formal and informal voluntary and ascriptive organizations including churches, labor unions, farmers’ organizations, academic and student groups, debating societies and reading groups, nonstate media, NGOs, occupational associations, business federations, and sports and leisure groups. ... Transnational and global organizations and movements, as well as diaspora and exiled communities, that significantly influence the composition and dynamics of civil society in a country should also be taken into account.

*(Alagappa 2004, 36)*

An idealised concept expects CSOs to forge links between society and elites, formulate alternative ideas on the polity at large and on specific policies, bridge cleavages separating ethnic and religious groups, and recruit and socialise activists in a Tocquevillian manner (Edwards 2011, 4). However, the reality is more complex. The relationship between civil society and the state is often blurred (Bob 2011; Weiss 2021). Civil society activists may even more or less willingly back authoritarianism or engender autocratisation (Beitinger-Lee 2010; Wischermann et al. 2018; Sombatpoonsiri 2021). This chapter, thus, highlights the ambiguous role of civil society during democratisation (see also Bernhard 2020, 341). This dark side of civil society includes groups that may seem initially to be innocuous but become increasingly anti-democratic, and groups that were established from the start only

to obstruct democratisation or to undermine already existing democracies (Berman 1997). A differentiated understanding of regime change in Southeast Asia necessitates an analysis of the various, often contrasting impacts of CSOs.

In order to improve our understanding of the connection between civil society and regime change, this chapter focuses on two Southeast Asian countries: Indonesia and Malaysia. In both cases, socio-economic developments have resulted in shifting social structures and global pressures for economic and political reforms. Both have combined a strategy of export-oriented industrialisation with strong control of labour organisations, and both have experienced a remarkable mushrooming of CSOs since the 1970s, growing salience of Islamist and ethnicist groups and, during the Asian economic crisis of the late 1990s, the emergence of broad social movements for reform. The differing trajectories of CSOs in each shed light on specific historical and political factors. Since the strength of civil society actors depends on political opportunity structures and the overall constellation of political forces (Della Porta 2014, 12f; Dibley and Ford 2019; Bernhard 2020), it makes sense to analyse the impact of civil society on democratisation diachronically. Therefore, the chapter analyses the trajectories of CSOs in Indonesia, then in Malaysia, and concludes with remarks on the implications of this comparison.

### **Regime change and civil society in Indonesia**

A strong anti-colonial nationalist mobilisation produced a diverse and active civil society whose pillarisation and polarisation contributed to the demise of democracy in the late 1950s and the anti-communist massacres of the mid-1960s. The subsequent repression during the New Order period resulted in a taming of CSOs, but as of the 1970s, different institutions and movements slowly began to emerge in the wake of socio-economic developments and rising demands for political participation. Driving the dissolution of the New Order in 1998 were various actors within a heterogeneous *Reformasi* or reform movement, culminating in an anarchic and partly violent transition. Afterwards, activists revived diverse CSOs, including highly politicised groups of the 1950s. In recent years, CSOs have often initiated and amplified polarisation, especially between Islamists and multi-religious or secular groups.

#### ***Nationalist mobilisation and domestication under authoritarian rule***

Under Dutch colonialism, a politicised civil society emerged with the anti-colonial movement. The Sarekat Islam (Islamic Association), established in 1911, was the first mass organisation, with a few hundred thousand members demanding self-governance. Other institutions, like Muhammadiyah as a proponent of modernist Islam and Nahdlatul Ulama (NU) as the traditionalist reaction to it, quickly attracted mass followerships. At around the same time, the Communist Party of Indonesia (PKI) became one of the biggest and best organised Communist parties worldwide, with links to powerful trade unions. A multi-religious, rather secular radical nationalism, epitomised by President Sukarno, slowly achieved a dominant position among anti-colonial groups. Lastly, national independence was won in 1949 after an internecine war against the Dutch, ushering in a parliamentary democracy. During that *revolusi* period (1945–49), polarisation and politicisation within Indonesian society had grown and in many regions, traditional and/or aristocratic elites weakened markedly.

In the 1950s, the biggest political parties represented different socio-cultural milieus or streams (*aliran*): communism, traditionalist Islam, modernist Islam, and a multi-religious

nationalism (Ufen 2008). Parties with close links to trade unions or professional, religious, women's, and other organisations were rooted in specific segments of civil society. These ties contributed to the collapse of parliamentary democracy in the late 1950s because a major proportion of CSOs were at least ambivalent in their stance towards democracy. During the subsequent Guided Democracy period (1957–65) under President Sukarno, political polarisation was still very intensive (Aspinall 2004, 63ff). The killings of at least 500,000 members and (often alleged) supporters of the PKI in 1965–66 were only possible because the military closely cooperated with sections of civil society, especially those groups linked to NU. This collaboration prepared the ground for unprecedented violence.

Under the New Order (1966–98), civil society was generally and for a long time severely suppressed because the regime tried to depoliticise, demobilise, and control CSOs. Generally, opposition was unacceptable to President Suharto. The ideology of the 'family state' (*negara kekeluargaan*) conceived of society as an organic entity with Suharto as father; the concept of civil society was alien to powerholders. In this vein, the government controlled the two legal semi-opposition parties, PDI and PPP, and thus severed the once-close links between political parties and civil society.

The strict anti-communist policies of the New Order regime (Goodfellow 1995) significantly curtailed the activities of the labour movement. However, student movements of 1973–74 and 1977–78 formulated a more fundamental criticism of the New Order. Elite groups such as the signatories of Petisi 50 (Petition of 50), issued in 1980, were moderate and did not target at the authoritarian system as such, but they still criticised concentration of power and over-centralisation.

But it was impossible to fully subdue Muslim mass organisations such as NU and Muhammadiyah because the former was dominated by the popular leaders of thousands of Muslim boarding schools (*pesantren*), especially in Java, and the latter maintained a wide network of esteemed educational institutions and hospitals. In addition, a comprehensive Islamisation propelled to a large extent by Muslim CSOs began in the early 1970s with the revivalist *dakwah* movement (Latif 2005: 390ff). In the early 1980s, a similar *tarbiyah* (education) movement started at various universities (Salman 2006: 190ff).

Global developments since the 1970s effected a mushrooming of CSOs and civil society opposition was becoming palpably stronger from the late 1980s onwards (Ufen 2002, 325ff and 456ff). Many CSO activists who received funding from foreign donors were well acquainted with prevalent liberal discourses on human rights and democracy (Umlin 1997). Protests were no longer concentrated in urban settings, and in some cases, there were even coordinated nationwide demonstrations. Examples are protests by peasants, students, and CSOs in connection with the construction of the Kedung Ombo dam in Central Java or broad mobilisation after the murder of a labour activist in East Java in 1993 (Aspinall 2005, 139ff). Because trade unions, professional organisations, and political parties were banned or subject to profound restrictions and since state agencies were often incapable or unwilling to advocate for marginalised groups, CSOs assumed some of their responsibilities. CSOs also published the most critical analyses of Indonesian politics and of public issues, while journalists in mainstream media had to be much more cautious.

As of the late 1980s, the regime coalition reacted to the strengthened opposition with co-optation and moderate liberalisation on the one hand, and still with harsh repression on the other. Systematic co-optation was the main function of the powerful Indonesian Association of Muslim Intellectuals (ICMI), an instrument of Vice President Habibie to recruit Muslim leaders and to establish an influential patronage network (Hefner 1993).



Examples of moderation were the declaration of the 'state philosophy' Pancasila as an 'open ideology' (*ideologi terbuka*), the toleration of some relatively critical political magazines (such as *Tempo*, *Forum Keadilan*, and *Gatra*), the establishment of the quite independent national human rights commission Komnas HAM, the release of some communists or Sukarnoists from prison, and the condoning of various radical CSOs and illegal political parties.

### ***The collapse of the New Order***

In the 1990s, civil societal opposition had reached threatening proportions, from the regime's point of view, especially when one considers that the heads of the two largest Muslim organisations, NU and Muhammadiyah – at that time, frequently reform-oriented – were Abdurrahman Wahid and Amien Rais. Wahid, who had a reputation as a neomodernist, liberal Muslim leader, had initiated the Forum Demokrasi, a circle of intellectuals who discussed fundamental reforms, in the early 1990s. Rais, Muhammadiyah chairman since 1995, had become the most powerful critic of the regime. He and Wahid were at that time proponents of what Hefner (2000) termed 'civil Islam'. Whereas the regime grudgingly tolerated high-profile leaders such as Wahid and Rais due to their prominence, radical leaders of illegal organisations, like Sri Bintang Pamungkas (PUDI, Indonesian Democratic Union Party), Muchtar Pakpahan (SBSI, Indonesian Workers Welfare Union), and Budiman Sudjatmiko (PRD, People's Democratic Party) faced detention. Until 1998, the battle between regime and civil society opposition escalated, entailing a radicalisation of some civil society agents and the use of hard repression by security forces. The regime oscillated between co-optation and soft and hard repression, incapable of devising a clear-cut strategy in the face of a dynamically shifting civil society.

Triggered by the Asian economic and financial crisis, with its disastrous effects on the whole economy – bankruptcies, mass unemployment, rapid devaluation of the rupiah, high inflation rates – dissatisfaction with an obviously incapable government, including an ailing President Suharto, rose. From February 1998 to mid-May 1998, student protests all over the country, but usually restricted to campus areas, were growing (Eklöf 1999; Adnan and Pradiansyah 1999). In the final weeks of the New Order, violence by the state security apparatus against protesters, especially student activists, reached unprecedented proportions, including abductions and killings. A faction within the military under General Prabowo even approached Islamist CSOs such as the Dewan Da'wah Islamiyah Indonesia (Indonesian Islamic Propagation Council) to attack rich ethnic Chinese as scapegoats of the financial crisis.

No single organisation was able to speak as representative of the major protest groups. The only common theme in the last weeks of the New Order was a fundamental opposition to Suharto himself and the regime, but what kind of transition would follow was unclear. Student protests across the archipelago and eventually even in front of the parliament building; riots in Jakarta, Medan, and Surakarta; and a peaceful march attracting around 1 million people in Yogyakarta made it clear to New Order elites that fundamental reforms were necessary. The protests by students as well as mass demonstrations in May 1998 served as precipitating events 'that trigger *liberalisation*, spreading the perception among authoritarian elites that they need to open some spaces of freedom in order to avoid an imminent or potential civil war or violent takeover of power by democratic and/or revolutionary actors' (Della Porta 2014, 12).

Eventually, Suharto stepped down on 21 May 1998 in the face not only of protests, but also of an unprecedented economic meltdown and increasing pressure by the International Monetary Fund (IMF), parts of Golkar, the military, as well as the civil administration. While the *Reformasi* movement consisted of a range of organisations, the transition was characterised by a slow assertion of rather conservative agendas. Although the opposition was ‘poorly institutionalized, deeply divided, and largely ideologically incoherent’ (Aspinall 2005, 5), and many pro-democracy advocates had very vague ideas about the possible course of transition, they were united against corruption and abuse of power by the Suharto regime.

### ***Post-Suharto transition and (de)consolidation***

In neopatrimonial and sultanistic regimes, the opposition is usually infiltrated, controlled, programmatically weak, and lacking clear objectives. Only radical activists can challenge the regime from the margins, often illegally, but they can hardly organise opposition. When such strongly personalised regimes collapse, and when, at the same time, the opposition is not unified, it is relatively easy for some of the old-regime elites to seek compromise by aligning themselves with the moderate opposition, whereas radical and lower class opposition cannot take part in the pacted transition. Strong conservative elites can then use money and organisational strength to direct the transition and to impair radical forces. The ‘politics of compromise, survivalism, and deal making’ under the New Order – that is, many CSO activists’ tendency to find niches within the authoritarian system and to acknowledge the legitimacy of the political system enough to avoid repression – was subsequently responsible for the blurring of ‘the line between democratic actors and their opponents’ (Aspinall 2005, 272).

But at first the collapse of the New Order ushered in a period of heightened social conflict at all levels. Secessionist and regionalist movements such as in Aceh, Papua, and Timor-Leste revived, and all kinds of militias, Islamist groups, ethnic associations, thousands of new non-governmental organisations, independent trade unions, and peasant organisations emerged (Beitinger-Lee 2010, 158ff). The New Order, a strong state at least in terms of its capability of repressing opposition, was replaced by a transition regime grappling with a power vacuum, delegitimated security forces, and great uncertainty over future political developments.

From May 1998 until 1999, the political transition centred on negotiations within the two chambers of parliament, which MPs elected in the rigged 1997 New Order elections still dominated. An informal coalition built by soft-liners in Golkar, the bureaucracy, and the military, together with the major opposition figures, kept radical reformers within civil society at bay. In November 1998, Megawati Sukarnoputri, Abdurrahman Wahid, Amien Rais, and the Sultan of Yogyakarta issued the ‘Ciganjur Declaration’, signalling their general support for Suharto’s successor as president, B. J. Habibie, and his agenda of gradual reforms. Students demanded a radical break with the past, and the ‘Ciganjur four’ tried to bridge these different camps, knowing quite well that only after elections would they be able to have a strong direct impact. In late 1998, Parliament thus consented to constitutional reforms and to holding free and fair elections in June 1999.

Whereas this transition was mostly pacted, CSOs could flourish (Beitinger-Lee 2010, 115ff). O’Donnell and Schmitter (1986, 48ff) describe a ‘resurrection of civil society’ once authoritarian rule breaks down. In Indonesia, issue-oriented CSOs took advantage of the political uncertainty during transition and started to have an impact upon

policy-making (Eldridge 2005; Hadiwinata 2009; Nyman 2009; Mietzner 2013). The shifting terrain of political parties, elections, parliamentary and military reform, human rights (Setiawan 2021), etc. opened up a range of new opportunities, especially as foreign funding increased significantly. Labour and the land rights movements (Anugrah 2019), for example, succeeded at least partially in impacting policies and amplifying formerly marginalised voices. Despite fragmentation, unions shaped public policy by using ‘street politics’ as a ‘decisive tactic’ (Caraway and Ford 2020, 181; see also Caraway’s chapter in this volume). But these networks that coalesced into a social movement with strong associational power (Caraway and Ford 2020, 184) are only partly testament to the strength of civil society, as they lacked strong institutionalised links to policy-makers.

The new elites did all they could to restrain opposition, to slow down reforms, and to instigate or cooperate with anti-democratic parts of civil society (Beitinger-Lee 2010). In consequence, ‘particularly since 2008, civil society has assumed a largely defensive posture. The focus of its post-2008 activism has not been on further democratic opening, but on fending off attempts by conservative factions in the elite to roll back already implemented reforms’ (Mietzner 2012, 219).

For example, the military has been much less powerful since 1999 than during the New Order: it has come under increasing pressure because of previous human-rights violations, has lost its reserved parliamentary seats and parts of its half-legal business empire, and has had to abandon the dual function (*dwifungsi*) that previously guaranteed it major influence on all levels of government. Yet the armed forces have still staved off comprehensive civilian control. Meanwhile, the governments of Susilo Bambang Yudhoyono (2004–14) and Joko Widodo (since 2014) have tightened control of CSOs by regulating foreign funding and by new legislation that requires social organisations to register with government agencies and allows the government arbitrarily to ban CSOs (Mietzner 2021, 170).<sup>1</sup> Hizbut Tahrir Indonesia (HTI) and the Front Pembela Islam or FPI (Islamic Defenders Front) were then banned.<sup>2</sup> Many pro-democratic activists in general supported the move, but the authoritarian approach in prohibiting these large organisations reminded activists of their own fragile position.

Especially since the mid-2010s, an ambivalent, often even extremely anti-democratic mobilisation of civil society actors has occurred. Limited optimism regarding the role of civil society in democratisation has given way to an increasingly ambivalent or sceptical view in recent years, and a perception of democratic backsliding (Diprose et al. 2019; Power and Warburton 2020). Some civil society actors even have had a significant role in engendering social polarisation, and they have been key supporters of an anti-pluralist populism propagated by presidential candidate Prabowo Subianto.

In general, Islamist groups were forced to keep a low profile under Suharto but gained in strength in the 1990s and 2000s in the wake of general Islamisation. Bouchier (2019) interprets this as a long-term shift towards a more conservative religious nationalism. A part of the Muslim community turned to extra-parliamentary mobilisation. Especially during direct elections, the mixture of street demonstrations and cooperation with highly electable candidates proved to be a successful strategy. In this vein, Tomsa and Setijadi (2018) show that political activism outside the usual partisan channels is nowadays instrumental for the success of candidates, especially during presidential campaigns. This is a result not only of the dealignment and organisational weakness of political parties, but also of the new social media’s circumventing old, established forms of political communication (Tapsell 2020).

All in all, social polarisation between moderate groups and Islamists, spurred on by populist discourse at the national level ahead of and during presidential and some local elections, has increased pressure on pro-democracy groups (Hefner 2019; Mietzner 2021, 6ff). The polarisation started immediately after Suharto's downfall. Then-defence minister and commander of the armed forces Wiranto mobilised violent civil society groups against demonstrating students in November 1998 (Feillard and Madinier 2011, 142). This was the origin of the FPI, which gained a dubious reputation for raids on 'places of sin' such as bars and discotheques in the following years. FPI used the widening civil society space to organise those who had existed underground in student circles or at the margins of New Order society (Ufen 2016; Arifianto 2020). In recent years, groups such as FPI and the National Movement to Safeguard the Fatwa—Indonesian Council of Ulama (GNPF-MUI) have been instrumental for the defeat of Basuki Tjahaja Purnama (a.k.a. Ahok) in the 2017 gubernatorial elections in Jakarta (but see also Padawangi's chapter in this volume). CSOs like the Indonesian Muslim Communication Forum (Forkami), Hizbut Tahrir Indonesia (HTI), and the Muslim Community Forum (FUI) have contributed to a marked politicisation of religious issues. The 2019 presidential elections were, like the 2014 ones, characterised by very strong polarisation between conservative Islamic and Islamist forces on the one hand, and secular and moderate forces on the other.

Especially in the 2010s and 2020s, democratic recession was epitomised by shrinking civic spaces. Controversies around corruption issues and labour laws offer examples. Resistance by civil society activists to counter attempts at weakening the Anti-Corruption Agency (KPK) had been strong enough for over a decade (Setiyono and McLeod 2010), but in 2019, in spite of large demonstrations, a reform of the anti-corruption law debilitating the KPK was finally passed. Other nationwide protests against the Omnibus Law 2020 (or Job Creation Act), containing revisions of 79 existing laws, were also doomed to fail when Parliament finally accepted the bill. Although CSOs are able to influence legislation, political and administrative elites make essential decisions independently, reducing the involvement of civil society to the minimum necessary. At least the powerful student movement behind the protests in 2019 united pluralist and Islamist groups in an unprecedented form (Mietzner 2021, 171).

In sum, CSOs have been able to widen their room for manoeuvre since 1998. Yet, the impact of decidedly pro-democratic civil society groups on policy-making and on general political discourse has been mixed. Civil society has been highly fragmented, with 'almost every subset of civil society ... characterized by atomization' (Aspinall 2013, 35) at the local and national levels. In recent years, it seems that reactionary groups have been gaining new ground. The co-existence of ideologically diverse groups has contributed to nationwide social polarisation.

### **CSOs and regime change in Malaysia**

Civil society in Malaysia was less mobilised and politicised under colonial rule than in Indonesia. After independence, an electoral authoritarian regime aggressively controlled CSOs, although it was less repressive than Indonesia's New Order. But beginning in the late 1990s, the broad *Reformasi* movement demanded a fundamental political opening. Since the mid-2000s, a new movement for electoral reform (Bersih) has been able to bundle diverse groups. Moreover, it has been generally accepted among CSOs that any transition would take place within the existing political system via elections

and a focus on party competition. Prime Minister Najib Razak (2009–18) was forced to leave office after surprising, but not revolutionary elections. From 2018 until 2020, under a reform-oriented government, the new opposition intensively mobilised anti-liberal groups to protest certain reform policies. Since the breakdown of this government in 2020, COVID-19 regulations have constrained civic space markedly.

### ***Decolonisation and the slow activation of civil society***

In contrast to Indonesia's, the nationalist movement in British Malaya was relatively weak, resulting in much less political mobilisation of civil society (Roff 1967). National independence in 1957 was not achieved after a war against the colonial power but was conceded to the Alliance, a coalition of the ethnically based parties – UMNO (United Malays National Organisation), MCA (Malaysian Chinese Association), and MIC (Malaysian Indian Congress) – representing mostly the elites of their respective communities. Within each ethnic group, the British fostered those who supported a controlled transition towards independence against the rising political left (Jomo and Todd 1994: 88ff). Moreover, as of 1948, the British banned national trade unions, including the Pan-Malayan Federation of Trade Unions, as they worked to suppress the Communist Party of Malaya during an emergency period that lasted until 1960. The emergency led 'to a severe crackdown on all left-wing groups and subsequent large-scale arrests of their activists' (Ahmad Fauzi 2007: 387). Afterwards, the Socialist Front (1957–66), consisting of the left-wing Partai Rakyat and the Labour Party, was systematically restrained until the coalition collapsed.

A relatively weak, ethnically segregated civil society, mostly contained by a relatively strong 'administrative state' (Esman 1972) was for a long time characteristic. Malaysia's religious CSOs were much smaller than NU and Muhammadiyah in Indonesia. The strength of Islamic CSOs has grown with the rise of the revivalist *dakwah* movement (Nagata 1984; Zainah 1987) that began to spread from the largest universities throughout society in the early 1970s. The regime reacted with a strategy of co-optation. Prime Minister Mahathir Mohamad recruited one of the leading figures of this movement, Anwar Ibrahim from the Malaysian Islamic Youth Movement (ABIM, Angkatan Belia Islam Malaysia), into his cabinet. Together they pressed ahead with promoting a slow and comprehensive Islamisation of the state apparatus, political culture, and party politics. In this way, a once-oppositional Islamic movement consisting of radical anti-liberal, but also genuine anti-authoritarian activists was redirected, and a conservative interpretation of Islam could serve as antidote to religiously tolerant groups demanding pro-democratic reforms.

The *dakwah* movement was also a result of the expansion of educational institutions and socio-economic change with new classes (industrial workers, entrepreneurs, middle class) each claiming their interests and gradually challenging the aristocracy and bureaucrats. Another reaction was, much like in Indonesia, a burgeoning landscape of issue-oriented CSOs. The general impact on policies of these CSOs working on environmental, women's, labour, human rights, consumer's, and religious issues was circumscribed (Weiss and Saliha 2003; Weiss 2006, 81ff; Giersdorf and Croissant 2011, 8). The regime not only tolerated many of their activities but also at times constrained political space by means of hard repression, for example against university students who had demonstrated together with farmers in Baling, Kedah, against declining rubber prices, and eventually by amending the 1971 Universities and University Colleges Act

(UUCA) in 1975. When CSO activists demanded radical reforms and were perceived as threatening to the regime, they were severely punished. In October 1987, in a campaign called Operasi Lalang ('Weeding Operation'), the government detained more than 100 people without trial for as long as two years under the Internal Security Act. Many of them were from opposition parties and CSOs. In this case, a power struggle within UMNO had spilled over to the civil society.

### ***From Reformasi to Bersih***

Such a spill-over effect was also characteristic of the *Reformasi* movement. At the height of the Asian financial and economic crisis, a rift emerged within UMNO, personified by tensions between Prime Minister Mahathir and his deputy Anwar Ibrahim. A dormant civil society woke up – initially organised by Anwar himself – and demanded major political reforms (Weiss 2006, 127ff). This was obviously inspired by Indonesia's *Reformasi* in 1998. Malaysia's reform movement had a major liberating effect on the political culture at large because the protests united people from different social backgrounds and across ethnic and religious cleavages. With hundreds of new websites, discussion groups, Internet newspapers, etc., activists could communicate directly and circumvent official media (George 2007; Tan and Zawawi 2008).

The Malaysian *Reformasi* movement found its organisational form in alliances such as Gagasan Demokrasi Rakyat (Coalition for People's Democracy), or Gagasan, mostly comprising CSOs, and the Gerakan Keadilan Rakyat Malaysia (Malaysian People's Movement for Justice), or Gerak, consisting of CSOs, the DAP (Democratic Action Party), and the Malaysian Islamic Party (PAS, Parti Islam Se-Malaysia) (Ufen 2009). In contrast to Indonesia, opposition to the regime quickly linked itself in one way or another to political parties. Opposition parties were relatively well organised and had long been able to fundamentally challenge the government programmatically, and at times, even at the ballot box. Whereas trade unions, professional and student organisations, religious groups, and many other CSOs had mostly been tightly controlled, political parties had had enough leeway to formulate criticism and sometimes even destabilise the regime in certain regions. It was therefore no wonder that the *Reformasi* movement rapidly channelled its energies into party politics.

In 1999, ahead of and during the national and state elections, opposition parties coalesced in an unprecedented way. The National Justice Party (since 2003, People's Justice Party or Parti Keadilan Rakyat, PKR), PAS, and the DAP formed the Alternative Front, presenting a multi-ethnic and multi-religious adversary to UMNO and its *Ketuanan Melayu* ('Malay Supremacy') rhetoric. PAS is deeply rooted in religious networks, especially in the states of Kelantan, Terengganu, and Kedah, which have a very high proportion of Muslim Malays. The National Justice Party was the foremost *Reformasi* product, established in 1999, and consisting not only of Anwar and his followers from UMNO, but also of activists from a range of CSOs, including a strong faction from ABIM. The DAP represents especially ethnic Chinese voters in urban and semi-urban areas dissatisfied with the perceived political hegemony of Malay political leaders. Civil society activists supported the electoral campaign and many even joined the opposition parties that became the nucleus of the *Reformasi* movement.

A transition by elections necessitates a strong, cohesive, comprehensive opposition coalition built by political parties, but this coalition is much stronger when it is supported by CSOs (Bunce and Wolchik 2010; Ufen 2020). This logic of 'particisation'

bears the advantage of combining forces. CSOs can help sensitise voters to unfair practices in elections, inform the public about problematic government policies, and organise protests against the regime during critical junctures.

Although the Alternative Front lost in the 1999 elections, and despite the subsequent disastrous performance of opposition parties in the 2004 elections, the momentum of *Reformasi* has never completely vanished. The experiences of 1998–99 uncovered the potential strength of a variegated but temporarily united movement consisting of political parties and hundreds of smaller groups and organisations that were never fully controllable. They have reorganised dynamically, whereas the regime often seemed to be static, heavy-handed, overconfident, and unable to grasp the mood on the ground.

The intensification of the struggle between the regime and opposition came with the establishment and rise of Bersih (Gabungan Pilihanraya Bersih dan Adil, or Coalition for Clean and Fair Elections), a coalition of CSOs (Govindasamy 2015; Chan 2018; Khoo Y. H. 2021; Khoo B. T. 2021). Ahead of the 2008 elections, major demonstrations organised by Bersih and the Hindu Rights Action Force (HINDRAF) (Noor 2008; Kaur 2014) were instrumental in new opposition coalition Pakatan Rakyat's achieving impressive gains (Weiss 2009; Govindasamy 2015). In November 2007, HINDRAF attracted up to 30,000 people in Kuala Lumpur to protest against the marginalisation of ethnic Indians, most of whom are Hindus. This was the first time in Malaysian history that this ethnic group was able to articulate its fundamental dissatisfaction with a polity they experienced as characterised by illegitimate Malay supremacy. Whereas HINDRAF had an agenda directed at a specific ethnic group, Bersih claimed to speak on behalf of all Malaysians worried about the state of (electoral) politics. Leaders of opposition parties and CSOs formed Bersih as the Joint Action Committee for Electoral Reform in 2005 and held their first mass rally in November 2007. In April 2010, the organisation renamed itself as Bersih 2.0 and cut ties to political parties. Thus, Bersih transformed into a non-partisan social movement intending to represent the whole society. The next rally, Bersih 2 in July 2011, drew support from dozens of CSOs, including the Malaysian Trades Union Congress (MTUC) and the Malaysian Bar Council. Bersih formulated eight demands for free and fair elections and called for a strengthening of public institutions and an end to corruption, thus widening its original agenda substantially. Bersih 3, in April 2012, supported by more than 80 CSOs, was not banned, but the regime hindered 200,000 demonstrators from entering Dataran Merdeka (Independence Square) in Kuala Lumpur to join the protest.

All told, Bersih signified a transformation of contentious politics in Malaysia. Tens of thousands of demonstrators had taken part in five mass rallies uniting diverse CSOs across ethnic and religious cleavages. The effort tremendously widened civic space by popular dissent against a government unable to contain the protests. Whereas the government at the start reacted heavy-handedly, with roadblocks, tear gas, water cannons, and mass arrests, they were much more reticent during the Bersih 4 and 5 protests in 2015 and 2016, probably because of international pressure and the conviction that violence could instigate further protests.

Bersih mobilised such large crowds with the help of social media. Since the late 1990s, civil society has increasingly used the Internet to articulate opposition views, to criticise the government, and to organise resistance (see Lim, this volume). Without the enormous expansion of virtual information channels, civil society would not have been so powerful and *Reformasi* would not have been possible. The Internet opened up new opportunities and 'facilitated greater communication and cooperation between

disparate groups in civil society and ... across ethnic lines' (Abbott 2004, 98). The regime was slow in responding to the social media challenge, but it started in the 2010s to employ thousands of cyberbullies, hackers, Internet trolls, etc. (Leong 2021, 5), contributing to social polarisation. So far, civil society activists have found ways to circumvent the pressure with the help of smartphones and a shift to closed messaging groups (Tapsell 2018; Cheong 2020, 77).

All in all, religious groups, students, professional organisations, and other CSOs have sustained a discourse on human rights and democracy (Khoo 2014). Pro-democratic CSOs have been important in promoting minority rights and stressing good governance. They have contributed to undermining the cultural hegemony of conservative Malay Muslims by connecting themselves to a transnational discourse of civil liberties and democratisation. To be sure, there is also a tendency within Malaysian Islam to support pro-democratic reforms; examples are the reformist faction within PAS that formed the National Trust Party (Amanah or Parti Amanah Negara) in 2015, as well as ABIM and the liberal organisation Sisters in Islam, but these groups were not hegemonic and grew less visible after 2018. CSOs were particularly helpful in promoting electoral reform, organising large-scale protests, and increasingly also propagating fundamental institutional and political reforms. Bersih was not only at times close to political parties but was also capable of distancing itself from party politics in order to maintain its strategic role. In any case, Bersih was instrumental in energising the opposition coalition. Ahead of the 2018 elections, the Alliance of Hope (Pakatan Harapan), consisting of Amanah, DAP, PKR, and the United Indigenous Party of Malaysia (Parti Pribumi Bersatu Malaysia, PPBM or Bersatu), was so comprehensive (as indicated by the number and the competitiveness of its candidates), cohesive (with respect to the ideological proximity of coalition partners and the behavioural routinisation of cooperation among these partners), and socially well-rooted (in terms of linkages to voters/supporters and to civil society networks or organisations) that it could win in the elections (Ufen 2020).

Arguably, without *Reformasi* and then Bersih, opposition parties would not have won the elections in 2018. These two movements have helped to link party grassroots, CSO activists, and ordinary Malaysians, to imbue the public with a sense of urgency with respect to democratic reforms, and to invent new strategies for how to challenge the regime effectively.

### ***Growing polarisation of civil society***

As Della Porta notes, 'social movements contribute to democratization only under certain conditions'; they may not only destabilise authoritarian regimes but may also trigger 'an intensification of repression or the collapse of weak democratic regimes' (Della Porta 2014, 13). In Malaysia, many CSOs have indeed promoted autocratisation.

In reaction to strengthened pro-democratic civil society activities, Prime Minister Najib's government cooperated with Malay supremacists demanding the defence of Malay and Muslim hegemony (Ufen 2016; Ufen 2022). Well-known Malay-chauvinist or Islamist groups at that time included Perkasa (Pertubuhan Pribumi Perkasa, Indigenous Empowerment Organisation) (Govindasamy 2015); Pembela (Pertubuhan-pertubuhan Pembela Islam, Organisation for the Defence of Islam); Isma (Ikatan Muslimin Malaysia, Malaysian Muslim Network); Pekida (Pertubuhan Kebajikan dan Dakwah Islamiah Malaysia, Islamic Missionary and Welfare Association), an officially registered institution with links to the Malaysian underworld (Lemière 2014, 100); and



the National Silat Federation, Pesaka, which organised a rally of so-called Red Shirts in reaction to the Bersih 4 rally. These ‘Red Shirts’ assaulted Bersih supporters and the media during the Bersih convoy ahead of the Bersih 5 rally. They also gathered around 4,000 supporters to confront the Bersih 5 protesters.

Opposition in Malaysia usually has not been violent, and the regime has in most cases relied upon relatively soft means of repression. Even the harsher measures against Bersih demonstrators were replaced by softer ones due to extensive media coverage and fierce criticism in and outside of the country. If one accepts that the elections in 2018 signify a regime change (or at least a fundamental re-start of the electoral authoritarian regime with shifting coalitions and a range of new actors), it has been a peaceful, relatively smooth form of transition by elections.

After the Pakatan Harapan (PH) coalition had taken over the government, groups opposing reforms gained the upper hand at least in ‘street politics’ (Ufen 2021). In December 2018, the Islamic Defenders Movement (Gerakan Pembela Ummah) organised protests against the ratification of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). The new government finally renounced ratifying the ICERD in the face of a major demonstration planned by UMNO and PAS. Moreover, UMNO and PAS signed a *Piagam Muafakat Nasional* (National Consensus Charter) in September 2019 and held a ‘Muslim Unity Rally’.

The permanent threat of mobilisation of Malay supremacist and Islamist groups forced the PH to initiate reforms with great caution and sometimes to put them on ice. CSOs, especially Bersih, were involved in devising proposals to address government-led reform recommendations, for instance on political financing and on strengthening electoral transparency (Dettman and Gomez 2020), and the PH government established committees and advisory councils on such issues as national education, domestic violence, and enhancing the autonomy of public watchdog institutions such as the Election Commission and Malaysian Anti-Corruption Commission, yet ‘the biggest let-down was in its not repealing the draconian laws that had hung over civil society for decades’ (CSO Platform for Reform Members 2020, 68). When the PH government was toppled in 2020, Bersih was incapable of organising mass protests in response – partly because the COVID-19 pandemic further curtailed civic space with restrictions on rights to assemble.

The defeat of the BN in 2018 signified a major transformation of the political system, especially with respect to the configuration of political parties and the competitiveness of elections, notwithstanding how quickly the BN and new allies came back to power. Ironically, from 2018 onwards, it has seemed that CSOs opposing the PH government gained the upper hand within civil society, in the name of an exclusivist approach of defending *Ketuanan Melayu* and *Ketuanan Islam*. The transition in Malaysia is today stuck in limbo, and it is unclear whether democratisation or autocratisation will prevail. Developments since 2020 have been marked by political instability due to governments’ being built on very slim majorities from among a disunited coalition, against the background of swift strategic turns of political parties, factions, and individual politicians.

### Concluding remarks

This comparison of two Southeast Asian countries elucidates some of the dynamics of CSOs’ political engagement, shaped by such factors as ideological and social cleavages, legacies of nationalist and anti-colonial mobilisation, and the type of authoritarian control. The strong nationalist movement in Indonesia was anti-colonial, but not

always pro-democratic. This was obvious in the 1950s, when many *aliran*-based CSOs connected to political parties increasingly drifted in different directions and thus contributed to undermining the coalition governments of the parliamentary democracy. In 1965–66, some segments of civil society were involved in the annihilation of the PKI and its supporters. During the New Order period, CSOs were either directly dependent upon the authoritarian state or were forced to focus on specific issues. Some groups were instrumentalised by the military regime. In 1998, student protests, the substantial support of groups within larger CSOs such as NU and Muhammadiyah, and cracks among regime elites prepared the ground for transition. Factions within the military, the bureaucracy, the business elite, and regime party Golkar were increasingly open to demands for reforms the *Reformasi* movement articulated. In the end, in May 1998, the economic and financial crisis, in connection with international pressure, elite defections, and riots (that were at least partly instigated by a military faction) led to the fall of Suharto. Afterwards, the transition was paced, mostly in line with the usual model transitologists present. However, without the sometimes rowdy protests in 1998–99, the existence of powerful new political parties that braced themselves for coming elections, and CSOs serving as watchdogs, constitutional reforms probably would have been watered down. Since the transition, thousands of CSOs have represented diverse interests. However, especially since around 2010, civil society has again grown politically highly polarised, this time in terms of religion. Civil society today is not only very heterogeneous, partly liberal and pro-democratic, but also to some extent consisting of Islamist, ethnicist, and openly anti-democratic organisations. Links to political parties (not to single politicians) are weaker than in the 1950s, but certain groups – for example, Islamist ones – have gained a certain autonomy in relation to an oligarchical system consisting of old business, administrative, military, and party elites (Winters 2014).

In Malaysia, civil society during colonialism was weaker, and national independence was mostly granted by the colonial power. In 1957, an inter-ethnic elite coalition took power, whereas different forms of leftist opposition had already been almost wiped out by the British. After the 1969 elections, racial riots entailed violent conflict mostly between ethnic Malays and ethnic Chinese. This resulted in a state of emergency and the curtailment of political rights and civil liberties. Class cleavages were subdued, and ethnic conflict channelled into a Malay hegemony controlled via a new ruling coalition inclusive of some former opposition parties. The Islamic revival starting in the late 1960s and early 1970s challenged the government, which reacted with co-optation and Islamisation of state and society. The regime has since used Islamic and ethnicist (especially Malay chauvinist) CSOs to threaten or corner oppositional CSOs. The *Reformasi* movement in the late 1990s and early 2000s consisted of liberal Muslims as well as religiously conservative PAS members, and of CSO activists with diverse religious and ethnic backgrounds, often belonging to a well-educated urban middle class. The movement questioned the authoritarian political system and UMNO's hegemony broadly. The government tightened control, but the movement lingered on. Bersih was then able to develop effective strategies for contentious politics. The government mobilised anti-liberal groups but ultimately failed to contain the protests. Bersih's engagement helped opposition parties finally to win national elections in 2018. After 2018, the new opposition, consisting of former regime parties, mobilised anti-liberal, Islamist, and ethnicist CSOs to protest against some of the government's policies.

In both countries, CSOs have contributed to advancing discourses of human rights and democracy, getting salient political issues on the agenda and crafting new policies,

building links to political parties and the state administration, and pressuring authoritarian elites to liberalise and reform the polity, during as well as after transition, to counter reactionary forces. The analysis here thus stresses the important role of CSOs during regime change, in contrast to regime-transition literature that focuses on elite bargaining. But it also cautions against an overly optimistic view of CSOs. CSOs often have no clear political agenda or change substantially over time. They frequently consist of factions with different objectives. NU and Muhammadiyah, for example, have represented liberal, moderate, conservative, and reactionary Muslims at the same time. CSOs with ambiguous or hostile stances towards democracy often mobilise against politicians they perceive as liberal reformers. Today, civil societies are highly polarised, and many CSOs have contributed to democratic backsliding in Indonesia and helped to halt democratisation in Malaysia.

### Notes

- 1 They were hardly represented by political parties because it became necessary for candidates to raise substantial funds for election campaigns, making it impossible for most civil society actors to run successfully for seats in the national parliament (Boudreau 2009).
- 2 At the same time, Jokowi and Vice President Ma'ruf Amin became honorary members of the notorious Pemuda Pancasila (Pancasila Youth) and receive full protection, according to its chair, Yapto Soerjosoemarno (Tempo 2021).

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# 7

## CIVIL SOCIETY AND THE CONTENTIOUS POLITICS OF DEMOCRATISATION AND AUTOCRATISATION IN MYANMAR

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What is the role of civil society in pushing for democratisation under military rule, advocating policy reforms and democratic deepening within a hybrid regime, and resisting autocratisation and military dictatorship? What characterises the political strategies of civil society organisations (CSOs) under these changing circumstances and how are they shaped by openings and constraints in their political space? This chapter addresses these questions through a case study of politically oriented CSOs in Myanmar during the last two decades.

After nearly three decades of socialist military rule (1962–1988) and two more decades of post-socialist military dictatorship (1988–2011), Myanmar underwent a partial liberalisation that introduced basic civil and political freedoms, multi-party elections, parliamentary politics, and elected government. This transition from direct military rule was, however, not a transition to liberal democracy, but to a hybrid regime that combined competitive elections with extensive tutelary powers for the military (*Tatmadaw* or *sit tat*) in both the legislature and executive government (Bünthe 2021b; Stokke and Soe Myint Aung 2020). Nevertheless, this hybrid order allowed the oppositional National League for Democracy (NLD) to win a landslide electoral victory in 2015 and form the first democratically elected government since 1962. When the NLD consolidated its power through an even larger electoral victory in 2020, the *Tatmadaw* resorted to a coup d'état on 1 February 2021 that was followed by large-scale and multifaceted anti-coup resistance. Myanmar has thus seen partial democratisation amidst a changing continuity of military power, creating both political openings and entrenched obstacles for civil society during the last two decades.

These political changes and continuities have had decisive impacts on the development and strategies of CSOs. This chapter argues that the 1990s and 2000s were characterised by slow and uneven development of CSOs in the context of military repression of social movement organisations (SMOs), conditional tolerance of community-based organisations (CBOs) and non-governmental organisations (NGOs),

and instrumentalisation of government-organised NGOs (GONGOS). The transition to a hybrid regime in the 2010s was followed by institutionalisation and depoliticisation of NGOs, reflecting both increased state tolerance towards civil society and inflow of international development aid through international NGOs. Politically oriented CSOs that sought to engage with policy reforms found, however, few institutional and political channels for influence during both the quasi-civilian government of the Union Solidarity and Development Party (USDP) and the democratically elected NLD-government that followed thereafter. Since the 2021 coup, there has been a strong politicisation and radicalisation of civil society, and pro-democracy alliances have emerged between CSOs and the civilian National Unity Government (NUG). Contemporary Myanmar is thus marked by deepened polarisation and confrontations between insurgent pro-democracy forces and a repressive military junta. These developments have placed CSOs at the centre of the struggle for democracy but have also diminished their political space and made them susceptible to harsh military repression.

This case study of Myanmar not only refers to theories and comparative studies of the role of civil society in democratisation and autocratisation, but also challenges existing theoretical frameworks and assumptions. On the one hand, the Myanmar case adds contextual nuance to debates on CSOs in democratisation. While civil society became increasingly vibrant during the final years of military dictatorship, the large majority of CSOs did not play active roles in the political opening. And although increased state tolerance from 2011 was followed by proliferation and institutionalisation of NGOs, institutional and political constraints prevented CSOs from playing key roles in policy reforms and democratic deepening during the decade of hybrid rule. On the other hand, civil society has been at the forefront of the anti-coup resistance since February 2021, spearheaded by ‘new’ political forces – workers, youth, and ethnic activists – rather than institutionalised NGOs. This Spring Revolution movement demonstrates the importance of a broad-based movement and strategic synergies between symbolic, economic, political, and armed forms of resistance. Mass mobilisation in domestic and transnational civil society has delegitimised military rule and radicalised political demands from restoration of the pre-coup hybrid regime to substantive federal democracy. It has also contributed to the formation and legitimacy of the parallel NUG, and to joint armed resistance by People’s Defence Force (PDF) and Ethnic Armed Organisations (EAOs). The Myanmar case thus offers important lessons on the strategies and capacities of different actors resisting full autocratisation, while also demonstrating the difficulty of overturning a powerful and relatively coherent military regime.

### **The role of civil society in democratisation and autocratisation**

Civil society became a prominent theme in democratisation studies during the ‘third wave of democracy’, with the principal question being about the role of *insurgent* and *institutionalised* civil society in bringing about and deepening democracy (Bernhard 2020; Warren 2011). More recently, growing tendencies towards democratic decline and breakdown have drawn attention to the role of civil society as a *firewall* against or a *contributor* to autocratisation (Arato and Cohen 2018; Bernhard 2020; Glasius 2010). Myanmar’s political history during the last two decades provides a unique opportunity to address both sets of questions and add contextual nuance to generalising frameworks and assumptions.



In broad terms, civil society refers to a space between the state, market, and private life, where people come together in movements and organisations to pursue common goals (Hansson and Weiss 2023). Scholarship on the politics of civil society tends to revolve around two main perspectives, a neo-Tocquevillian approach that sees civil society as a domain of liberal values and NGOs outside organised politics, and a neo-Gramscian approach that sees civil society as a realm of social movements and contentious politics that is interwoven with the state and may support or resist hegemonic authorities and agendas (Alagappa 2004; Della Porta and Diani 2015; Edwards 2020; Tilly and Tarrow 2015). While the neo-Gramscian emphasis on insurgent civil society movements has been especially prominent in research on transitions from authoritarian rule, the neo-Tocquevillian perspective has figured prominently in studies of NGOs and participatory governance in post-transition democracies (Bernhard, Fernandes, and Branco 2017).

Contemporary debates on democratisation and autocratisation are commonly framed with reference to the transition approach that is associated with the third wave of democracy. Studies within this tradition not only typically foreground the role of political elites in designing democratic institutions but also acknowledge the role of civil society. There are, however, important differences in how and to what extent scholars see civil society as playing a role in different modes of transition. Democratisation processes in Southern Europe and Latin America in the 1970s and 1980s are understood as elite-driven, stemming from divisions between soft-liners and hardliners within the ruling coalition and proceeding through negotiations and pacts between moderates within the authoritarian regime and the pro-democracy opposition (Carothers 2002; Linz and Stepan 1996; O'Donnell and Schmitter 1986). This mode of transition relegates civil society to a secondary role, although it could deepen elite divisions, support negotiated transitions, and contribute to democratic deepening.

In contrast to this pacted transition model, democratisation in Eastern Europe since 1989 shows instead that CSOs may drive national revolutions and regional waves of democratisation (Bernhard 2020; Tarrow 2011). Della Porta (2016) not only highlights this centrality of mass mobilisation for democracy and social justice in Eastern Europe and during the Arab Spring but also observes that many of the movements disappeared thereafter and failed to produce substantive democracy. These observations resonate with many transitions in the Global South (Ufen, this volume) and highlight that democratisation should be understood as a contentious, continuous, and open-ended process. CSOs may play prominent political roles in democratic transitions and in transformative democratic politics, but their political spaces and capacities to do so are often limited (Stokke and Törnquist 2013).

When it comes to the role of civil society in post-transition contexts, a bifurcation exists between the two general perspectives mentioned above. The liberal neo-Tocquevillian approach highlights the importance of institutionalised CSOs – professional and largely apolitical NGOs – that facilitate cooperation and trust across socio-political divides and support transparent and participatory governance (Suleiman 2012; Toepler et al. 2020). This perspective thus emphasises the autonomy of professional NGOs and envisions synergistic relations between the state and civil society in liberal democracy and neo-liberal governance.

Scholars inspired by the neo-Gramscian approach emphasise that elitist transitions fail to produce substantive democracy and social justice, and hence that popular movements remain critically important advocates of political inclusion and democratic

deepening. In a situation where electoral institutions and political parties fail to meet demands for representation, recognition, and redistribution, social movements struggle for equal and substantive citizenship within the political spaces of formal democracy (Della Porta and Diani 2015; Hiariej and Stokke 2021; Van der Heijden 2014). Their political efficacy is, however, often constrained by organisational fragmentation, limited political access, and capacity, entailing a need for scaling-up from particularistic struggles to transformative alliances and agendas (Stokke and Törnquist 2013; Törnquist and Harriss 2016).

The period since the 1980s has thus produced a rich literature on the role of civil society in democratic transitions. The last decade has also seen a growth in comparative politics scholarship on regime change in the opposite direction, towards autocracy. Autocratisation may be defined as a ‘process of regime change towards autocracy that makes politics increasingly exclusive and monopolistic, and political power increasingly repressive and arbitrary’ (Cassani and Tomini 2020a, 277). It can be understood as transitions between regime types or as non-linear and incremental changes along a continuum between autocracy and democracy, yielding varied conclusions about the form and extent of autocratisation in the contemporary world (Cassani and Tomini 2020b; Lührmann and Lindberg 2019; Skaaning 2020). An influential article by Lührmann and Lindberg (2019) identifies a contemporary ‘wave of autocratization’, but mainly in the form of relatively ‘mild’ democratic regression under a legal and electoral façade rather than democratic breakdowns and full autocratisation.

Lührmann (2021) argues that this contemporary form of autocratisation unfolds as a sequential process, from mounting discontent with democratic parties and institutions, through a rise of anti-pluralists who use and reinforce such discontent to achieve political power, to executive dismantling of democratic-accountability mechanisms. Such gradual and partial autocratisation raises questions about the drivers of autocratisation and sources of democratic resilience at each stage. Somer, McCoy, and Luke (2021), for example, highlight the importance of depolarisation and transformative repolarisation in situations with ‘pernicious polarization’ between mutually distrustful political camps. Laebens and Lührmann (2021) emphasise the importance of civil-society resistance against incumbent weakening of democratic institutions, enabled by institutions for vertical or horizontal accountability, but illiberal civil society can also contribute to harmful polarisation and institutional weakening (Bernhard 2020).

The contemporary literature has less to offer on resistance to full autocratisation (transition to closed autocracy). In such situations, institutional accountability mechanisms are curtailed and the spaces for civil society are limited (Cassani and Tomini 2020b). Regime durability or breakdown then becomes a question of struggles between autocrats’ use of repression, co-optation, and legitimation strategies for regime durability, and opposition forces’ use of symbolic, political, armed, economic, and other forms of resistance to achieve regime change (Gerschewski 2013; Kendall-Taylor et al. 2019).

These theoretical perspectives on the role of civil society under democratisation and autocratisation provide analytical pointers for studying the changing character and strategies of civil society in Myanmar. The following sections will show that CSOs found openings for organisational development and community work before and after the political opening, but state repression under military rule and political exclusion during the hybrid regime constrained political advocacy. After the military coup, civil society has not only been politicised and radicalised but also subjected to harsh military repression.

## Constrained development of civil society under military dictatorship

The concept of civil society has a relatively short history in Myanmar and no clear equivalent in Burmese language (Kramer 2011). Usage of the term dates to the 1990s, when a few international aid organisations entered and were searching for local partners for project implementation. Such international engagement was controversial at the time, as domestic organisations were often controlled by the military junta.

Set against this background, the book *Strengthening Civil Society in Burma* provided a pioneer assessment of civil society and its role in promoting pluralism and democratisation (Burma Center Netherlands and Transnational Institute 1999). The contributing authors acknowledged the existence of local religious and welfare organisations but found a general absence of modern CSOs and no autonomous organisations engaged in political advocacy. Such organisations existed in the past, during the democratic period after independence in 1948, but the civic space diminished when the military grabbed power in 1962. The overall conclusion of *Strengthening Civil Society in Burma* is that although there were examples of people being able to organise themselves in the 1990s, civil society was severely repressed under the Burma Socialist Program Party (BSPP, 1962–1988) and the post-socialist State Law and Order Restoration Council (SLORC, 1988–1997) and State Peace and Development Council (SPDC, 1997–2011).

One decade after this first assessment, Kramer (2011) re-examined the state of civil society and presented a more complex picture of associational life. He highlights, on the one hand, the continued existence and importance of *traditional civil society*: informal and loosely structured CBOs doing social work at the local level. Such CBOs address important needs in society and have at times been the basis for political movements, most notably the emergence of nationalist and socialist movements in the first half of the 20<sup>th</sup> century and the Four Eights democracy movement in 1988 (Kyaw Yin Hlaing 2004, 2007). On the other hand, Kramer also found a gradual emergence of *modern civil society* – formal and professional NGOs – in the late 1990s and the 2000s. His argument is that the two decades of military dictatorship that followed the collapse of BSPP was a period of slow growth and diversification of CSOs, reflecting the regime's stratified combination of repression and tolerance towards different CSOs (Fink and Simpson 2018; Kyaw Yin Hlaing 2004, 2007). While pro-democracy SMOs were repressed and forced into exile after the 1988 uprising, religious and welfare-oriented CBOs and the new humanitarian and development NGOs met with a degree of conditional tolerance in the 2000s, as long as they refrained from political advocacy. The military regime also used professional associations such as the Myanmar Red Cross Society and especially the mass organisation, Union Solidarity and Development Association (USDA), as instruments for disbursing clientelist benefits, mobilising support and claiming legitimacy (Table 7.1).

The key element in the growth and diversification of civil society since the late 1990s was the development of humanitarian and development NGOs. Two critical junctures stand out as especially important for this growth in Myanmar: a series of ceasefire agreements between the military junta and EAOs in the 1990s and the humanitarian crisis caused by Cyclone Nargis in 2008.

Following the collapse of the Communist Party of Burma (CPB) in 1989, the SLORC regime negotiated ceasefires with EAOs in the states of Kachin, Shan, Chin, and Mon, thus allowing the military to contain armed conflicts and engage in ceasefire capitalism (Lintner 2020; McCarthy and Farrelly 2020; Sadan 2016; South 2008). Renewed and additional ceasefire agreements after the political opening in 2011 furthered this strategy,

Table 7.1 A typology of Myanmar’s civil society organisations under military rule in the 2000s

	<i>Community-based organisations (CBOs)</i>	<i>Non-governmental organisations (NGOs)</i>	<i>Social movement organisations (SMOs)</i>	<i>Government organized non-governmental organisations (GONGOs)</i>
<b>Organisational form</b>	Community- and faith-based organisations	Professional non-governmental organisations	Mass-based social movements organisations	Regime-based professional and mass organisations
<b>Primary focus</b>	Community welfare	Service delivery	Political advocacy	Regime legitimacy
<b>Regime approach</b>	Conditional tolerance	Conditional tolerance	Repression	Instrumentalisation
<b>International support</b>	Little	Aid from humanitarian and development INGOs	Support from transnational activist networks and human rights INGOs	Little

creating a complex system of sub-national territorial control and governance by the military regime and non-state armed actors (Jolliffe 2015; Stokke et al. 2022). In this context of conflict containment in ethnic borderlands, some service-delivery NGOs were allowed to operate in ceasefire areas in the 1990s. Ethnic NGOs have since then worked alongside the administrative branches of EAOs to support economic development, healthcare, and education in conflict-affected communities (Jolliffe 2014, 2015). Such developments were pioneered in Kachin State during the long ceasefire with Kachin Independence Organisations/Army (KIO/KIA) from 1994 to 2011 and were replicated in new ceasefire areas after 2011 (Sadan 2016; Si Thura and Schroeder 2018). The ethnic education systems in Mon and Karen states are important examples of collaboration between ethnic CSOs and EAOs for social development in ethnic areas (Lall and South 2013; McCormick 2020). That these development initiatives met with a degree of conditional tolerance brought a sense of new political opportunities and a growth of development NGOs also in Bamar majority regions, focusing especially on environmental problems, poverty alleviation, and HIV/AIDS education (Kyaw Yin Hlaing 2004). Some organisations that were initially based in ethnic states, such as Nyein (Shalom) Foundation and Metta Development Foundation, broadened their scope and territorial reach with support from INGOs.

The first wave of NGO expansion slowed around 2004, when the moderate pragmatist Prime Minister Khine Nyunt was removed from power and replaced by hard-line military leaders less tolerant towards civil society (Kyaw Yin Hlaing 2007), but a second wave of NGO development followed in the aftermath of Cyclone Nargis in 2008 (South 2008). Whereas the military junta failed to provide emergency relief and restricted international humanitarian organisations’ access, faith-based organisations, private companies, social networks, and individuals mobilised resources and provided food, medicine, and other forms of relief and recovery support. Pre-existing NGOs such

as Metta responded quickly and many new NGOs emerged. As the junta eventually allowed INGOs to enter, they forged partnerships with domestic NGOs. Cyclone Nargis was thus followed by a proliferation of humanitarian and development NGOs, including new umbrella organisations such as the Local Resource Centre (LRC) that aimed to coordinate engagement, mobilise aid, and build organisational capacity. International donors also expected that humanitarian aid could function as a trust-building precursor for democratisation.

These developments deepened the division of labour between NGOs focusing on humanitarian and development aid, and advocacy organisations and networks focusing on human rights and democratic reforms (Dale and Samuel-Nakka 2018; Duell 2014). Notable examples of the latter include, for example, the Gender Equality Network (GEN), Women's League of Burma (WLB), and Alternative ASEAN Network on Burma (ALTSEAN-Burma). Inside Myanmar, there was a formalisation and professionalisation of civil society, as NGOs with salaried staff and international funding became the most visible and recognised type of CSOs. Most of these NGOs were deliberately apolitical in their work, in marked contrast to SMOs in the Burmese diaspora and underground activist networks within Myanmar. While the military had repressed oppositional political movements throughout the 1990s and 2000s, activist networks and legacies remained as a basis for new episodes of active contention, such as the 1996 student uprising and the 2007 Saffron Revolution (Hong and Kim 2019; Selth 2008).

Outside Myanmar, democratisation and human rights organisations formed in neighbouring countries, especially Thailand, with support from transnational activist networks (Dale and Samuel-Nakka 2018; Duell 2014). Exile organisations documented human rights abuses during military offensives in ethnic-minority areas and against the civilian population in general, thus providing important evidence in support of international economic and political isolation and sanctions against the military junta (Buzzi 2017). The Human Rights Foundation of Monland (HURFOM), the Shan Human Rights Foundation (SHRF), and the Assistance Association for Political Prisoners (AAPP) are prominent examples of such organisations. Exile organisations and international Burma campaigns also mobilised support for healthcare, education, and livelihoods among displaced people between conflict-affected ethnic states.

Marking the development of modern civil society was thus a bifurcation between developmental NGOs on the inside and political SMOs on the outside, where the latter also assumed a humanitarian and developmental role in addition to their primary focus on political advocacy (Dale and Samuel-Nakka 2018; Duell 2014). In terms of international resource mobilisation, the 2000s and early 2010s saw a divide between development INGOs that engaged with development NGOs on the inside and international democracy and human rights organisations that supported the work of exile organisations. These politically oriented INGOs hesitated to work inside Myanmar in the absence of regime change, as such engagement posed the risk of legitimating the military junta and undermining international isolation policies (Duell, 2014).

Finally, the presence of government-controlled and illiberal CSOs must also be mentioned. During the BSSP period, mass organisations were created to show support for the regime and exert political control over specific groups such as farmers, workers, youth, and monks. In 1993, the regime established the USDA as a mass organisation for the purpose of supporting and legitimising the policies of the military junta (Kyaw Yin Hlaing, 2004, 2007). Civil servants were compelled to join and attend pro-government rallies. In 2010, USDA was transformed into the USDP to contest the

forthcoming election and to form a nominally civilian government thereafter. Other GONGOs include professional associations such as the Myanmar Red Cross Society, which military rulers set up but did not use directly to mobilise public support (Fink and Simpson 2018). Such mass organisations and professional associations represented an instrumentalisation of civil society under military rule, but the degree and manner of instrumentalisation varied.

This brief review indicates that the character of civil society in the 1990s and 2000s was more complex than assumptions of its non-existence indicated. While military rulers repressed politically engaged SMOs, they exercised a degree of conditional tolerance towards CBOs and NGOs, and an instrumental use of GONGOs (Table 7.1). NGOs and their international funders adjusted to changing political realities and insisted that their work had a humanitarian and developmental character. Although civil society was political in a broad sense and international observers and donors portrayed it as a potential source of liberalisation and democratisation, NGOs upheld an apolitical appearance and refrained from political advocacy. This apolitical stand raises critical questions about the role of civil society in Myanmar's transition from military dictatorship and in democratic deepening under hybrid rule thereafter.

### **Institutionalisation and depoliticisation of CSOs during democratisation**

In 2011, executive power transferred to a nominally civilian government based on the military-controlled USDP and led by President Thein Sein, a retired Tatmadaw general. This political opening has been the subject of polarised debates about how to understand the political dynamics and their outcomes (Cheesman et al. 2014; Egretreau 2016; Lall 2016; Mullen 2016). There is a broad consensus that the transition from military rule was elite-driven rather than a bottom-up democratic revolution. Interpretations diverge, however, on whether it should be understood as a 'pacted transition' negotiated between moderate military leaders and the opposition, or a 'military-imposed transition' designed to safeguard the Tatmadaw's interests and legitimise continued military rule (Stokke and Soe Myint Aung 2020). These two perspectives also view the role of civil society differently, seeing engagement-oriented CSOs as either drivers of reform or as pawns in the military's game of consolidating and legitimising autocratic power. Politically oriented SMOs and trade unions were excluded from the reform process altogether.

Lall's (2016) detailed account of the 2005–2015 period illustrates the pacted transition view of the role of civil society. Acknowledging that the political opening was designed by the military to secure 'discipline-flourishing democracy', she argues that President Thein Sein and his allies initiated more far-reaching reforms than expected. In explaining this reformism, she and other scholars within this perspective emphasise the role of new civil-society actors that emerged in the mid-2000s (Lall 2016; Pedersen 2014). The frontrunner for this engagement strategy was Myanmar Egress, a training institute and policy think tank that a small group of businessmen and professionals with ties to the military and funding from various European sources set up in 2005. After Cyclone Nargis, Myanmar Egress became the centre of a 'third force' that claimed to be autonomous from both the Tatmadaw and the NLD (Kyaw Yin Hlaing 2014; Mullen 2016; Raynaud 2019).

NGOs associated with the third force pursued pragmatic engagement with the reform process even though they knew that Tatmadaw leaders did not intend to create a liberal

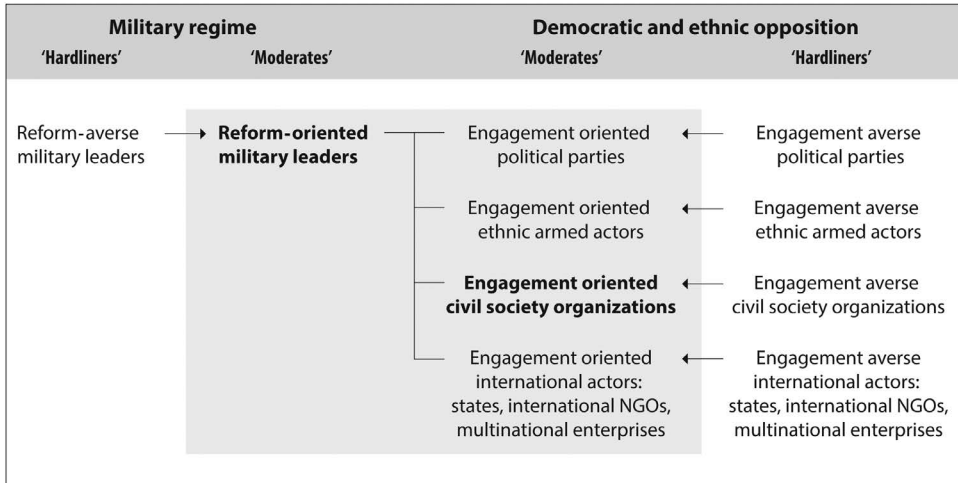


Figure 7.1 Myanmar’s political opening understood as a negotiated transition driven by reform-oriented military leaders and engagement-oriented CSOs.

democracy or address deep-seated inequalities: ‘This was never part of the plan. It was clear to the civil society organisations that prepared for this transitional phase between 2005 and 2010 that the aim was a shift in power relations, not a revolutionary change. It was about creating a new political and social space that can grow, in time, to become a real democracy’ (Lall 2016, 220). Myanmar Egress and other third-force NGOs (for example, the Vahu Development Institute and the Euro-Burma Office) sought to support policy reforms, mediate dialog with the NLD and EAOs, attract increased civil society engagement, and facilitate a shift among international actors from sanctions to engagement with the USDP government (Figure 7.1). Pacted transition discourse thus emphasises relations between the reformist Thein Sein government and the pragmatic third force in civil society and efforts to shift domestic and international actors from staunch opposition to constructive engagement with military rulers.

Observers and activists who see the opening as imposed unilaterally by the Tatmadaw to safeguard their economic interests and legitimise continued military power have rejected the transition perspective. Highlighting the Tatmadaw’s *raison d’être* as guardians of state sovereignty, security, and stability, such scholars portray the political opening as a military-led caretaking democratisation that produced a hybrid regime rather than a democratic outcome (Bünthe 2021a; Egretau 2016; Stokke and Soe Myint Aung 2020). The cornerstone of the opening was the 2008 Constitution, which was drafted by the military-controlled National Convention, ratified through a flawed referendum, and rolled out through institutionalisation of elections, parliamentary politics, and civilian government at both national and local levels. They reject the argument that the opening stemmed from a split within the military, and see the third force as implementation partners rather than drivers of reform. Although the Thein Sein government facilitated the return of the NLD and Aung San Suu Kyi to electoral politics and signed a series of ceasefire agreements with EAOs, these are not seen as substantive pacts as they only produced minor changes in the civil-military and state-minority relations built into the 2008 Constitution.

While the pacted transition perspective held a hegemonic position during the USDP government (2011–2016), the critical interpretation came to the forefront as the reform process stalled and mass atrocities against Rohingya civilians rendered the Tatmadaw's tutelary powers starkly visible. There has thus been a discursive shift towards seeing the opening as imposed by the Tatmadaw from a position of strength and positioning the military as guardians of a hybrid regime (Bünte 2021a, 2021b). The implication is that the third force in civil society was complicit in the military-designed opening while oppositional CSOs were excluded.

Although Myanmar's political opening is another case of 'transition' without the people, it had a decisive influence on the development and character of civil society. On the one hand, it widened the political space for CSOs during the decade of hybrid rule. After 2011, the state became more tolerant towards civil society, with less propensity to repress opposition. The USDP government reduced the formal restrictions on CSOs and accepted more open political discourse (Kean 2018). Legislative changes allowed the formation of independent labour organisations and public demonstrations, and pre-publication censorship of media was lifted (Fink and Simpson 2018). However, the USDP government retained or reintroduced other legal and political constraints. The last decade has especially seen stronger limitations on free speech and independent journalism, including use of defamation clauses in the telecommunication law to silence critics (Brooten et al. 2019; Kean and Mratt Kyaw Thu 2021). Fink and Simpson thus observe that, 'while the Thein Sein government was willing to grant a degree of legitimacy to CSOs and to allow greater scope for their activities than before, the former military generals' traditional suspicion of civil society remained' (2018, 261).

On the other hand, the political opening also brought an influx of aid that created new funding opportunities for CSOs but influenced their priorities, strategies, and capacities in ways that may have limited their role in democratisation (Holliday and Zaw Htet 2018). Politically oriented diaspora organisations and cross-border aid delivery were discredited and defunded after 2011 (Duell 2014). Aid was instead channelled through development NGOs based within Myanmar, which meant that politically oriented exile organisations were pressured to return, register as formal NGOs, and adjust to the development priorities of international funding agencies. Local NGOs became implementing partners for internationally funded development projects that were usually framed in non-political terms (Brenner and Schulman 2019; Strefford 2020). Growing aid dependence means that successful NGOs have to professionalise to meet the technocratic requirements of aid partners, and prioritises humanitarian aid and developmental service-delivery at the expense of political advocacy. Politically oriented SMOs receive less funding from international aid donors, particularly if donors see them as posing a political risk. Informal CBOs focusing on community welfare and relying on volunteerism also receive less support, as they typically lack the organisational structure and capacity to access international aid and meet international donors' requirements (Parmar n.d.).

Myanmar's transition to a hybrid regime thus brought increased state tolerance and aid funding for CSOs. This produced a rapid growth in the number and activities of CSOs, but the new political and economic opportunities were not uniform across civil society and the development of CSOs was highly skewed. Changing international politics towards Myanmar had a strong impact on the composition of civil society, as aid donors prioritised service delivery through NGOs rather than political advocacy by SMOs, and partnership with NGOs based inside Myanmar rather than cross-border



operations from neighbouring countries (Décobert 2020; Frewer 2017). Furthermore, the bureaucratisation of aid favoured professional NGOs rather than CBOs (Dale and Samuel-Nakka 2018). In effect, there was a rapid growth and institutionalisation of civil society, as the state became more tolerant but required formal registration, while international aid donors saw compliance with state regulations and professional management-capacity as preconditions for project partnership. Civil society was thus characterised by ‘NGO-isation’ (proliferation, institutionalisation, and professionalisation of NGOs) and depoliticisation in the sense that state regulations and the prevalence of service-delivery orientations among CSOs limited political advocacy.

### ***The role of civil society in democratic deepening under hybrid rule***

The depoliticisation of civil society should not be taken to mean that all CSOs abstained from political issues. On the contrary, many NGOs focused on politically charged questions such as land rights, gender equality, natural-resource governance, education, and peacebuilding and developed issue competence and local knowledge that often superseded that of the government, state ministries, and political parties. They found, however, few arenas and channels for influencing policy-making processes, which meant that their political engagement was often relegated to raising awareness and organising society. The USDP government invited selected civil-society actors to offer advice on key policy issues, to fill gaps in their own capacity, but this was typically limited to a few favoured individuals and organisations associated with the third force (Lall 2016; Mullen 2016). USDP as a party relied on the previous junta’s mass organisation (USDA) for electoral mobilisation, whereas links to autonomous CSOs were virtually non-existent. This means that notwithstanding increased state tolerance towards civil society and occasional policy consultations with select organisations, primarily those within the third force, most CSOs had very limited possibilities for political participation and influence under the USDP.

In this situation, with rapid institutionalisation of CSOs but lack of institutionalised arenas for representation and participation, the NLD’s electoral victory in 2015 and the peaceful transfer of power in 2016 created new optimism within civil society. The expectation was that the NLD government would build a broad alliance for democratic transformation, include civil society actors in political dialogue, and mobilise their specialist competence for policymaking on key issues. In practice, the landslide election result allowed the NLD to adopt a winner-take-all attitude and exclude former allies among ethnic political parties and CSOs from political positions and policy processes. It can thus be argued that the NLD-government period created a situation in which many CSOs had competence and capacity to contribute to democratic deepening but still lacked political access and influence.

Explanations for this non-inclusivity may be found in a combination of the real-politik of civil–military relations, the organisational culture of the NLD, and the political thinking of NLD leaders. First, in terms of civil–military relations, the contentious co-existence between the Tatmadaw and the civilian government had a decisive impact on the NLD government’s space and strategies for democratic deepening (Bünthe 2021a, 2021b). The NLD governed on the basis of a constitution that the Tatmadaw designed and protected, and ‘the stability and success of the NLD government in the short term depended on its ability to carefully manage this fragile civil-military balance under the distorted power structure’ (Nakanishi 2020, 56). Second, at the level of organisational

culture, the NLD as a party was characterised by centralisation and top-down policy making. Organisational weaknesses relevant to bottom-up interest representation also hampered the inclusion of activists, CSOs, and political parties from the broader democracy movement that brought the NLD to power (Pedersen 2021). Finally, in terms of political thinking, Aung San Suu Kyi and other NLD leaders held a formalistic understanding of political representation and were dismissive of the representative claims of CSOs, especially internationally funded NGOs (Lubina 2019). They saw CSOs associated with the third force as allies of the USDP government and marginalised them. The aggregate effect of civil-military relations and NLD politics was that the high hopes for a transformative alliance of the NLD, ethnic political parties, and CSOs did not materialise. Although the NLD government's peace process (The Union Peace Conference – 21<sup>st</sup> Century Panglong) included a parallel forum for civil society, many CSOs experienced this as political tokenism (Joint Peace Fund 2019).

Despite this overall picture of weak state–civil society relations, some CSOs have managed to politicise key issues and pursue policy reforms. Prime examples of contentious movement politics include, for example, local and national mobilisations around questions of land rights and environmental justice. Economic liberalisation since the 1990s has brought widespread appropriation of natural resources by military companies, cronies, non-state armed groups, and multinational corporations (Ford et al. 2015; Simpson 2018; Woods 2011). After 2011, SMOs used their widened political space to resist such resource-grabbing, by organising local protests and through advocacy campaigns related to policy reforms and law-making at the Union level.

Doi Ra and Khu Khu Ju (2021) show, for example, how Land in Our Hands (LIOH), a national network championing the land rights of small-scale farmers and other rural workers, grew out of national and transnational advocacy organisations such as Pang Ku, Karen Environmental and Social Action Network (KESAN), and Transnational Institute (TNI). LIOH politicised the process of developing a national land-use policy that had proceeded behind closed doors during the USDP government and likewise challenged the top-down amendment of two controversial laws – the Farmland Law, and the Vacant, Fallow and Virgin Lands Management Law – during the NLD government. Fragmented mobilisations around land rights, hydropower dams, and extractive industries were framed as interrelated struggles for environmental protection, livelihoods, and environmental justice (Simpson 2018, 2021). The lack of inclusivity in contentious land-law reforms and land-use policymaking not only forged a unified movement based on broadly similar experiences of ‘land grabbing’ but also brought challenges of fragmentation due to the diversity of contextual grievances and divergent political positions vis-à-vis the NLD.

Other policy initiatives have been more accessible to civil society. An oft-cited example is the USDP government's decision to join the international Extractive Industries Transparency Initiative (EITI) and set up a Multi-Stakeholder Group (MSG). Simpson argues that this created ‘a corporatist body that was hitherto entirely foreign to governance in Myanmar’ (2018, 426). This gave CSOs new opportunities to organise around resource governance, but the EITI process has a narrow mandate and favours participation of Yangon-based national NGOs such as Myanmar Alliance for Transparency and Accountability (MATA) and INGOs such as Natural Resource Governance Institute and Global Witness. Vijge and Simpson thus point out that, ‘The EITI process takes away attention and funding – both among government agencies and among civil society groups – from the more significant problems such as human rights abuses and

militarisation resulting from natural resource extraction in, among others, the ethnic minority areas of Myanmar' (2020, 146–147). This means that although the EITI process has been lauded as a more inclusive governance initiative, it also has limitations and divisive effects on civil society.

Another example of policy collaboration between civil society and political authorities may be found in the education sector. Lall (2016, 2018) observes that the USDP government launched a Comprehensive Education Sector Reform in 2012 and invited civil society participation. In response, a National Network for Education Reform (NNER) formed as a broad alliance of teachers' unions, ethnic-based education organisations, student organisations, and the NLD Education Working Group. NNER held consultations around the country and drafted a reform policy. The Ministry of Education, however, ignored their proposals and left them out of the National Education Law that parliament passed in 2014. When student activists mobilised to put pressure on legislators and organised marches towards Yangon, these ended in confrontations with the police that led to injuries, arrests, and jail sentences (Thein Lwin 2019).

The grievances and challenges of non-inclusivity are even more acute in ethnic states, especially in areas that have been affected by protracted armed conflicts. Interviewed respondents from ethnic CSOs typically report weak links to government institutions, the NLD, and ethnic political parties. When ethnic parties are fragmented and poorly institutionalised while many EAOs are strong and have developed parallel administrative structures, it is often the armed groups that become the focal point for ethnic CSOs' political engagement. This is, for example, the case in Kawthoolei – the home region of the Karen community – where the Karen Environmental and Social Action Network (KESAN) has championed local livelihoods and environmental justice through the formation of the Salween Peace Park, in partnership with the Karen National Union (KNU) (Götz and Middleton 2020). Karen CSOs often prioritise collaboration with the KNU rather than ethnic political parties, given that the latter lack political access and capacity themselves. In some ethnic states, local CSOs have thus pushed for stronger institutionalisation of ethnic parties, as a means towards more substantive political representation for ethnic minorities. In Mon and Kachin states, for example, CSOs have facilitated the merging of fragmented ethnic parties and the formation of Mon Unity Party (MUP) and Kachin State People's Party (KSPP). In Shan state, the Shan Nationalities League for Democracy (SNLD) has also mobilised the competence of CSOs in their effort to transform into a policy-based rather than identity-based political party.

The 2011–2021 period was thus marked by increased state tolerance and economic opportunities for civil society, yielding rapid growth and professionalisation of NGOs. This institutionalisation did not, however, yield substantive political access and influence. Within the constitutional, institutional, and political constraints of Myanmar's hybrid regime, civil society remained depoliticised rather than making major contributions to democratic deepening. This general picture is, however, nuanced by CSOs that have gained some access to and influence on specific policy issues and in ethnic areas.

### **Civil society resistance against military dictatorship**

On 1 February 2021, the Tatmadaw declared a state of emergency; arrested President Win Myint, State Counsellor Aung San Suu Kyi, and other NLD leaders; and took control of the legislative, judicial, and executive branches of government. The coup-makers formed a State Administrative Council (SAC) led by Commander-in-Chief Min

Aung Hlaing, appointed new union-government ministers, replaced state and region governments with administrative councils, and took control of local public administration (Kipgen 2021; Myanmar Study Group 2022). Military leaders claimed that the November 2020 election was marked by fraud and declared the results invalid, stating that new elections would be held following reform of the electoral commission and electoral system. The junta thus sought to legitimise the coup as an emergency intervention to safeguard ‘discipline-flourishing democracy’, in line with the 2008 Constitution (Thawngmung and Khun Noah 2021). The public, civil society, political opposition, and observers have rejected this justification.

The common understanding among Myanmar scholars is that the election outcome rather than electoral fraud triggered the coup (Ye Myo Hein 2022). The election returned a landslide victory for NLD that even surpassed the 2015 election while the military-based USDP was decimated. This posed a serious threat to the military’s interests and self-image, and to the political ambitions of Min Aung Hlaing (Selth 2021). The military designed the 2008 Constitution to secure military interests and tutelary power within a hybrid regime and reserved enough parliamentary seats to give the military veto power over constitutional changes. Furthermore, the electoral system was meant to secure military control of government, but NLD’s landslide victories in the 2015 and 2020 elections demonstrated that the military was unlikely to gain control over government through free-and-fair elections (Bünthe 2021a, 2021b). On the contrary, the NLD’s supermajority raised the spectre of a government with the capacity to challenge the military. These prospects for transformative politics and constitutional change paved the way for the coup.

The 2021 coup terminated the short-lived experiment with elected government and made it clear that the military is unlikely to accept a civilian government unless it is under their own control. Myanmar thus became a prominent example of autocratisation, but not the gradual democratic decline on which quantitative research on the ‘third wave of autocratization’ has focused (Lührmann 2021; Lührmann and Lindberg 2019). It is instead a case of full autocratisation: a military coup has forged a transition from a hybrid regime with contentious civil-military relations to a closed autocracy (Bünthe 2021a, 2021b; Cassani and Tomini 2020b). This mode of autocratisation has strong implications for prospects and forms of resistance.

The literature on gradual autocratisation in democracies draws attention to institutional resilience and the synergy between civil-society resistance and horizontal and vertical accountability relations; these spaces for resilience and resistance are much more restricted in closed autocracies (Cassani and Tomini 2020b; Laebens and Lührmann 2021). In such situations, authoritarian-regime consolidation or breakdown depend on power struggles between autocrats’ use of repression, co-optation, and legitimation to ensure regime survival and strategies and capacities for resistance among CSOs, political-opposition forces, and armed insurgencies (Gerschewski 2013; Kendall-Taylor et al. 2019).

Myanmar’s military coup has ushered in a large-scale and multifaceted resistance movement – the Spring Revolution – that employs an array of symbolic, economic, political, and military means of resistance. This anti-coup movement draws on pre-existing mobilisation structures and protest legacies in civil society but does not stem primarily from the sphere of institutionalised NGOs examined above. On the contrary, new social forces and movements that have disrupted the military’s attempts to normalise the coup as a temporary intervention to safeguard political stability and disciplined democracy

have spearheaded the struggle against military dictatorship. Three broad social forces – workers, youth, and ethnic nationalities – have been at the forefront of the anti-coup resistance and have built a broad alliance with the civilian NUG to defeat the military junta and build a constitutional federal democracy (Moe Thuzar and Htet Myet Min Tun 2022). These political strategies and alliances not only show similarities with earlier struggles for democracy under military rule, especially the 1988 democracy uprising, but also differ importantly in preconditions and strategies.

At the risk of oversimplification, I will highlight three broad civil society movements as the pivot of the Spring Revolution. First, a striking feature of Myanmar's Spring Revolution is the centrality of workers and trade unions, coming together in the Civil Disobedience Movement (CDM) that emerged in both public and private sectors immediately after the coup (Anonymous 2021; National Unity Government 2021). Initiating the movement were civil servants, especially health-care workers, teachers, and local ward administrators, who declared their support for CDM and pledged not to work under the military. At the same time, trade unions that had developed in the private sector after the political opening, particularly among female workers in the garment industry, went on strike; workers in other key sectors of the economy, such as banking and transportation, joined them. This joint strike action of organised labour and civil servants, supported by consumer boycotts and international sanctions, brought the economy and public administration almost to a standstill, thereby challenging both the military's economic interests and the junta's ability to control and administer society (Anonymous 2021).

The Civil Disobedience Movement mobilised workers and politicised unions in an unprecedented manner. In response, the military junta deployed an array of repressive measures (Height and Kyaw Hsan Hlaing 2021). Starting with intimidation and pressure to force workers to return to work, military repression quickly escalated to widespread use of dismissals, evictions, fines, arrests, torture, and killings. The NUG, on the other side, realised the importance of the CDM in the struggle against military dictatorship and promised that the strikers would receive monthly salary compensation. The NUG also works with striking health-care workers, teachers, and ward administrators to develop alternative structures for service delivery and administration (National Unity Government 2021).

Second, the coup d'état was also followed by large-scale public protests that gained international attention for their size and intersectional mobilisation across class, gender, ethnic, religious, and generational divides; unwavering rejection of the military coup; creative deployment of cultural symbols in non-violent protests; and skilful use of social media for communication and mobilisation (Jordt, Tharapi Than, and Sue Ye Lin 2021). Within this broad-based and leaderless anti-coup movement, Generation Z youth played a vital role in organising public protests and creating an inclusive and festival-like atmosphere. Being the first generation in more than five decades that had grown up in an open and semi-democratic society, Gen Z youth displayed non-traditional identities and counterpoised liberal values of tolerance and human rights against the military's emphasis on hierarchical authority and Bamar Buddhist nationalism. Jordt, Tharapi Than, and Sue Ye Lin find that youth became the 'voice of society' that not only confronted military rule but also challenged entrenched cultural norms in society: 'In their critique of patriarchy, gender-normativity, gerontocracy and cultural monism, Gen Z launched a cultural revolution as much as they were setting in motion a political revolution' (2021, 14).

While the CDM undermined the economic basis and administrative capacity of the military junta, youth-led public protests deployed symbolic forms of resistance that effectively challenged the military's traditional, hierarchical, religious, and majoritarian claims to authority. Non-violent street protests met with escalating violence, arbitrary arrests, torture, and killings. In this context of military repression, public protests became more sporadic and localised while some activists turned to armed self-defence, receiving training from EAOs and forming PDF units under the command of NUG's Ministry of Defence (Hmung 2021; Myanmar Study Group 2022; Ye Myo Hein and Myers 2021).

Third, ethnic civil society activists have played an important role in broadening the Spring Revolution beyond the Bamar majority and in radicalising its political demands. A public demonstration on February 6 became a turning point as it highlighted the deep-seated grievances of ethnic nationalities and called for greater inclusivity within the anti-coup movement. In the immediate aftermath of the coup, the primary demands protesters and ousted parliamentarians put forward were that the junta should release detained NLD leaders, accept the election results, and restore democracy. The domestic anti-coup movement converged with the international community around this call for restoring the pre-coup hybrid political order.

Through the interventions of ethnic activists and the General Strike Committee of Nationalities (GSCN), urban activism in Bamar-dominated areas developed links with civil-society actors in ethnic-minority areas (Loong 2021; Thawngmung and Khun Noah 2021). GSCN and others raised awareness of the long-standing oppression of ethnic minorities and how inseparable it was from military rule and violence. Bamar activists, for their part, apologised for having been ignorant of and indifferent towards the repression of ethnic minorities and declared their commitment to inter-ethnic solidarity, including with the persecuted Rohingya minority. This meant that the movement's core demand transformed from restoration of formal democracy under the 2008 Constitution to substantive federal democracy based on a new constitution. Although questions remain about the depth of this political transformation of Bamar- and NLD-dominated politics, the Spring Revolution radicalised through the inclusion of ethnic minorities, in contrast to the 1988 movement's championing of democracy within the received framework of a Bamar-dominated unitary state (Loong 2021).

The political transformations of the Spring Revolution – spearheaded by ethnic-minority activists – have also had a marked impact on the civilian-government structures that have evolved since the coup. The Committee Representing Pyidaungsu Hluttaw (CRPH), which ousted parliamentarians formed after the coup, declared the 2008 Constitution abolished and drafted a federal democracy charter in consultation with a newly formed National Unity Consultative Council (NUCC) (Su Mon Thazin Aung 2022). This charter formed the basis for the NUG, including ministers and deputy ministers from ethnic minorities and CSOs (Moe Thuzar and Htet Myet Min Tun 2022). Although the federal democracy agenda remains at a rudimentary stage and fraught with difficulties, these initiatives by CRPH and NUG stand in marked contrast to positions NLD took prior to the coup (Thawngmung and Khun Noah 2021). This is illustrated by a press-conference statement Min Ko Naing, a veteran democracy leader from the 88 Generation, made ten months after the coup: 'The NUCC has reached a draft agreement on federal democracy by consensus and will not return to the 2008 constitution even if the military council enters the negotiating process' (Democratic Voice of Burma 2021). In this manner, the civil society-driven Spring Revolution has not only confronted the

military junta but also transformed the democracy agenda of NLD-led governance bodies. Civil society has thus gone from being a sphere of institutionalised NGOs with little political influence during the hybrid regime, to be dominated by political mass movements with transformative agendas and clear impacts after the military coup.

## Conclusion

The Myanmar case highlights the organisational diversity within civil society and the variegated and changing political roles of different CSOs. It also shows how context-specific forms of democratisation and autocratisation shape CSOs' development and political strategies. While the last decade of military rule was characterised by slow and uneven development of CSOs, the transition to a hybrid regime was followed by NGOs' proliferation, institutionalisation, and depoliticisation. Although political opening brought increased state tolerance towards civil society, institutional and political constraints prevented CSOs from playing key roles in policy reforms and democratic deepening during the decade of hybrid rule. After the military coup in 2021, civil society has been dominated by politicised mass movements with transformative agendas and impacts. This anti-coup Spring Revolution has been spearheaded by 'new' democracy forces and movements rather than the sphere of institutionalised NGOs, but earlier democracy movements and pre-existing CSOs have provided a normative and mobilisational basis for new struggles. The Myanmar case thus adds contextual depth and nuance to general theories on the role of insurgent, institutionalised, and firewall civil society in the contentious politics of democratisation and autocratisation.

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# 8

## CIVIL SOCIETY ACTIVISM BEYOND THE NATION STATE

### Legitimizing ASEAN?

*Anders Uhlin*

In line with the conceptualisation of civil society as space (Hansson and Weiss, this volume; see also Hansson and Weiss 2018), this chapter analyses how certain civil society actors turn to transnational spaces when attempting to influence politics. Transnationally active civil society organisations (CSOs) increasingly target intergovernmental organisations such as the United Nations (UN), the European Union (EU), and the World Bank. Forms of engagement range from participation using formal institutional channels and more informal lobbying to various kinds of public-protest activities. Civil society activism is an important aspect of the politics of legitimisation and delegitimation of global and regional governance (Bexell et al. 2022). The aim of this chapter is first to review research on civil society engagement with international governance institutions with a particular focus on the Association of Southeast Asian Nations (ASEAN), and second, to provide an account of how civil society activism can be understood as part of the politics of (de)legitimation of ASEAN.

The chapter begins with an overview of the conceptual and theoretical literature on civil society engagement with intergovernmental organisations in general and in the Southeast Asian context in particular. International relations scholars have emphasised that intergovernmental organisations tend to open up for selected civil society participation because of the perceived functional utility of CSOs and the democratic legitimacy their presumed grassroots connections might bring (Tallberg et al. 2013). Research on international nongovernmental organisations (INGOs) and interest groups has focused on the lobbying strategies and potential policy influence of such civil society actors in international arenas (Fogarty 2011). Social-movement scholars have studied forms of transnational mobilisation and protests mainly against neoliberal global governance institutions (Smith 2008). Much research has dealt with major global intergovernmental organisations like the UN, World Bank, International Monetary Fund (IMF), and World Trade Organisation (WTO). Among regional organisations, the EU has received most scholarly attention, but regional organisations in Asia such as ASEAN and the Asian Development Bank (ADB) have been the subject of several studies (Gerard 2014; Uhlin 2016; Nandyatama 2021).

Next is an empirical analysis of civil society activism targeting ASEAN, examining the major transnational civil society networks engaging this regional organisation.

The discussion draws on extant research, qualitative content analysis of civil society documents, and qualitative interviews carried out between 2010 and 2019 with representatives of regional CSOs and networks and representatives of ASEAN.

Having established that context, the chapter examines civil society engagement of ASEAN through an analytical lens of legitimacy and (de)legitimation. The empirical study of legitimacy is concerned with how various audiences' legitimacy beliefs vis-à-vis political institutions are shaped by practices of legitimation (boosting beliefs that the institution's exercise of authority is rightful according to certain normative standards) and delegitimation (challenging such beliefs) (Tallberg and Zürn 2019). The main analytical argument of the chapter is that the opportunity for selected civil society participation, while highly contested among ASEAN member states, constitutes a form of symbolic legitimation for ASEAN. Post-authoritarian governments, especially in Indonesia, have seen some engagement with civil society as a way for ASEAN to strengthen its international legitimacy. Civil society activists, on their part, sometimes claim to challenge the legitimacy of ASEAN through severe public criticism, but their engagement with this regional organisation actually contributes to its legitimation.

### **Civil society and international governance**

Civil society activism takes place in a world of increased transnational connections. Many civil society activists try to exploit transnational links and solidarities to strengthen their cause in a national context. Following Keck and Sikkink's (1998) seminal work, a rich literature has emerged on 'transnational advocacy networks'. Meanwhile social movement scholars have analysed global social movements (Tarrow 2005; Smith 2008), NGO research has highlighted INGOs (Boli and Thomas 1997; Willetts 2011), and political theorists have tried to theorise 'global' or 'international' civil society (Colas 2002; Keane 2003). Transnational civil society activism requires certain resources, which are not equally distributed among civil society actors across the world. Hence, what is sometimes referred to as a 'global civil society' tends to be dominated by Northern-based, middle-class actors (McKeon 2009). Nevertheless, transnational civil society relations can be found in all world regions, including Southeast Asia (Piper and Uhlin 2004; Tadem 2009).

A specific form of transnational civil society advocacy is directed at international governance institutions. While civil society involvement in intergovernmental organisations has a long history (Charnovitz 1997), it has intensified since the 1990s. Following the end of the Cold War, there was a strong tendency among intergovernmental organisations to open up for increased civil society participation (Tallberg et al. 2013). This provided opportunities for certain CSOs to engage directly with international governance employing various forms of formal and informal lobbying. Meanwhile, other civil society activists, who were not invited or preferred to stay outside, organised street demonstrations and other protest activities against intergovernmental organisations (O'Brien et al. 2000). In this respect, it is possible to identify two main types of civil society advocacy vis-à-vis international governance institutions: inside (lobbying) and outside (protest) activities (Kalm and Uhlin 2015; Uhlin 2016).

Much research on civil society engagement in international governance has focused on its impact, in terms either of policy influence (Betsill and Corell 2008; Fogarty 2011; Pallas and Uhlin 2014) or of making global governance more accountable and democratic (Scholte 2011; Tallberg and Uhlin 2012; Uhlin 2016; Kalm et al. 2019). Most

research in this field finds rather limited civil society influence, especially when it comes to strengthening the democratic credentials of international governance institutions.

### **Civil society activism targeting ASEAN**

In the Southeast Asian context, scholars have examined civil society engagement with the Asia-Europe Meeting (Gilson 2011) and ADB (Uhlin 2011, 2016), but most research has focused on ASEAN. Three book-length studies explore in some detail civil society engagement with ASEAN (Gerard 2014; Uhlin 2016; Nandyatama 2021). This section draws on these and other shorter publications to provide an overview of the historical development of ASEAN–civil society interaction, actors involved, and forms of engagement.

First, we need to consider the main features of ASEAN. Founded in 1967 by Indonesia, Malaysia, the Philippines, Singapore, and Thailand, and expanded to include Brunei (1984), Vietnam (1995), Laos and Myanmar (1997), and Cambodia (1999), the organisation is often praised for having maintained peaceful relations among its members for more than 50 years (Acharya 2021). The fundamental norms that have guided ASEAN since its foundation include state sovereignty and consensus decision-making. These norms can be described as ‘pre-reflexive – shared and unquestioned – beliefs’ (Nandyatama 2021, 83). However, consensus is more symbolic than real. Disagreements among member states are obvious, and members frequently do not comply with joint declarations and agreements. Davies (2018, 5) refers to ‘ASEAN’s perennial shortcoming of a lack of compliance with its commitments’. In the words of a representative of the ASEAN Secretariat, ‘not every member state has the political will to undertake what we have agreed on the regional level’ (interview, Director, ASEAN Secretariat, Jakarta, 2 July 2019).

For several decades, ASEAN held few meetings and had a very small and weak secretariat, but a process of institutionalisation began in the wake of the Asian financial crisis (Davies 2018, 5). In the words of a former Indonesian Minister of Foreign Affairs, ‘it took a crisis to change’ (interview, Jakarta, 25 June 2019). As a former Secretary-General of ASEAN argued, ‘there was much criticism that ASEAN as a group did not do a very good job’. However, the crisis was seen as an ‘opportunity to reinvent the institution’. Hence, a process began to construct ‘a more tightly knit ASEAN which revolves around economic integration’ (interview, Singapore, 4 July 2019). An outcome of this process was the ratification of the ASEAN Charter by all member states in 2008, which made the organisation more rule-based (Dosch 2008). This reform process also led to the creation of the ASEAN Intergovernmental Commission on Human Rights (AICHR) (Tan 2011). The ASEAN Secretariat saw the legitimacy crisis following the financial crisis in the late 1990s as an opportunity to strengthen itself (interview, former Secretary-General of ASEAN, Singapore, 4 July 2019). Nevertheless, ASEAN remains a regional organisation with comparatively limited resources and authority. In a recent ‘International Authority Database’, ASEAN ranked number 28 out of 33 regional and global international organisations in terms of authority, lagging far behind not only the EU, but also other regional organisations in the global South such as the African Union (AU), the Southern African Development Community (SADC), and the Organisation of American States (OAS) (Zürn et al. 2021).

ASEAN is obviously not a homogenous entity. Member states have different interests and their positions concerning civil society participation vary, often depending on

the democratic status of the government. It is mainly relatively democratic states (the Philippines following the People Power Revolution in 1986, Thailand in the 1990s, and Indonesia since the fall of the Suharto regime in 1998) that have driven the opening to some civil society engagement. More authoritarian governments in Vietnam, Cambodia, Laos, Myanmar, and Brunei are typically very hesitant to tolerate any form of civil society engagement. As one activist with long experience of engagement with ASEAN put it, ‘some are worse, some are better, some are really authoritarian and hard to reach’ (interview, Singapore, 5 July 2019). Member states also differ in degree of economic development and wealth, ranging from high-income Singapore to very poor, low-income Laos and Myanmar. This diversity has implications for the functioning of ASEAN. When the organisation was founded, each member state was responsible for funding its own participation. The organisation got its first joint budget when it established the ASEAN Secretariat in 1981. Because of the very limited funding from member states (the same for each member), the organisation has to a large extent relied on external funding, especially from the EU and Japan (Destradi 2020). It is estimated that at least two-thirds of ASEAN projects are financed by external actors (Camroux 2020).

Regionalism in Southeast Asia is performed through rituals and symbols (Davies 2018). Examples include detailed rules on stage-setting and specific seating arrangements for ASEAN summits and other meetings, the ASEAN heads of state linking hands on summit photos, and the ASEAN flag and anthem, which play important roles in ASEAN ceremonies. Such rituals and symbols are important in legitimating the organisation. They represent the region as peaceful and conceal obvious tensions, distrust, and competition among member states.

ASEAN did not have much engagement with non-state actors during its first decades. A few environmental and human rights CSOs began to engage ASEAN in the mid-1990s (Aviel 1999) and at that time, there were also a few protests against the organisation’s acceptance of Myanmar as a new member. It was first in the wake of the 1997–1998 Asian economic crisis that CSOs more generally found ASEAN to be a relevant institution to target (Uhlin 2016, 90). The economic crisis challenged the legitimacy not only of the governments of the most severely affected states (Indonesia in particular), but also of ASEAN as a regional organisation. Post-crisis ASEAN policies focused on strengthening economic integration and trade liberalisation. Those goals were contrary to the interests of many CSOs in the region, which were more concerned with socio-economic equality, human rights, and environmental problems – issues that were not high on the ASEAN agenda.

Different types of CSOs engage with ASEAN in different ways. So-called government-organised nongovernmental organisations (GONGOs) sometimes occupy space that would otherwise have been used by more independent and critical CSOs, from which they try to tone down criticisms of ASEAN and its member states. A few CSOs that are mainly supportive of ASEAN have managed to get accreditation. Other supportive, often service-providing, CSOs interact with various ASEAN bodies without being accredited. More critical, often advocacy-oriented, CSOs tend to combine attempts to influence ASEAN through the formal channels the organisation provides and activities that aim at influencing public opinion, sometimes including public protest activities.

Among the most prominent and long-standing regional civil society networks in Southeast Asia are the Asian Forum for Human Rights and Development (FORUM-ASIA), Focus on the Global South, and Third World Network (TWN). Other

regional civil society networks include the Alternative ASEAN Network on Burma (ALTSEAN-Burma), Southeast Asian Women's Caucus on ASEAN, ASEAN SOGIE (Sexual Orientation and Gender Identity and Expression) Caucus, ASEAN Youth Forum (AYF), Asia Pacific Refugee Rights Network (APRRN), Asian Partnership for the Development of Human Resources in Rural Asia (AsiaDHRRRA), Land Watch Asia (LWA), Child Rights Coalition (CRC), and Migrant Forum in Asia (MFA) (see Gerard 2014, 73; Uhlin 2016, 95). Much civil society activism targeting ASEAN has been coordinated by Solidarity for Asian Peoples' Advocacy (SAPA), although this network (which includes most of the previously mentioned organisations and networks) has been less active in recent years. As the names of many of these transnational civil society networks indicate, they mainly consist of human rights-oriented advocacy organisations.

Civil society activism targeting an international organisation differs in several respects from civil society activism on local and national levels. In the context of domestic politics, the target of civil society activism is often a national or local government or sometimes a company operating in the country in question. Trying to influence an international organisation typically requires other resources in terms of language skills and a travel budget. This means that transnational civil society activists often have higher education and access to more economic resources compared to other civil society activists. Hence, they can be described as a 'civil society elite' (cf. Norén-Nilsson, this volume). Moreover, most civil society activism targeting ASEAN is based in a few major cities like Bangkok, Manila, and Jakarta, underlining the importance of the city as a space for civil society activities (see Padawangi, this volume).

In a highly authoritarian context, transnational activism might be an alternative that can compensate for lack of political opportunities on the national level. This potential could be a driver behind transnational activism. Some international organisations are more open to non-state actors than are many of their member states. In the case of Southeast Asia, civil society advocacy concerning human rights abuses in Myanmar, for example, has often been directed at ASEAN, as activists consider the government of Myanmar even less responsive. Similarly, lesbian, gay, bisexual, and transgender (LGBT) activists have been particularly active at the regional level as they face an even more hostile climate in many of the member states of ASEAN (cf. Rydström, et al. this volume). The ASEAN SOGIE Caucus has engaged with ASEAN since 2012 (interview, LGBT activist, Jakarta, 28 June 2019).

In some cases, civil society engagement with ASEAN takes the form of protests. Civil society protests against ASEAN have occurred now and then since the mid-1990s. This has often been in the form of street demonstrations outside the ASEAN Secretariat in Jakarta, in connection with an ASEAN summit venue, or outside the embassy of an ASEAN member state specifically targeted, which has most often been Myanmar. Most protests have gathered a small number of participants and received limited media attention, but there have also been a few major protest events in association with ASEAN summits. Most protests have occurred in (then-)post-authoritarian ASEAN member states like Indonesia, Thailand, and the Philippines. All protests with the exception of the 2009 storming of the ASEAN summit venue in Pattaya by Thai 'Red Shirt' activists appear to have been peaceful (Gregoratti and Uhlin 2022, 102).

Inside civil society engagement with ASEAN is more common. Most independent CSOs trying to engage with ASEAN do not seek formal affiliation, and those that do apply for accreditation are often rejected. The ASEAN SOGIE Caucus, for example, has



approached the ASEAN Secretariat many times but has always been rejected. LGBT activists have had the same experience with the AICHR. While activists report having occasional contacts with a few individual AICHR representatives, AICHR has turned down the ASEAN SOGIE Caucus's applications for accreditation as there was no consensus within the commission (interview, LGBT activist, Jakarta, 28 June 2019). Even in an ASEAN institution in which certain civil society actors have formal representation – the ASEAN Forum on Migrant Labour – trade union representatives, though formally invited to meetings, experience a lack of recognition (interview, migrant workers activist, Singapore, 5 July 2019; cf. Rother, this volume). However, some CSOs working on what are considered less sensitive issues, for example disability rights, have enjoyed some degree of recognition by and access to ASEAN (interview, disability rights activist, Jakarta, 2 July 2019). A number of ASEAN bodies invite selected CSOs on a more or less ad-hoc basis. Human rights CSOs in the region have lobbied for the creation of an ASEAN human rights mechanism and certain CSOs were active in the process of creating the ASEAN Charter (Uhlin 2016, 100–101). There are also rare examples of civil society activists having joined an official ASEAN institution, trying to influence from within. For example, two prominent human rights activists representing the nongovernmental coalition Human Rights Working Group (HRWG) in Indonesia have served as Indonesian representatives of AICHR. The HRWG Director Rafendi Djamin became the first Indonesian representative to AICHR. While representatives of HRWG viewed it as an advantage to be 'both an outsider and an insider' (Nandyatama 2021, 183), other CSOs raised serious concerns about Rafendi's continued involvement in HRWG (*ibid.*).

Two types of meetings stand out as particularly significant symbolic events providing opportunities for at least limited interaction between representatives of ASEAN and Southeast Asian CSOs. First, the ASEAN People's Assembly (APA) that ASEAN think tanks organised between 2000 and 2009 (Uhlin 2016, 81) and second, the ASEAN Civil Society Conference (ACSC) – sometimes referred to as ASEAN Peoples' Forum (APF) – which has been organised in connection with ASEAN summits since 2005 (Uhlin 2016, 148–153; Gerard 2021, 440). The ACSC has mainly been an arena where civil society actors can meet, but on several occasions, it has included brief so-called interface meetings, when ASEAN leaders have met a delegation of one civil society representative from each member-state. Business networks in Southeast Asia have long had similar meetings (cf. Tans, this volume). These interface meetings have been severely limited, however, as some governments have refused to acknowledge the civil society representative from their country. Several member states have resisted organised engagement with civil society, for instance by letting GONGOs occupy space for more genuine CSOs, by imposing travel bans on civil society activists, and by harassing civil society activists with interrogations after they have participated in ACSCs (Lopa n.d.). Organisers of the ACSC argue that the conference has become increasingly difficult to arrange because of the lack of funding for CSOs (cf. Sciortino, this volume), harassment from authorities, and security risks for human rights defenders (interview, human rights activist, Jakarta, 2 July 2019), reflecting a more general 'shrinking space' for civil society (cf. Toepler et al. 2020). Some activists did not join the ACSC in Singapore 2018, for instance, due to 'security issues for human rights defenders' (interview, LGBT activist, Jakarta, 28 June 2019).

Overall, the ACSCs have often been the scene of combined inside advocacy and outside, protest-oriented civil society activities. When the ACSC has had the character of a

counter-summit, this can be seen as a form of protest. At some summits, there have also been explicit street demonstrations. At the same time, most participating activists have also sought direct engagement with ASEAN leaders and officials.

### **Civil society and the politics of (de)legitimation**

At a time when global and regional governance institutions, such as the IMF, WTO, UN, and EU, are increasingly challenged both by global justice activists and populist nationalists there has been a renewed scholarly interest in problems of legitimacy beyond the nation state. Empirical (as opposed to normative) and process-oriented accounts have examined the politics of legitimation and delegitimation in global governance (Zaum 2013; Tallberg et al. 2018; Dingwerth et al. 2019; Tallberg and Zürn 2019; Bexell et al. 2022). We can understand legitimacy as ‘*a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions*’ (Suchman 1995, 574). Legitimation means boosting beliefs that the rule of a political institution is exercised appropriately, whereas delegitimation implies challenging the appropriateness of a political institution’s exercise of authority (Tallberg and Zürn 2019).

Civil society is often believed to play an important role in (de)legitimation of international governance (Van Rooy 2004). I suggest that civil society engagement with a governance institution might relate to the legitimacy of this institution in three different ways (cf. Zürn 2018, 99; Gregoratti and Uhlin 2022, 98). First, CSOs have the potential to strengthen inclusiveness and accountability as well as the effectiveness and efficiency of global and regional governance institutions and hence substantially contribute to their legitimation (Scholte 2007, 2011). I conceptualise this role as *substantial legitimation*. In the case of ASEAN, this has been referred to as ‘participatory regionalism’ (Acharya 2003). Second, civil society protests that challenge the authority of inter-governmental organisations by displaying their practices as fundamentally flawed in terms of being unjust, undemocratic, or ineffective can be understood as acts of *delegitimation* (Gregoratti and Uhlin 2018, 2022). Third, inter-governmental organisations may open up for selective and controlled civil society participation, not primarily to gain functional benefits from such participation, but as a means of ‘strategic legitimation’, to counter challenges to their legitimacy (Tallberg et al. 2013, 138; Uhlin 2016, 184). Such *symbolic legitimation* addresses the concerns of critics in limited and superficial ways, through ‘status quo-oriented responses’ (Gregoratti and Uhlin 2022, 98). The remaining part of this chapter examines civil society activism targeting ASEAN in terms of such processes of legitimation and delegitimation.

While civil society is rarely considered of primary importance for the legitimacy of ASEAN, reflected in the lack of a focus on civil society in much ASEAN literature, CSOs may nevertheless play important roles in the politics of (de)legitimation surrounding ASEAN. In the words of Nesadurai (2008, 227),

ASEAN’s privileging of sovereignty/non-interference and regional economic integration over other socio-political norms, such as democracy, human rights, good governance and social justice, has compromised the legitimacy of ASEAN’s brand of regional governance among one key audience – regional civil society.

Hence, as stated above, an increasing number of civil society actors have begun to engage ASEAN. Such engagement could imply substantial legitimisation if civil society advocacy leads to meaningful policy changes improving the organisation's democratic credentials or effectiveness. It could imply delegitimation when civil society protests display severe shortcomings of ASEAN. It could also be interpreted as symbolic legitimisation, when civil society engagement is emptied of meaningful content and becomes a symbolic ritual that conveys the image of a credible people-oriented regional organisation.

### ***Substantial legitimisation***

Civil society advocacy targeting ASEAN has to a large extent focused on human rights. If pressure from civil society had significantly improved ASEAN's human rights policy and respect for human rights in the region, this could be a case of substantial legitimisation through civil society engagement. However, CSOs have had very limited such influence in ASEAN and there are few indications of substantial progress in terms of respect for human rights. The ASEAN Charter was a step in the direction of making ASEAN a rule-based organisation. It contains some references to democracy and human rights. However, rather than demonstrating a genuine commitment to these values, the human rights practices of ASEAN member states suggest that these formulations in the Charter remain merely rhetoric. Regional civil society actors pushed for the inclusion of democracy, human rights, and social justice and were involved in the early phases of the process (Collins 2013, 69), but CSOs did not influence the final drafting of the Charter (interview, human rights activist, Jakarta, 24 October 2018). Civil society influence on ASEAN is arguably most visible in the creation of AICHR, but the terms of reference of the institution fall far short of the human rights protections that regional human rights organisations envisioned (Uhlin 2016, 175). So far, civil society advocacy has not succeeded in substantially influencing ASEAN's human rights policies and practices.

Over the years, ASEAN has been largely silent on severe human rights abuses in Myanmar, even if several representatives of ASEAN acknowledge that problems in Myanmar could cause a legitimacy crisis for the regional organisation. Indonesian Minister of Foreign Affairs from 2009 to 2014, Marty Natalegawa, was convinced that 'developments in Myanmar posed a litmus test for ASEAN's ability to manage the challenges of the region's affairs' (Natalegawa 2018, 186). However, he was not concerned about criticism from civil society actors within the region. Rather, he was worried that 'the international community began to increasingly define ASEAN from the prism of its handling of the question of Myanmar' (Natalegawa 2018, 187). Commenting on ASEAN's (lack of) response to Myanmar's treatment of the Rohingya in 2017, Natalegawa wrote that, 'ASEAN has not developed a fully effective common approach to the issue, beyond general expression of concern and exhortation, and commitment to provide humanitarian assistance' (Natalegawa 2018, 223).

Experiences from the most visible ASEAN civil society engagement, the ACSCs, also do not lend support for an argument for substantial legitimisation. An assessment of ten years of ACSCs concluded that this was not a platform that enabled CSOs to influence ASEAN. The report noted that ASEAN has never issued any formal response to ACSC statements (Lopa n.d.). The reason many civil society activists continue to engage with the ACSC is probably that it provides a platform for networking among regional civil society activists, even if possibilities for substantial policy influence are bleak. My own previous study concluded that 'the ACSCs have not contributed to making ASEAN

more transparent and accountable or led to more social justice and equality in the region' (Uhlin 2016, 175). Hence, so far, ASEAN has not become a substantially more inclusive and accountable organisation through civil society engagement. Civil society interaction with ASEAN cannot be interpreted as conferring substantial legitimation.

### ***Delegitimation***

As argued above, civil society actors have organised street demonstrations and other public protest activities against ASEAN since the mid-1990s, though not very frequently. Human rights abuses in Myanmar and ASEAN's failure to act on these have been a major focus. In addition, civil society protesters have challenged ASEAN's focus on economic integration and trade liberalisation, demanding policies for social justice, human rights, and sustainable development (Uhlin 2016, 105).

Protests against ASEAN's failure to act on human rights abuses in Myanmar are specific actions in which protesters display their discontent with ASEAN on a specific issue while not necessarily challenging the organisation's overall authority. Such protests began in the mid-1990s with demands that ASEAN should not accept Myanmar as a member. After Myanmar joined ASEAN in 1997, occasional protests continued to occur. The killing of pro-democracy activists in 2007 led to demonstrations outside Myanmar embassies and near the ASEAN summit venue. Civil society protesters demanded that ASEAN put more pressure on Myanmar to implement democratic reforms and respect human rights (cf. Stokke, this volume). Protests against ASEAN's decision to allow Myanmar to chair the organisation took place in 2011. Several protests have focused on the massive violence committed against the Rohingya, one of Myanmar's many ethnic minorities. When the Myanmar military seized power in a coup in February 2021, ASEAN failed to condemn the brutality of the military junta and did not introduce any sanctions. More than a year after the coup, ASEAN had still not made much progress on a five-point plan to which it had agreed at a meeting in April 2021 attended by the coup leader (Yuda 2022). ASEAN's continued lack of serious response to severe human rights abuses in one of its member states led to new civil society protests (Gregoratti and Uhlin 2022), including the burning of the ASEAN flag by protesters in Myanmar and a Twitter campaign by the online human rights and democracy movement, the Milk Tea Alliance (Chia and Singer 2021).

Civil society protests against ASEAN have rarely questioned the overall authority of the institution. Rather, the focus has been on specific policies. By protesting against ASEAN's performance on a specific issue, protesters implicitly acknowledge the organisation's rightful authority in general. Therefore, such specific protests can be understood as acts of legitimation even when they convey strong criticism (Gregoratti and Uhlin 2018, 146–147). Hence, while it is appropriate to conceptualise some civil society protests as acts of delegitimation, other protests might actually serve more to legitimate than to delegitimize ASEAN.

### ***Symbolic legitimation***

Statements by representatives of ASEAN support a view that the regional organisation engages with civil society for symbolic legitimation rather than because of any genuine belief that civil society participation could be substantially beneficial. Commenting on Indonesia's chairmanship of ASEAN in 2003, a high-ranked Indonesian diplomat

remarked that Indonesia was interested in ‘boosting the Association’s legitimacy after the Asian financial crisis’ and that was why there was a need to ‘solicit and gather ideas from non-state actors’ (Nandyatama 2021, 128–129). When asked about engagement of civil society, the director of the ASEAN Foundation, an institution with a mandate to spread awareness of and support for ASEAN, did not say anything about substantial input from CSOs. Instead, she mentioned projects to ‘get civil society to be more aware of what ASEAN is doing’ (interview, Jakarta, 28 June 2019). Civil society activists, for their part, often describe ASEAN’s engagement with civil society as ‘tokenistic’ (interview, global justice activist, Manila, 16 March 2012; interview, human rights activist, Manila, 22 March 2012; interview, human rights activist, Jakarta, 2 July 2019).

In a recent article, Gerard (2021) demonstrates how ASEAN seeks to legitimate its activities through participatory innovations. While not providing space for genuine contestation of specific policies, the existence of the ACSCs suggests to external actors that ASEAN has a ‘people-oriented’, participatory approach to policy making. Hence, the ACSCs and other arrangements for civil society engagement function as symbolic legitimation.

The so-called interface meetings between ASEAN heads of state and civil society representatives have been considered a symbolic gesture of recognition by ASEAN of the importance of civil society (Lopa n.d.). Given how frequently the host government has refused to organise interface meetings altogether or limited the agenda to non-sensitive issues, and the way several governments have rejected civil society representatives, sometimes replacing them with state officials or leaders of GONGOs, ASEAN practices related to the interface meetings can rather be described as a symbolic *non*-recognition of civil society. Some civil society activists argue that the ACSC organisers should give up on the interface meeting as it just ‘legitimizes the empty engagement of ASEAN with civil society’ (Lopa n.d.). One Indonesian activist claims that ‘ASEAN uses the interface to justify that they are open to civil society participation’ (ibid.). Another activist says: ‘Stop meeting with the leaders. Don’t give credit to them’ (ibid.). Nevertheless, many civil society activists seem to believe in the interface meetings, and engagement with ASEAN in general, as symbolic recognition of civil society by ASEAN – something that can potentially pave the way for more substantial civil society influence in the future.

Research on the establishment of AICHR has seen this as an act of symbolic legitimation driven by a desire to legitimate ASEAN for external audiences. Poole (2015) argues that the creation of AICHR can be understood as an attempt by the ASEAN elite to improve its legitimacy in the eyes of actors outside the region. Ba (2013, 138) also stresses this kind of external legitimacy when arguing that ‘regional organizations must negotiate not just the normative expectations of their referent community and members, but also a structure of expectations associated with a larger global and mostly liberal post-1945 world system’. Similarly, Katsumata (2009, 621) suggests that ASEAN has adopted human rights norms ‘with the intention of securing ASEAN’s identity as a legitimate institution in the community of modern states’. Likewise, Schembera (2021) suggests that ASEAN’s concern for its international credibility and reputation is a key factor explaining why the organisation sometimes applies sanctions against norm-breaking member states, despite its principle of non-interference. Hence, ASEAN leaders are concerned about how powerful external actors (such as the US and EU) perceive the organisation’s legitimacy.

This anxiety is particularly evident concerning human rights. ASEAN’s reputation and credibility on human rights has always been bad. Therefore, political elites

in ASEAN ‘believed that creating a human rights body was an important mechanism to improve the legitimacy of ASEAN and its norms, as perceived by extra-regional actors’ (Poole 2015, 357). Several government officials who participated in the process of drafting the regional human rights body made explicit references to ASEAN’s credibility and international standing (Poole 2015, 365–366). Meanwhile, most member states wanted to give the new human rights institution a weak mandate, excluding the possibility of investigating alleged human rights abuses and engaging effectively in human rights protection. It was also important for the majority of ASEAN member states that they controlled the new institution. The term ‘intergovernmental’ in the official name of the institution was intentionally chosen in order to exclude NGOs (interview, former Indonesian Minister of Foreign Affairs, Jakarta, 25 June 2019). In short, the establishment of AICHR, including the limited civil society participation in the process, can be described as symbolic legitimation driven mainly by pressure from external actors.

In sum, while substantial legitimation is rare in the case of ASEAN–civil society interaction, symbolic legitimation seems to fit better as a description of the legitimacy-related implications of such engagement. This interpretation is supported by statements of ASEAN officials as well as civil society activists and it resonates with extant research on ASEAN, especially in the field of human rights.

## **Conclusion**

This chapter has reviewed literature on civil society and international governance and provided an account of civil society engagement with ASEAN. The analysis suggests that practices of ASEAN–civil society interaction can be understood as related to legitimacy. However, there is little support for the view that civil society engagement would lead to *substantial legitimation* of ASEAN. Overall, civil society actors have had very limited influence on ASEAN, and so far, civil society engagement has not significantly improved the organisation’s credentials in terms of norms of democracy, fairness, or efficiency. Rather, by publicly criticising ASEAN for its lack of democratic, fair, or efficient procedures and performance, some civil society protesters contribute to the *delegitimation* of ASEAN. However, most protests targeting ASEAN tend to be about specific policies and practices, thus implicitly legitimating the organisation’s general right to rule. The concept that best captures the legitimacy-related implications of ASEAN’s engagement of civil society is instead *symbolic legitimation*. ASEAN provides some limited and controlled spaces for civil society participation in order to legitimate itself as a ‘people-oriented’ organisation, particularly vis-à-vis external audiences such as Western states and international organisations. So far, this civil society engagement has remained symbolic and ritualistic, emptied of more substantial content. As Allison and Taylor (2017, 39) note, the ‘main challenge is how the rhetoric of participation and participatory regionalism can move beyond being a public relations exercise’.

The foregoing analysis has distinguished among processes of substantial legitimation, delegitimation, and symbolic legitimation and treated these as distinct processes. In practice, however, they tend to feed into each other. There might be an interplay among them. For instance, delegitimation might lead to symbolic legitimation when the criticised organisation tries to defend its legitimacy through rhetorical and symbolic acts. Conversely, symbolic legitimation could lead to delegitimation when critics are dissatisfied with rhetorical and symbolic responses from the governance institution. Future research on civil society’s engagement of ASEAN, and international governance

institutions in general, could fruitfully focus on such interplay among different (de)legitimation processes and examine under what conditions the politics of (de)legitimation might move beyond strategic and symbolic behaviour to result in substantial legitimation.

Another avenue for future research could be to explore the possible (de)legitimation of civil society actors who interact with ASEAN. This chapter has focused on ASEAN's civil society engagement as legitimating or delegitimizing the intergovernmental organisation, but this engagement may also have consequences for the legitimacy of civil society actors. A motivation for civil society activists to participate in ASEAN-controlled events may be to gain recognition and legitimation from ASEAN. By contrast, being too close to ASEAN might delegitimize participating civil society actors in the view of more radical activists and the general public.

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## **PART III**

# Resources and tactics



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## 9

# THE FAILING FINANCING OF CIVIL SOCIETY IN SOUTHEAST ASIA<sup>1</sup>

*Rosalia Sciortino*

### **Shrinking space and resources**

Shrinking civic space and growing violations of fundamental and democratic rights have been of increasing concern in recent years, both in Southeast Asia and around the world. While the ‘space’ metaphor can be understood in various ways, it generally refers to the extent to which civil society organisations (CSOs) are able to organise, operate, have a legitimate voice, protest, and dissent. In framing ‘shrinking space’, Twomey (2017, 3–4) identifies ten interrelated, potentially overlapping and synergistic, trends affecting such contested space. Beyond highlighting social and political trends such as restrictive legal frameworks, constrained rights of freedom of association and expression, and the criminalisation, stigmatisation, and de-legitimation of human rights defenders and solidarity groups, he singles out financial trends that undermine the sustainability of CSOs. These financial trends present themselves as so-called philanthropic protectionism in the form of laws and other government-imposed restrictions that curtail access to funding for civil society, foreign donors’ withdrawing and/or limiting of funding due to risk-aversion and securitisation, and the exclusion of CSOs from banking systems due to anti-terrorism laws. The combination of these national and external factors leads to ‘shrinking financial space’ for CSOs, as this chapter shows for Southeast Asia.

Failing financial support for CSOs, especially for those advocating structural changes and human rights, is part and parcel of Southeast Asia’s increasingly restrictive socio-political environment, as discussed in other chapters (e.g. chapters in this volume by Ufen, Padawangi, or Pye). As I argue in an article published in *New Mandala* (Sciortino 2018), the accelerated shrinking of civic space also affects (and is affected by) the availability of resources. Across the region, governments’ stiffened oversight is limiting CSOs’ access to funds, especially funds to finance advocacy and rights-based activities. This occurs amidst an evolving development-aid landscape wherein established donor agencies are repositioning themselves in line with more conservative contexts back home and abroad, and where a new set of funders does not necessarily appreciate the merit of a ‘vibrant civil society’ for democracy and development. As a result, diminished resources are captured by mainstream and operational organisations while more critical and social-justice-oriented groups have lost support and seen their work and survival impacted.

In that article, I identified four key factors that contribute to the financial ‘choking off’ of CSOs: the reshaping of international aid spending globally and regionally; paradigmatic shifts in philanthropic giving; scarce appreciation of civil society and advocacy work among local donors; and greater government control of funding streams for CSOs. While these trends remain valid today, their respective features and weight in determining civic space have been subjected to new influences as the COVID-19 pandemic and increasing democratic regression in the region have dramatically changed the environment in which CSOs operate. In this chapter, after briefly sketching the shrinking financial space for CSOs in Southeast Asia, I will present an updated version of the four trends and devote special attention to the specific impact of COVID-19 on CSOs’ operations and funding. Now, like then, I conclude that the interplay of these trends may differ across the region, but in general, they negatively affect the ability of civil society in Southeast Asia to play a transformative role.

This comprehensive overview aims not only to provide insights into the intersecting of global and local trends in an understudied region, but also to complement the current discussion. Literature on diminishing funding for CSOs has slowly grown in the past decade but has focused predominantly on foreign aid reduction – for instance, in a special issue of *Voluntas* in 2018, with cases from Eastern Europe, Central Asia, Latin America, and Africa (Appe and Pallas 2017). The cumulative impact of the intertwining of such reductions with other trends such as those discussed in this chapter is less studied. The literature has given little attention to changes in development and philanthropic paradigms and modalities that not only reduce funders’ interest in CSOs, but perhaps more importantly, de-politicise them, as described later. Like in a special issue of *Development in Practice* on CSOs’ sustainability in 2016, here it is recognised that changes in the amount of external funding ‘may not be the most important challenges to a given civil society sector: there are other pressures, including state intervention to control and constrain civil society in general’ (Pratt 2016, 527). Moreover, the adopted perspective of analysing the causal factors behind funding decline rather than the CSOs impacted and their adaptation fills a gap, since, according to a recent review, the latter has been the main focus of scholarly attention with regard to aid reduction (Pallas and Sidel 2020).

The proposed approach is needed if effective strategies are to be devised to address CSOs’ shrinking financial space. To emphasise the urgency of (re)resourcing CSOs is, in fact, this chapter’s main preoccupation, with the view that ‘the ability to seek, secure and use financial resources [is] fundamental to the right of freedom of association’ (Aho and Grinde 2017, 8) and thus to the very essence of civic space. CSOs in Southeast Asia are not passive, and as in other regions that have seen a fall in resources (Appe 2017; Appe and Pallas 2017), they are trying to strategise and find solutions for their survival. Still, their response is not sufficient to ensure their operations and their future. Notwithstanding many valid criticisms against CSOs in Southeast Asia, scholars agree that a thriving local civil society contributes to democracy, good governance, and development, and can be a catalyst for social progress, albeit as a ‘necessary, but not sufficient condition’ (see Alagappa 2004; Bebbington, Hickey and Mitlin 2008; Case 2015). In this vein, it is my standpoint that the presence of these actors and their related social movements is essential in bringing much-needed changes to inequitable socio-economic and political structures, simply through offering alternatives to the status quo. With the strengthening of fundamentalist and nationalist discourses, curtailment of basic freedoms, and growing socioeconomic disparities in the region – as the COVID-19

pandemic has highlighted – questions of equitable, inclusive, and democratic development are all the more pressing. CSOs, even if weakened, still remain at the forefront of this struggle – but for how long, if oppressed and under-resourced?

### **Sustainability of CSOs at risk**

As democracy experiences a global decline, Southeast Asia has plummeted further into an authoritarian revival. International Institute for Democracy and Electoral Assistance's (International IDEA) 'Global State of Democracy' Indices<sup>2</sup> show that, by the end of 2020, Southeast Asia scored below the global average in both civil liberties and civil society participation; we can assume that the coup in Burma in February 2021 and its violent aftermath, along with intensified repression in Thailand through 2022, may have only worsened the situation. COVID-19 is further deepening autocratising tendencies, with many governments securitising the pandemic and using containment measures to stifle dissent and get tough on social movements (Lorch and Sombatpoonsiri 2020).

All over the region, dictatorships, semi-autocratic populist leaderships, and quasi-democracies are clamping down on freedoms of association, expression, and assembly, while oligarchs and large business interests further capture government processes. Impunity for past crimes against humanity is rife and human rights abuses are brazenly committed. Holding elections has not proved to guarantee citizens' political will, as results can be manipulated or overturned – as most recently in Thailand and Malaysia. Human rights defenders, journalists, and environmentalists are at increased risk of killing, detention, or disappearance, and civil society's scope of action is being restrained. Repressive efforts to silence critical voices and control CSOs, including social movements and media, both offline and online – especially those advocating structural changes and human rights – are mounting (Bogner 2015; The Habibie Center 2020).

CSOs have a long history in Southeast Asia, with a boom in growth of non-governmental organisations (NGOs) occurring in the late 1980s (Cave 2015; Xie and Garland 2019). Yet authorities are generally apprehensive of CSOs challenging the status quo and uncomfortable with their mission of 'safeguarding democracy, human rights, and fundamental freedoms' while 'empowering' the marginalised. NGOs in particular are often viewed with suspicion as disruptors of societal order and agents of foreign interests. Apart from the Philippines (see below), it is only in the last few decades, and under the encouragement of international stakeholders, that governments in the region have started to admit CSOs' contributions, albeit limited to their operational role in development programmes and public service delivery (Sciortino 2017b; Xie and Garland 2019). Today, the Philippines remains more open towards CSOs when compared to neighbouring countries; however, as in the rest of the region, CSOs' legitimacy and accountability are increasingly challenged and their social and financial resources undermined.

This broad-brush picture is congruent with the findings of the *2019 CSO Sustainability Index for Asia* (USAID 2020). Stressing that 'the contexts in which CSOs operate always influence sectoral sustainability' (USAID 2020, 1), the *Index* notes worsening conditions for CSOs caused by greater government opposition, especially towards CSOs focused on human rights and governance-related issues. Now in its 6th edition, the *Index* measures progress in seven key components – legal environment, organisational capacity, financial viability, advocacy, service provision, sectoral infrastructure, and public image – per categories of 'enhanced', 'evolving', or 'impeded' sustainability. As in previous

years, the assessment placed all Southeast Asian countries studied, namely Burma, Cambodia, Indonesia, the Philippines, Thailand, and, for the first time, Timor-Leste, in the middle-range ‘evolving sustainability’ category, with the Philippines the closest to reaching ‘enhanced sustainability’, and with Thailand at the other end, on the cusp of ‘impeded sustainability’. Measured over time, except for Indonesia and particularly in the Philippines and Thailand, CSOs in all countries experienced backsliding in the key components of legal environment and public image. Over the years, advocacy activities have diminished, while the provision of services has increased and became more diversified (USAID 2020).

On financial viability, all Southeast Asian countries scored more modestly than their overall rating; for this indicator, all fell on the lower end of the ‘evolving sustainability’ category (Indonesia, the Philippines, and Timor-Leste) or in the ‘impeded sustainability’ category (Cambodia, Burma, and Thailand). Overall, CSOs reported that more limited access to funding had affected the sector and their organisational capacity, with some variations across countries and types of CSOs. Limited-resource countries like Burma, Cambodia, and Timor-Leste, dependent on foreign funding, were particularly impacted by its decline. Indonesia also experienced a decrease in foreign assistance since the country became a member of the G20 in 2008. However, CSOs, particularly faith-based and service-provision NGOs, were gradually diversifying their funding sources by accessing nascent domestic opportunities. In the Philippines, corporate foundations and cooperatives, especially those offering savings and credit programmes, continued to be financially sustainable, while smaller CSOs, dependent on grants, were struggling. People’s organisations (POs) were experiencing greater financial insecurity and felt the pressure to formalise into cooperatives or social enterprises to be able to raise funding from donors requiring legal status. Thailand was the country with the poorest financial sustainability, with political factors and funders’ decisions making access to resources even more difficult than in previous years (USAID 2020).

A qualitative study by the Asia Foundation in 2019 and 2020 on the changing nature of civic spaces in Cambodia, Indonesia, Myanmar, Malaysia, the Philippines, Thailand, and Timor-Leste reached similar conclusions. Civic spaces were constrained by restrictive government policies, fragmented, and fraught with intergenerational tensions, while CSOs were deemed to be ‘starved of funding’:

Many CSOs in Southeast Asia are simply struggling for funding. In the last few years, funding sources have dried up as donors have left, reduced their aid footprint, or, as we saw in Cambodia, shifted funding from rural to urban areas. Where there is government funding, it tends to be only for delivery of basic services. Competition for project funding is intense, and sustainable core funding is even tougher to come by.

*(Nixon 2021, 1; see also Nixon 2020)*

These conditions were further exacerbated by the early arrival of COVID-19 in the region. In January 2020, Thailand became the first country with an identified case outside China, followed in February 2020 by the Philippines, with the first death. Securitisation of the pandemic, combined with reduced support as donors’ funds have been withdrawn, delayed, or repurposed, has affected CSOs’ financial viability and relevance. Differently from how regional states responded to the HIV epidemic, national responses have excluded progressive social movements and the latter’s efforts

to promote more structural solutions have had less resonance. Many CSOs have had to downsize their human resources and programmes, with the protracted crisis pushing an increasing number into closure. For those that operated as social enterprises, restrictions on business operations limited their incomes while overhead costs remained (Gomez and Ramcharan 2020). All this has occurred at a time when health and socio-economic gaps have increased and human rights are under assault, necessitating greater CSO engagement.

### **Tightened government control**

The challenges to CSOs' financial sustainability are framed within domestic political contexts and regulatory frameworks, with states setting the terms of interaction for CSOs. The Philippines is an outlier in that it acknowledged NGOs already in the Corporation Law of 1906, when the country was an American colony, and gave them unprecedented prominence with the transition from dictatorship to democracy towards the end of the century. Unique in the region, the 1987 Constitution of the Republic of the Philippines affirms the societal contribution of non-profit entities, foresees financial support for organisations that promote social welfare, and stipulates for them a range of fiscal exemptions (Velasco 1996). Later, other Southeast Asian countries started to regulate the third sector, but their intentions have been to control rather than empower CSOs. The 2015 *Index of Philanthropic Freedom* found the region, and Asia more generally, to rate below the global average in terms of ease of registering, financing, and operating CSOs (Adelman, Barnett, and Russell 2015). The subsequent 2018 *Global Philanthropy Environment Index* confirmed that South and Southeast Asia was below the global average when it comes to enabling philanthropic operations and support of non-profit organisations (NPOs) (Ali and Shazia 2018).

Overall, regulatory systems tend to limit the right of association to satisfy national interests and direct CSOs towards prescribed roles. While service delivery may be encouraged and sponsored, authorities view advocacy-oriented activities as against the state or crony business interests (see Chong and Elies 2011; Xie and Garland 2019). With the shrinking of civic space in recent years, already restrictive measures have been tightened to restrict CSOs or to compel them to operate as apolitical for-profit enterprises (Sidel 2015, 2018). Prominent in the growth of more-stick-than-carrot regulations have been measures to control CSOs resources and undermine their efficiency. Governments in Southeast Asia, like in other conservative parts of the world, are becoming more adept in employing financial tools for repressive purposes, from withholding public funds and limiting the type of CSO activities that can be funded; to taxing donations or denying the charitable status needed to receive tax-free donations; requiring donors to register with state agencies; and arbitrarily applying anti-money laundering, anti-trafficking and, more recently (as in Malaysia and the Philippines), counter-terrorism rules against NGOs and their international donors (Aho and Grinde 2017).

Increasingly, regulations that aim to scrutinise CSOs' use of domestic resources from individual and philanthropic giving are rising throughout the region. Governments are wary of digital fund-raising platforms and try to regulate them, not only to limit fraud, but also to direct the flow of funds towards social services rather than advocacy activities (Sidel 2018). Heightened scrutiny is also placed upon funding from foreign donors as a form of 'external interference', resulting in higher aid barriers and the rise of philanthropic protectionism – 'a particularly insidious means to narrow the space for civil



society [in] an environment where significant domestic funding for CSOs is absent' or minimal (Retzen in Harvey and Kozlowski 2016, 6th para). As many NGOs receive foreign funding, they are vilified for being 'foreign agents' paid to promote a 'Western agenda' dismissive of Asian values and, in extreme cases, are accused of treason and criminalised, even when the same governments who accuse them are themselves foreign-aid recipients.

In Cambodia, the 2015 Law on Associations and NGOs (LANGO) requires CSOs to submit extensive operational and banking data to the government (Khuon 2017). In Laos, the New Decree on Associations No. 238, issued in 2017, limits CSOs to selected development fields such as health or agriculture, prescribes that CSOs attain approval from the Ministry of Foreign Affairs before receiving donations from foreign individuals or entities, and requires that CSOs have their financial reports and assets reviewed (FIDH 2017). The introduction of the law caused lengthy delays in receipt of funding and has forced CSOs to either operate as small businesses to survive or to shut down (RFA 2018). In Indonesia, the enactment of Ministry of Home Affairs Regulation No. 56 of 2017 on the Monitoring of Societal Organisations under a *Tim Terpadu* (Integrated Team) led by the Ministry of Home Affairs and including representatives of the military, police and State Intelligence Agency, securitised registration and tightened oversight of both national and international CSOs, their operations, and their funding (Hartnell 2020). In Thailand, local and international organisations are in uproar about a draft law to control NPOs and public associations. In its rationale, the law states that 'several [NPOs] accepted money [from foreign sources], and used them to fund activities that may affect the relationship between the Kingdom of Thailand and its neighbouring countries, or public order within the Kingdom'. Consequently, Section 6 would mandate that NPOs get permission from the Ministry of Interior to use funds received from non-Thai entities and that authorities have discretion to determine which activities can be funded. Moreover 'the registrar shall have the authority to enter the office of a NPO to inspect the use of money or materials' (Article 19 2021; Sutthichaya 2021).

Government-imposed constraints also affect funding streams at their sources, impairing funders' capacity to get out their support. Rules to govern the emerging philanthropic sector include complex registration processes, tight oversight, and even criminal punishments. Tax incentives are scarce or only for those foundations the government welcomes – most often faith-based foundations active in health and education, along with local variations, like royal foundations in Thailand (Sciortino 2020). Government-backed grant-making foundations, a hybrid kind of institution consisting of public funding and semi-independent management with a significant presence in Southeast Asia, are at high risk of direct intervention. In 2016, Thailand's government tightened its control of the Thai Health Promotion Foundation, the largest donor in the country, funded with excise taxes on tobacco and alcohol. Members of its board were expelled and grant-giving rules were revised, allegedly to enhance transparency and to meet declared objectives, but in actuality, reduced the financing of transformative actions and of CSOs (Bangkok Post 2016).

Across Southeast Asia, past agreements and permission procedures for foreign donors and international NGOs (INGOs) to establish offices and operate in the country are being reviewed in more restrictive terms, with closer scrutiny of beneficiaries and funded activities. In Indonesia, international funding agencies and their grantees must report to *Tim Terpadu* and agree to dictated conditions to see their projects approved, while their autonomy to fund local partners is heavily restricted. The amendment to the Law of

Foundations in 2004 further stipulates that foreign entities can only set up philanthropic foundations in partnership with a local organisation. Overall, foreign donors' scope of activities excludes activities perceived as political or sensitive matters that supposedly trigger social anxiety, such as sexual diversity and religious and ethnic pluralism (CAPS 2018, 2020). Being generally risk-averse, most donors, especially multilateral and bilateral donors, quickly adjust to government signals. As an example, following objections by Indonesian politicians and Islamist groups against a United Nations Development Programme (UNDP)-led 'Being LGBTI in Asia' initiative in 2016 (AsiaNews 2016), foreign donors in the country reduced funding for lesbian, gay, bisexual, transgender, intersex (LGBTI) rights, even though the initiative continued regionally.

Civic space has further been restricted by COVID-19 and the emergency powers granted to authorities to control the pandemic. Academics, CSOs, and media criticising the pandemic response have been threatened with regulations purportedly issued to stem fake news. Already impaired in undertaking their activities and relegated to online space by the pandemic, many CSOs also must cope with selective judgement of their initiatives as being 'essential' for society or not. In Cambodia, activities not directly relevant to COVID-19 have been prohibited under vague regulations while NGOs have encountered difficulties in attaining local authorities' permission to distribute protective materials to disadvantaged communities (Soeung and Lee 2021). Other governments, especially at the beginning of the pandemic, have tended to reject CSO involvement, so as not to be seen as failing in their responses. In Thailand, individuals and informal networks handing out food and preventive tools were reprimanded for creating a crowd, with donors prosecuted rather than assisted in crowd-management (Ganjanakhundee 2020). In Malaysia, the government used the Movement Control Order to bar NGOs from assisting vulnerable migrant and refugee communities, instead employing military and paramilitary groups, with poor results. The situation prompted NGOs to launch a 'Let Us Work with You' campaign, which led to the eventual reversal of the decision (Chen 2020). More recently in the Philippines, the national police red-tagged a make-shift community-pantry movement to collectively distribute basic necessities, with the slogan 'Give according to your means, take according to your need', branding it as 'communist' and in contravention of emergency orders (Wong 2021). While CSOs' social welfare work has attracted individual and corporate donations, they remain challenged by financial shortages and economic uncertainties derived from an evolving donor arena.

### **An aid landscape hostile to civil society**

Embedded in restrictive domestic contexts, multiple international trends in aid and philanthropy impact the resourcing of civil society. To start, official development assistance (ODA) from the Organisation for Economic Cooperation and Development (OECD) Development Assistance Committee (DAC) donor countries – all of them Western economies except for Japan and South Korea – has fallen short of aspirational targets. Despite the long-standing UN recommendation for donor countries to allocate at least 0.7% of their gross national income (GNI) to ODA, only a few Nordic countries and Luxemburg have realised that goal (UNECE n.d.). After reaching a peak in 2010, ODA real-value fell globally due to changing geopolitics and a waning appetite among conservative politicians and the public for overseas spending, amid the financial crisis of 2008 and Eurozone turmoil. A slight rebound began in 2012 and lasted until 2016 but was mainly due to the influx in Europe of refugees and associated in-donor-country refugee

costs; resources flattened in the following triennium. Greater aid portions were allocated to humanitarian relief, multilateral programmes, and in-donor-country refugee costs, while bilateral programmes, and thus direct funding to developing countries, grew at a slower pace (Dodd, Knox, and Breed 2021; OECD 2021).

Amidst austerity drives and protectionist rhetoric, aid has been instrumentalised and more firmly tied to donor countries' broader foreign policy, security, and commercial interests under the so-called whole-of-government approach (Brown 2016; Brown, Grävingsholt, and Raddatz 2016). There has been a retrenchment from the social sector in favour of macro-economic and infrastructure investments, which in turn implied a commercialisation of aid objectives, delivery systems, and development partners. Donor countries' renewed emphasis on economic gains is also reflected in a shift away from no-interest giving for development purposes, in the form of grants. From 2010 to 2019, development grants as a proportion of total ODA decreased from 72 to 61%, while loans increased from 20 to 28% and a larger portion (14 instead of 8%) was allocated for humanitarian aid (Dodd, Knox and Breed 2021). In 2020, investments in COVID-19 recovery and an increase in bilateral sovereign lending resulted in an exceptional jump of 3.5% when compared to the previous year. Still, the total ODA value of USD161.2 billion represented only 0.32% of the combined DAC donors' GNI, and the share of loans by international financial institutions like the International Monetary Fund (IMF) and the World Bank had further increased (Dodd, Knox, and Breed 2021; OECD 2021). Moreover, some declared expenditures are in-donor-country expenses for vaccine development and commitments to international bodies to finance shared development of drugs and vaccines (Morozkina 2020). Looking ahead, and based on past crises, it can be expected that a drop will follow, with some countries' having already announced reductions in their aid budgets (UK) or reallocations (Australia) away from non-COVID-19-related purposes (Morozkina 2020; Pallas 2020).

In the resulting configuration of foreign assistance, Southeast Asia has fared poorly; donor countries consider the region to have lower strategic value than other regions, especially Africa for the US, and Europe and the Pacific islands for Australia (Galloway 2020). Today, of the five largest donor countries, only Germany has increased its assistance, with Australia, the US, and Korea decreasing aid. In Japan, which gives funds mostly in loans, repayments outnumber new loans (Ingram 2020). Donors also see the region's fast growth as validating its readiness to 'graduate' from aid and use that status to justify reduced support, notwithstanding growing inequities, persistent vulnerabilities, and unresolved development challenges (Asia Foundation 2014). While most Southeast Asian countries, with the exception of wealthy Singapore and Brunei Darussalam, are still in the DAC list of beneficiaries, the value of contributions has diminished, with the possible exception of Myanmar until recently.

The scaling back and repositioning of foreign assistance has implied a turning away from civil society and from the role donors envisioned for CSOs since the late 1980s. At that time, in Southeast Asia as in other regions, DAC donors started to provide official funding to the non-profit sector and enlisted INGOs in their countries to work overseas as a prerequisite for development programmes, leading some to speak of an 'NGO-isation of development aid' (Kappert 2011). While governments remained consistently the main ODA recipients in bilateral and multilateral initiatives, across the region, local CSOs gradually started to be funded through INGOs, and to a lesser extent, directly by donors, in programmes not only to reduce poverty and enhance people's welfare, but also to foster good governance and peace.

Commitment to civil society as an ‘independent’ force in development to advance people’s rights grew in the new millennium. Donors pledged at high-level international cooperation fora in Accra (2008), Busan (2011), and Mexico City (2014) to create enabling conditions for CSOs to perform, including ensuring financial viability (Aho and Grinde 2017). Yet such repeated global agreements have only partly materialised in Southeast Asia. The narrow interpretation of the principles of national ownership and coordination, as the 2005 Paris Declaration on Aid Effectiveness emphasises – effectively coming to mean ‘government ownership’ – has affected CSOs’ independence by discouraging direct donor support and subordinating CSOs as recipients of international funding via and as ‘extensions’ of their government. Governments have now started to procure education, healthcare, and other basic services from NGOs to enhance access to out-of-reach groups, although levels of such procurement are still low in Southeast Asia when compared to South and East Asia (CAPS 2018, 2020).

In the process, more critical CSOs are sidelined as they lack government approval and are often too small to compete in public bidding processes. Myanmar before the recent coup is a noteworthy example. While before the ‘democratic transition’, international donors had prioritised civil society and their human rights activities from across the border, during the semi-democratic intermezzo, they engaged directly with the government and shifted funding to government-approved channels to roll out large-scale programmes ‘framed in non-political development terms’, with the eventual participation of CSOs as sub-grantees or ‘implementing partners’. On their side – just as has happened in other Southeast Asian countries before – civic groups had become more technocratic as service providers and acted less as watchdogs of corrupt government practices and vested business interests (Bächtold 2017, n.p.).

The whole-of-government approach and its pro-market ideology further push this de-politicisation process of CSOs, encouraging economic solutions and actors in development. In a resuscitated framework reminiscent of early postcolonial modernisation endeavours and the Washington consensus, donors see economic growth (and its supposed trickle-down effects) as the driver of sustainable development. This is exemplified by current donor support to Southeast Asia’s overarching regional body, the Association of Southeast Asian Nations (ASEAN), to foster women’s empowerment. That approach focuses on women’s entrepreneurship and enterprises as instrumental to economic growth while placing less emphasis on supporting women rights’ groups, building feminist movements, changing cultural norms, or enhancing women’s political participation to achieve gender equality (Gerard 2017).

The global shift from grants to non-grant instruments mentioned above is also visible in Southeast Asia. Through an expanding variety of income-generating financial instruments, aid is increasingly directed at nurturing and funding the for-profit sector and at building a conducive environment for it. The new mission is fostering a ‘vibrant business sector’ – rather than a ‘vibrant civil society’ – of small and medium enterprises and socially responsible corporations, upon which sustainable development and trade performance are assumed to rest. The hype is now for social enterprises: traditionally non-profit, but increasingly for-profit organisations that apply commercial strategies to attain social, environmental, as well as financial outcomes. Major donors in the region, like Australia’s Department of Foreign Affairs and Trade (DFAT) and the Asian Development Bank (ADB), have identified business-sector development and the making of ‘bankable’ projects to encourage public–private partnerships as a priority and have allocated resources accordingly (DFAT 2015; Zochodne 2019).

In a parallel trend, calls for ‘boosting aid effectiveness’ have dictated a streamlining of programmes and the concentration of aid in large institutions with a global reach. Multi-stakeholder vertical funds, such as the Global Fund for AIDS, Tuberculosis, and Malaria (GFATM) or funds managed by international development banks and other financial institutions, have mushroomed to channel earmarked funding to countries (World Bank Group 2013). More and more, these funds enlist private entities – trusted to be more ‘efficient’ than non-profit counterparts – to administer foreign aid in the target countries. In the resulting multi-layered aid industry of mainly private contractors and facilities and, to a diminishing extent, large INGOs and UN agencies, local NGOs are expected to bid for a project or respond to calls for proposals rather than initiate activities and are eventually employed as sub-contractors to deliver services on commission. In Southeast Asia, as in the rest of the world, changes in the development sector towards being ‘narrowly focused on short term results and values for money’ (Banks, Hulme, and Edwards 2015) are taking resources and autonomy away from CSOs and compromising their ability to strive for social justice and transformation.

The arrival of COVID-19 has further complicated the situation, with the global increase in ODA not necessarily benefiting the region or its CSOs. Donor countries taken by storm by the pandemic have concentrated on their domestic needs and on setting up new work-from-home systems, putting ongoing plans on hold. Gradually, support has restarted, mostly in the form of bilateral and multilateral relief directly to governments for medical needs (increasingly vaccines) and contributions to COVID-19-related stimulus packages – to the detriment of other causes. NGOs complain that they were allowed to reorient their programmes to address the pandemic but received no additional funds. Previously pledged support for non-COVID-19-related work has, at times, been discontinued, without much thought regarding impacts on sustainability. In light of many uncertainties, the submission of new proposals has been delayed, if not suspended, compromising future activities (Soeung and Lee 2021). Established funding programmes in the region have been repurposed fully or partly for relief activities and distributed through the same multi-layered aid structure. For instance, in pre-coup Burma, the multi-donor Livelihoods and Food Security Fund (LIFT), which the United Nations Office for Project Services (UNOPS) managed under its COVID-19 response, funded 128 local CSOs (84% of grantees). However, only an estimated 24% of the USD22 million total was entrusted to them, while 76% went to 25 international organisations. Moreover, LIFT contracted only ten local CSOs directly; INGOs and, in rare cases, larger local CSOs sub-contracted the rest (Hlaing 2020). Although there is much talk among donors of engaging civil society in the COVID-19 response, such as at ADB (Bhargava 2021), CSOs feel they are being overlooked or steered into pre-assigned, subordinate roles.

Nor do CSOs find consolation in the non-DAC-donor countries operating in Southeast Asia – mainly China, India, and Middle Eastern countries. Their COVID-19 responses, as well as their previous investments, are fully government matters and do not include CSOs as partners. China’s denial of a development role for civil society matters the most due to the rapidly expanding scale and scope of its ‘soft’ diplomacy, financial capacity, and presence in the region. A latecomer to development assistance, China has ramped up foreign aid on a grant-equivalent basis of an estimated USD1 billion in 2005 to USD5.9 billion in 2018, becoming the seventh-highest donor among DAC and non-DAC countries alike (Kitano and Miyabayashi 2020). Southeast Asia is a priority area for Chinese aid given its proximity to China, its ethnic Chinese diaspora, and

its abundant natural resources (Copper 2016). That emphasis became apparent during the pandemic, as China promptly offered medical supplies and personnel, and sold or donated vaccines at critical junctures (Vannarith 2021). Through bilateral and regional aid, along with loans from the Asian Infrastructure Investment Bank (AIIB) and other financial incentives under the Belt and Road Initiative (BRI), China is surpassing most traditional aid-donor countries (Sheng 2018). From the start, aid has been heavily skewed towards economic measures, blurring aid and financial investments and loans, and delivered through private-sector or state-owned enterprises, with few socio-cultural projects and almost no funding for NGOs. Increasingly authoritarian regimes welcome the ideological dissociation of economic growth from civil liberties and democracy, further expressed in no-strings-attached and hands-off aid policies, but it clearly precludes a meaningful role for civil society.

### **Philanthropy and CSOs: from foundation darlings to orphans?**

We can also discern a declining trend for philanthropic flows that used to benefit CSOs in Southeast Asia the most. Historically, international foundations have sponsored the establishment and strengthening of civic institutions and movements in Southeast Asia much earlier and at a higher level than bilateral and multilateral donors. Beginning in the Cold War period, US foundations – foremost among them the Ford Foundation and the Rockefeller Foundation – engaged with countries in the region with the aim of assisting them to ‘take off’ on the development and democratisation path, or as critics argue, to strengthen US imperial hegemony and limit left-wing political and cultural influence. At the time, the Rockefeller Foundation placed staff in local institutions and the Ford Foundation established country offices across the region, with the premise that proximity was necessary to understand the context and to make strategic grants. These examples were eventually followed by the Open Society Foundations, with its offices and affiliated foundations, and several Japanese and European foundations and grant-making institutions. Other foundations, such as the Asia Foundation, operated from abroad through intermediary organisations on a variety of issues, but especially international affairs, peace and security, and propagating liberal economic models.

Early on, in the 1960s and 1970s, US philanthropic foundations’ support facilitated the ‘decolonisation’ of government institutions, strengthening incipient governance structures and public services. Inspired by the modernisation theory dominant at the time, top-down programmes provided imported solutions, technology transfer, and foreign know-how. Western institutions were entrusted to build or strengthen local universities and educate the emerging national leadership, in-country and abroad, as well as to create a pool of technical personnel, teachers, and administrators. INGOs, mainly from the US, were also funded to establish chapters or help build local organisations in selected programme areas such as population, health, agriculture, and governance (Geithner 2008). During the 1980s, as international foundations adopted a more holistic and bottom-up paradigm towards the end of the Cold War, they offered the first local NGOs and other CSOs capacity-building assistance and long-term funding to address the social and cultural dimensions of development and to spearhead community programmes in disadvantaged areas. By the 1990s, principles of ‘participation’, ‘empowerment’, and ‘local ownership’ were firmly established among international foundations and grant-making institutions. They increasingly directed grants to local CSOs in emerging democracies as the best positioned entities to find systemic and

context-specific solutions to complex societal challenges, including fostering more open and accountable governments. Philanthropic funding supported both advocacy NGOs aiming for structural socio-cultural and political transformation and NGOs focusing on service delivery and community development (Renz and Samson-Atienza 1997).

As dictatorships came to an end and optimism about democracy bloomed in Thailand, the Philippines, and Indonesia, CSOs mushroomed. International foundations, especially the Ford Foundation, Open Society Foundations, and publicly supported German political foundations like the Heinrich Böll Stiftung and Friedrich-Ebert-Stiftung (Mohr 2010), funded a plethora of activities to raise awareness of human rights, women's rights, and minority rights. This social-justice-oriented model of philanthropy was challenged in the early 2000s by the emergence of a new brand of foundations – especially the Bill and Melinda Gates Foundation as the largest foundation ever, with an endowment today of USD49.9 million – and the paradigm they proposed.

In line with thinking in development-aid circles, so-called venture philanthropy – or, more critically, ‘philanthrocapitalism’ – reframes modernisation discourse in globalisation terms, putting faith in the expansion of markets and innovations to drive worldwide development. In the search for universal ‘magic bullets’, these foundations dismiss local contexts and have little appreciation for the less-quantifiable fields of human rights, culture, and the arts, or for socio-economic and political processes. This decline of socially engaged and contextual grant-making also affects the position of CSOs as the primary partners of international foundations globally and in the region. New foundations privilege public–private partnerships and social enterprises, impacting investment through a novel approach that seeks social benefits and financial returns. When they involve NGOs, it is to develop products or deliver services with the expectation that they operate according to ‘entrepreneurial’ principles. Southeast Asia is not a priority region for them generally; when they operate there, they do so mainly through intermediaries, often companies if not government institutions. The Gates Foundation's grants database shows initial grant-making to have started around 2007/2008 in Southeast Asia and now to be concentrated especially in Singapore, Thailand, and Indonesia, with a focus on development of bio-technology and pharmaceutical products and financial inclusion. In the last biennium, state companies in Indonesia have received large grants (up to USD40 million) for the development of vaccines, drugs, and diagnostics for neglected diseases and reproductive health matters. Interestingly, of the impressive resources the Gates Foundation and other philanthropies have pledged for COVID-19, not much seems to have touched the ground in Southeast Asia. It was a new set of philanthropic actors, Chinese foundations like the Alibaba and Jack Ma Foundations, that promptly responded as the pandemic began to spread in the region, donating medical supplies to affected governments (Sciortino 2021).

Meanwhile the ‘traditional’ US foundations, even when not fully subscribing to the technocratic paradigm, have modified their *modus operandi* and reduced appreciation of local contexts and actors. Operations have been centralised in headquarters and, with the notable exception of the Open Society, field offices have been closed or reduced to logistic hubs. Most revealingly, of the many Ford Foundation offices in Southeast Asia, only the Indonesia office remains open, having been downsized to only the grant-making area of Natural Resources and Climate Change. This diminished presence also implies a shrunken budget for the countries in question and reduced direct funding to local organisations, especially CSOs, as no staff are there to identify smaller and less-known groups among growing ranks of potential recipients. Even when there is a local

presence, global priorities may take precedence. For instance, in 2020, Open Society's Asia programme had to forego resources to serve their headquarters' reallocation for COVID-19, even when, in principle, they had already committed to partners (Hobson 2020). With these and related changes in philanthropy, CSOs are at risk of becoming the 'orphans' of international foundations rather than the 'darlings' they once were.

### **The limits of local benefactors**

Confronted by diminishing international resources, civil society has placed high hopes on being able to tap into home-grown philanthropy. At first sight, such hopes seem justified: in spite of a lack of national data (with the exception of Singapore), observers agree that the Southeast Asian philanthropic sector has undergone robust growth in the last two decades, driven by the fast accumulation of wealth and greater societal pressure for corporate social accountability (CAPS 2020). Individual donations remain the dominant form of giving, but domestic foundations and other forms of institutionalised giving are growing throughout the region, burgeoning in the richer countries of Singapore, Malaysia, Indonesia, Thailand, and the Philippines, while gradually emerging in other countries. This, however, only translates into new opportunities for mainstream CSOs: home-grown philanthropy at this early stage of development is generally not inclined towards social- (or political-) change approaches and refrains from becoming involved with transformative CSOs (Sciortino 2017a, 2017b).

This pattern reflects the composition of the philanthropic sector as much as it reflects the political environment in which it is embedded. As mentioned above, the regulatory framework is not encouraging of philanthropic operations and there is little tax incentive to institutionalise giving and formalise philanthropic foundations. Home-grown philanthropy in Southeast Asia is dominated by family-corporate foundations and, even more commonly, corporate-giving programmes operated through informal or corporate channels. Intermingling of business interests and philanthropic objectives is rife, with giving tied to the family business and directed at enhancing its scope and reputation. In carrying out their missions, corporate family foundations mix grant-making with direct implementation and fundraising for their own programmes, thus reducing funding opportunities for resource-poor organisations. When they provide finances externally, they rarely consider proposals, and their preference is to give at their will to those they personally know in academic, business, or government circles. They generally mistrust non-profits, which they perceive as neither transparent nor accountable with funding, and as a potential liability with governments, and have enthusiastically adopted venture philanthropy, with its emphasis on social enterprises and impact investment. They do, however, 'hire' NGOs with expertise in certain areas as contractors for programmes they operate. As a philanthropy practitioner explained in Indonesia:

In the past NGOs were largely funded by international donors, but they are now looking for local funds, and implementing programmes for a local corporate or family foundation may be a way for them to earn a sustainable income. Rather than NGOs identifying areas of work and finding donors to support them, they might have to be more willing to be flexible and do what the donors want. NGOs may offer certain programmes that donors can pick from.

*(Hanitio in Hartnell 2020, 17)*



The inclination is to work to advance welfare causes perceived as non-controversial and to support governments' agendas in order to avoid potential conflicts that may eventually affect business interests. This cautious corporate giving focuses on human development and service provision, with a majority of funding dedicated to education – especially academic buildings and fellowships – and, to a lesser extent, medical care, including hospital buildings and treatment for underprivileged groups. Through their companies and corporate social responsibility (CSR) programmes, donors also contribute to community development in the areas surrounding company assets, and to ad hoc responses to disasters or community events. Companies do finance less-critical forms of arts and culture, partly to attain visibility for the companies' brands, especially when regular channels to advertise their products are restricted, as is the case for alcoholic beverage corporations in Thailand and tobacco-related foundations in Indonesia (Sciortino 2015). Support for human rights, gender issues, and the environment is scant, although younger generations of philanthropists seem more interested in such causes. As an Indonesian activist put it, 'these foundations of the wealthy – corporate and family – mostly support "safe" issues, never social justice or human rights' (Chandrakirana in Hartnell 2020, 5). When funded to focus on people's welfare and deliver services, CSOs are at risk of seeing their funding cut if they engage in advocacy, as in the case of two women's organisations in Malaysia:

Corporate contributions supported both of these organizations as long as the focus was on women's health and shelter, since battered women come from all classes and women's health is of major importance to companies where 80 to 90 percent of the workers are women. But challenging human rights abuses and advocating for a change in the socioeconomic status quo is too threatening to the existing power structure and too vulnerable to government repression for any but the most daring donors (usually capable of only small gifts) to risk being involved.

(Cogswell 2002, 118)

The same giving and beneficiary pattern also characterises the region's faith-based institutions, albeit for different reasons. These precursors of institutionalised giving in Southeast Asia are far more numerous and have greater resources and reach, compared to corporate initiatives. This is thanks to cash and in-kind donations from individuals and families and, to a lesser extent, income-generating assets and, increasingly, payments from social services. In Indonesia, the Muslim *zakat* (Islamic tithing)-based organisation *Dompot Dhuafa* (DD, literally Wallet for the Poor) has become the country's largest philanthropic organisation in terms of received donations, tallying to USD26 billion in alms and *zakat* in 2020, of which it granted more than 90% that same year to implement programmes or invest in social-enterprise activities the foundation ran directly. In their charity, faith-based institutions prioritise religious deeds and alleviating the suffering of the poor, the sick, orphans, migrants, and other vulnerable groups. They also contribute to community development, provide humanitarian aid, deliver health, education, and welfare services, and undertake relief programmes. Few go so far as embracing an empowering, human rights-based approach grounded in progressive religious interpretations. However, overall, their humanitarian approach rarely strives for structural change and giving is often sectarian in nature. Like their corporate counterparts, they

are inclined to avoid policy discussions and human rights issues and privilege working with NGOs that deliver services, rather than advocacy organisations.

Individual donors, too, do not seem comfortable with CSOs, and particularly not with advocacy organisations. Most commonly, people across the region donate directly to other individuals in their family and community and, to a lesser degree, to strangers in need. When they donate to organisations, they choose religious institutions and social services. Research in the Philippines, Indonesia, and Thailand shows that, irrespective of the majority faith (Catholicism, Islam, and Buddhism, respectively), only a tiny minority, fewer than 10%, gave to NGOs, and even fewer gave to human rights organisations (Sciortino 2017b).

The public has been very responsive to natural disasters, which are quite frequent in the region. Still, COVID-19's unprecedented challenges have led to extraordinary levels of volunteerism and direct giving, with burgeoning ranks of individuals and local foundations donating their time and resources for medical and economic support. Lockdown limitations and the emergence in recent years of crowdfunding platforms, payment applications, and other technologies have amplified giving to volunteer and grassroots groups. During the pandemic, NGOs – including advocacy groups that took over humanitarian work – and faith-based groups navigated many difficulties and continued to play crucial roles in assisting vulnerable communities such as migrants, refugees, disadvantaged women, slum dwellers, and people with disabilities (Lorch and Sombatpoonsiri 2020). It is, however, informal networks and individuals, often with no previous history of activism, that have provided the immediate, flexible, and wide-spread assistance needed, using their own finances and, later, direct donations solicited by word of mouth via social media and other platforms. Small communities all over the region have also counted on traditional saving schemes and mutual aid to provide relief to the neediest among them. In many cases, the feeling of being 'left on their own' due to slow and fraught government responses and seeing many suffer due to lack of social protection and access to COVID-19 prevention, treatment, and now vaccination has moved many to donate cash or gifts of goods and services. Most efforts have been short term to meet acute needs. However, the few that have managed to survive and needed to expand their programmes' reach have become CSOs or been integrated into existing CSOs to be able to handle more complex management and fund-raising requirements.

Direct donations mostly support welfare activities, seldom challenging failing government policies except by exemplary action. However, there are signs that individual funding is also starting to enable more contentious civic activism. Voluntarism and mutual aid have been and are still seen at the repeated protests against the current government in Thailand, with loose alliances being formed among students, LGBTI groups, labour movements, NGOs, and increasingly disenfranchised youth. For Burma, it is the previously apolitical diaspora that has been organising in collaboration with CSOs and raising funds through all kinds of events to support the opposition to the military. These efforts have funded, among other beneficiaries, striking public employees (especially teachers and health personnel) in the Civil Disobedience Movement (CDM), the parallel civilian National Unity Government (NUG), and relief for civilians who have been displaced by conflict (Nachemson 2021). These evolving funding practices may result in much-sought-after financing alternatives to sustain more critical movements intertwined with advocacy and human rights-oriented CSOs, but it is still too early to judge their longer term impact on funding practices.

## Southeast Asia needs civil society, and civil society needs support

It would seem, then, that for the time being at least, CSOs in Southeast Asia are being pressured to give up their more political features in order to survive. The current funding landscape, shaped by conservative political forces and liberal market ideologies at home and abroad, has had implications for CSOs' capacity and sustainability. In Southeast Asia, as in other parts of the world, it is also skewing their profile and undermining their efforts to challenge the status quo. In the somewhat poetic words of Srisikandarajah (2015, 5th para) of the global civil society alliance *Civicus*, 'the science of delivery has been strangling the art of social transformation'.

The collective dismissal of the advocacy function of CSOs has far reaching consequences, as present-day development challenges and structural inequities highlighted by the COVID-19 pandemic cannot be answered by only adding investments and technical know-how, or by simply expanding access to services: they also require approaches that challenge entrenched powers and champion social change. The weakening of civil society and the re-emergence of authoritarian regimes in recent times should be seen as two sides of the same coin. If current threats to civic space are to be rebuked, a vibrant civil society composed of more than social-service-delivery organisations is needed.

Considering that, in the current climate, it is not realistic for advocacy CSOs to expect or accept government support, nor for them to be self-reliant, or to transform themselves into social enterprises and service providers, a rethinking of development aid as well as a U-turn in international and local philanthropy are needed. For CSOs, it will also be important to better understand changes in individual giving, which may well develop into a more progressive source of support. The emerging dynamics of direct funding may not only contribute to social-service provision and the welfare space but also enlarge the broader civic space. If democratic regression and the undermining of civil society is to be halted, it is crucial that individual and institutional donors, both local and international, see the wisdom of more bold and social-justice-oriented funding.

## Notes

- 1 This chapter is an updated version of an opinion piece published in *New Mandala* (Sciortino 2018), combined with entire new sections and minor parts of other relevant articles by the author (Sciortino 2016, 2017a, 2017b).
- 2 Available at <<https://www.idea.int/data-tools/tools/global-state-democracy-indices>>.

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# 10

## CIVIL SOCIETY LEADERSHIP

*Astrid Norén-Nilsson*

Scholars of civil society have explored civil society leadership – and the role played by key individuals exercising it – unevenly. Tellingly, major reference works on civil society in Southeast Asia remain remarkably silent on the issue of leadership (Alagappa 2004; Guan 2004). This reflects how, whilst the presence of hierarchies and inequalities within civil society is widely recognised (e.g. Cox 1999), we lack theoretically oriented analyses of individuals who hold leadership positions in civil society, and whose networks of power often extend beyond civil society (for recent and forthcoming scholarship which seeks to redress this, see Johansson & Uhlin 2020; Norén-Nilsson, Savirani, and Uhlin 2023).

This chapter will attempt to trace out how civil society leadership has been addressed in direct or roundabout ways in key debates on civil society, with particular reference to Southeast Asia, and to provide suggestions for how these debates, in turn, can benefit from advancing the research agenda on civil society elites. First, debates about the relationship between civil society and democratisation indirectly home in on the nature of civil society leadership. Second, a critical literature charting the distance between civil society leaders and grassroots problematises the representativeness of the former. Third, civil society leadership also looms large in literature that seeks to disentangle the empirical and conceptual relationship between civil society and the state. After locating and unpacking how civil society leadership is analysed and understood in these debates, I then proceed to discuss what has only recently been proposed as a research area in its own right: how civil society leadership emerges and is perpetuated, and how it relates to leadership in other spheres, such as the state and electoral politics. Pursuing this research agenda, I argue, can advance the existing debates previously outlined. A focus on key individuals at the helm of civil society gives insights about the role of civil society in democratisation and autocratisation episodes and processes, and civil society's liberal and illiberal nature. Second, locating civil society leaders in elite networks that span different social spheres qualifies and sheds light on their relations with grassroots. Third, the relationship between civil society leaders and leaders of other social spheres has implications for our understanding of the boundaries and reach of civil society.



### **Civil society for democracy and for autocracy**

Literature on democratisation and autocratisation processes has typically juxtaposed political elites and civil society actors, suggesting they perform complementary but distinctive roles. While liberal notions of civil society attach great expectations to civil society's democratising potential and have had little to say about civil society leadership in this regard, scholarship in the critical vein, though pointing to how civil society is riveted by conflict and thus not inherently democratic, has nonetheless only rarely differentiated between civil society elite and non-elite actors. Scholars have thus presented the interplay between political elites and a relatively undifferentiated civil society in democratisation (Garrard 2002, 4) and democratic consolidation (Linz and Stepan 1996).

Third-wave democratisation first appeared to lend credence to liberal interpretations of civil society as a vibrant and autonomous realm of social life, indispensable for democracy by guarding against the excesses of state power; that framing gave little cause to delve into civil society leadership issues. The nongovernmental organisation (NGO) sector played an important role in democratic transitions around the world, particularly in Latin America (Clarke 1998; Fisher 1998). Also, scholars attributed Southeast Asia's people-power transitions to the emergence of robust civil societies, paying scant attention to leadership issues or individuals at the helm of those movements. The Philippines provided a case in point. Scholarship highlights a broad coalition of church groups, labour and business associations, and NGOs toppling Marcos in 1986 (Constantino-David 1998). In Thailand, too, the literature homes in on NGOs that played key roles in bringing down General Suchinda in May 1992 (Clarke 1998). In Indonesia, scholars detail, civil society organisations aligned themselves with the opposition, leading to the 1998 fall of President Suharto (Clarke 1998). The literature on all three cases has focused on presumed-liberal structures within civil society far more than on the agents at their helm.

This image was revised when the resulting political orders in the Philippines, Thailand, and Indonesia failed to deliver on their democratic promise. Analyses attributed democratic failure to political elites' co-opting civil society and hijacking the democratisation process. Thus, the failure of people-power revolutions was ascribed to oligarchic elites' marginalisation of prodemocratic civil society forces (Fukuoka 2014). In the Philippines, Marcos's 1986 downfall was seen to represent the restoration of power to traditional elites in political society, inhibiting civil society from working towards democratic consolidation (Eaton 2003). In this reading, civil society was undermined by political elites' sabotaging its participation. Acknowledging that Filipino civil society encompassed not only economic elites but also political elites who had become NGO leaders, Eaton (2003, 471) even purposely omitted these individuals from his analysis, given how problematic he considered their dominance in policymaking to be for democratisation, choosing instead to include only non-elite civil society actors.

Nonetheless, the role of civil society in the restoration of traditional elites pointed towards an understanding of civil society according to a critical tradition, rooted in the writings of Hegel, Marx, and Gramsci, as a sphere in which competing interests across state and society play out. It is thus not an inherently democratic space, but one whose democratic and democratising potential depends on the social, economic, and political cleavages it reflects (cf. Hansson and Weiss, this volume). In this vein, Hedman (2005) turned conceptions of civil society as a coherent and bounded entity upside down and

questioned civil society leadership itself. In a Gramscian analysis, she identified how a cycle of recurring 'crises of authority' threatening oligarchic democracy had prompted the countermobilisation by intellectuals of a Gramscian 'dominant bloc' of social forces: the capitalist class, the Catholic Church, and the US government. Elite oligarchic actors mobilised efforts 'in the name of civil society' through 'secondary associations' (whether of a business, lay, or professional kind), which took on moral and intellectual leadership.

The bulk of literature analysing the reason for civil society's active contribution to later democratic regression in these three countries (from the late 2000s onwards) again cites political elites' capture of CSOs (Lorch 2021). Once considered the leading force against military dictatorship, Thai civil society moved in a different direction in connection with political crisis in 2006, during which a major section thereof mobilised to overturn democratically elected Prime Minister Thaksin Shinawatra (Hewison 2014). To explain this development, authors have pointed to rupture between civil society and rural farmers (Somchai 2014), the conflicting development visions of civil society and Thaksin's neo-liberalism (Kitirianglarp and Hewison 2009), and resulting democratic discourses circulating in civil society (Pitidol 2016). Much of this literature points to conservative political elite capture of civil society, with only a few exceptions giving attention to elites in civil society itself. Pitidol (2016), for example, argues that democratic discourses facilitated the building of connections between conservative ruling elites and a part of civil society, connecting their political visions. According to Eawsriwong (2014), the hierarchical culture of Thai civil society made civil society reactionary and therefore unreceptive to changes in rural society, causing these organisations to side with the conservative-royalist movement. Thompson (2007) specifies that it was regional upper and middle-class civil society activists in Thailand, the Philippines, and Indonesia, and thus elite-led civil society, who mobilised against democratically elected populist leaders. This elite-led civil society invoked a discourse of 'good governance' to destabilise democracy, in reaction to the rise of populism and money politics.

Some of the literature on Indonesia has also paid attention to the role of civil society leadership per se. In 2012, Mietzner attributed democratic stasis to anti-reformist elites. Though identifying civil society as democracy's 'most important defender', Mietzner importantly acknowledged that conservative segments of the elite were represented not only in all political parties and every state institution, but also in civil society, including as 'leaders of both mainstream and militant religious organizations' (2012, 211). By 2020, Mietzner found that polarisation had divided civil society along primordial and ideological lines, and that the lack of a united pro-democracy front had accelerated democratic backsliding (Mietzner 2021). For Mietzner, it is the shift in outlook among a group of key civil society activists, or the 'core' of civil society groups, that makes the defining difference in terms of Indonesian civil society's changing role for democracy. Whereas from Reformasi in 1998 through the early 2010s, non-partisan groups at the core of civil society were committed to pro-democracy activism, from 2014 onwards, polarisation penetrated this core. As a result, 'the divide was no longer one between defenders of democracy and its challengers', but between 'pluralists and Islamists, both prepared to use democracy-limiting actions against the other' (Mietzner 2021, 167). Though Mietzner's analysis focuses on groups, it points in the direction of the importance of a number of key activists and leaders. The disaggregation of civil society into leadership versus followers has also laid bare a dynamic in which followers rather than leaders represent tendencies undermining liberal democracy, such as in the case of Indonesia's largest Muslim organisation, Nahdlatul Ulama (NU), where the views held

by grassroots have been found to be far less inclined towards religious tolerance and pluralism than those of the NU leadership (Mietzner and Muhtadi 2020). The authors suggest that the NU leadership's adoption of religious pluralism is a strategic rhetorical instrument to exclude rivals from state resources.

The ambiguous role civil society has played for democratisation in the three countries has led some authors to adopt an 'uncivil society' prism, focusing attention on the many uncivil tendencies civil society houses (Hewison 2017). Even though the 'uncivil society' prism does not single out leadership per se, this sort of analysis points in the direction of the leaders of those 'uncivil' groups. In Indonesia, Beittinger-Lee (2013) thus charts an 'uncivil society' thriving with the proliferation of civil society groups since 1998, whose subcategories include vigilantes, militias, paramilitaries, youth groups, militant Islamic groups, ethnonationalist groups, terrorist organisations, and criminal groups. Beittinger-Lee spells out the co-optation of civil society by political party elites, who selectively mobilise parts of civil society through rent-a-crowd rallies and demonstrations, framing this affiliation between party politics and civil society as potentially leading to the manipulation and exploitation of civil society. Her analysis, however, traces out networks of corruption and extortion that link leaders of 'uncivil society' groups, businessmen, politicians, and officials.

Overall then, although analyses tend to focus on capture of a rather undifferentiated civil society by political elites, attention to its uncivil or undemocratic elements stirs this monolith and points in the direction of leaders and leadership dynamics. Finding that the literature on autocratising third-wave democracies (Lührmann and Lindberg 2019), which focuses on the gradual deterioration of democratic traits, is largely silent on the role of civil society therein, Sombatpoonsiri (2020: 333) has recently argued that, in actively fostering anti-democratic agendas that set young democracies on a path of autocratisation, civil society is not 'idly coopted by regimes as existing studies generally suggest'. Suggesting the existence of an 'authoritarian civil society' in Thailand, Sombatpoonsiri takes an actor-centric approach to identify its components: anti-election networks, vigilante groups, and right-wing media. Sombatpoonsiri's analysis points in the direction of leadership dynamics but ultimately does not address these. Arguably, incorporating the leadership dimension would be a valuable contribution to the design of comparative research on the tactics and conditions of authoritarian civil society for which Sombatpoonsiri calls.

In sum, civil society leadership has mostly remained a blind spot in analyses of the role of civil society for democratisation and autocratisation. Interest in leadership has concentrated on political elites and has not systematically translated into interest in civil society leaders – making this an important avenue of research.

### **Leaders versus grassroots activists**

A literature on civil society critically charts the distance between leaders and grassroots concerns, problematising the representativeness of leaders. Anthropology of development scholarship in particular has documented gulfs between donor-aligned civil society leaders and grassroots, with the former catering to donors' demands, learning to speak 'donor language', and complying to donor requirements, which both has skewed the selection pool of who may assume leadership in the first place and severs ties with the grassroots once leaders are in place. That leaders are accountable to donors over grassroots constituencies, many have warned, may lead to the exclusion of grassroots organisations

and grassroots concerns (Farrington and Lewis 1993; Hulme and Edwards 1997). The increased average organisational size and the scaling up of operations that comes with donor funding has also been blamed for the increased distance from grassroots (Tvedt 1998; White 1999). Such concerns prompted the emergence in the 2000s of a new international aid regime which, under the rubrics of ‘grassroots-driven’ and ‘people-centred’ approaches, promised greater consultation. Yet in the period since, the problem of representativeness has persisted, leading to frequent calls for NGOs to reorient themselves with their grassroots (e.g. Turner et al. 2015; see also Sciortino, this volume).

For critical civil society literature, this phenomenon is an inevitable outcome of civil society’s reflecting broader social divisions, entailing the disproportionate representation of ethnic, middle class, and other elites. It reflects how likely NGOs are to replicate hierarchies and cleavages, whether social, political, or economic. Thus, Mercer (2002:13) notes that, ‘NGOs are often internally undemocratic; characterised by authoritarian or charismatic personalised leaderships; competitive; riven along class, gender, religious, regional, spatial and ethnic faultlines; and steered by either the state or donors, or both’. Also, in Southeast Asia, the NGO sector often sees an overrepresentation of urban middle classes and absence of mass-based rural constituencies. In Vietnam, a majority of registered NGOs are urban and elite-based, their leaders often linked to the party–state (Gray 1999). Perceptions of elitism and rivalries were also a constraining factor for civil society in once-democratising Myanmar (Matelski 2013).

Some have applied a Foucauldian lens to identify how the anti-politics machine (Ferguson 1990) of international development practices and institutions moves essentially political questions from political scrutiny to the realm of technical experts. This reproduces power/knowledge networks not only between the global South and North, but also within Southern societies. In Myanmar during the period of democratisation, Bächtold (2015) argues, international agencies, in partnership with the government, projected Western power/knowledge networks and their approaches to tie INGOs to Northern funders and model Myanmar’s civil society after Western counterparts. Development cooperation reproduced domestic power/knowledge networks and societal structures in Myanmar, since its focus on the organisational form of Western NGOs and exclusion of other forms of civil society, including political activism, favoured existing elites (Bächtold 2015).

Others have drawn attention to how domestic power/knowledge structures define Southeast Asian civil societies. In Cambodia, Frewer (2013) argues, NGOs operate within power networks, in which power-holders ‘use rational bureaucratic technologies to control and suppress constituencies while operating under the seemingly benign rubric of expanding democracy’. NGOs both reflect and reproduce these social hierarchies, which constrains their ability to empower local voices. Though seeking to represent local communities, many NGOs primarily consider themselves as professional organisations that provide technical knowledge and financial and human resources to local constituencies.

Organic grassroots mobilisation, with home-grown, local leadership, may also come to suffer in representativeness from donor involvement. Henke (2011) charts the emergence of a social movement for natural-resource protection in Cambodia that international development actors cultivated from its very inception. This eventually evolved into the NGO-isation of the movement, cementing a group of individuals in leadership positions and harming representativeness (Henke 2011 and author’s personal communication, 2020).

To sum up, scholarship in this vein typically situates civil society leaders in relation to international donors and local constituencies. Yet far less attention has been paid to how such relations intersect with civil society leaders' positioning in wider domestic elite networks spanning the state and political spheres, let alone to tracing systematically the implications for grassroots representativeness.

### **The relationship between civil society and the state**

The role of civil society leadership surfaces in some of the literature seeking to disentangle the conceptual and empirical relationship between civil society and the state. The liberal view envisages a strong state and a strong civil society as complementary, with civil society channelling the concerns of interest groups to the state, thereby ensuring state legitimacy and accountability. Evidence coming out of Southeast Asia has gone beyond this vision of complementarity, by showing not only how states actively structure political space, shaping modes of political participation and patterns of contestation – but also how activists navigate this by actively choosing which of the resulting pathways for engagement to pursue. Regimes selectively co-opt social forces by promoting and institutionalising alternatives to independent civil society, to absorb aspirations for political change (Rodan 1997). Through structuring political space, states across Southeast Asian post-authoritarian and hybrid political orders selectively allow or obstruct the articulation of conflicts and issues (Jayasuriya and Rodan 2007; Rodan 2018). Across the region, states have pursued consultative ideologies, establishing state-sponsored channels for public feedback to the state, with Singapore a shining example (Rodan 1997; Lee 2002; Koh and Ling 2004).

While this approach favours the state's actions, Weiss (2017) importantly shifts to apply an actor-centric lens. She proposes that activists navigate the state's structuring of political space by assessing available political space and to what extent this is promising, ideologically aligned with their objectives, and has a sound balance of risks and rewards. Activists may opt in and out of participation not only in independent civil society and state-sponsored space, as per Jayasuriya and Rodan's modes of participation framework, but also in that of electoral politics (2017, 381–382). According to Weiss (2017), these are parallel modes of engagement whose relative attraction depends on the extent and quality of political space, the collective identity behind and claims of a movement or set of actors, and likely feedback from extant elites. Greater political space for electoral than informal engagement may prompt civil society activists to enter formal politics 'as a speedier and more efficacious way of engagement' (Weiss 2015, 143).

This brings attention to the strategic agency of civil society leaders, and their possibilities of moving in and out of leadership in civil society and other realms. The flow of leaders from civil society to the state has been documented in the region, including in the Philippines (Lewis 2008, 2013) and Indonesia (Mietzner 2013; Haryanto 2020), and to electoral politics in contexts such as Malaysia (Weiss 2009) and Cambodia (Norén-Nilsson 2019).

Other civil society scholarship coming out of Southeast Asia has suggested replacing the conception of civil society as a set of organisations with a focus on networks, with implications for how to conceptualise leaders and their relationship with the state. According to Wells-Dang (2012), informal and formal networks, rather than corporatist associations or NGOs, may be seen as the building blocks of civil society. In non-democratic states such as Vietnam, he argues, citizens create 'informal pathways for

social action through cross-sectoral networks'. Network members engage with policy-makers and corporate elites through advocacy strategies, using personal relationships to expand political spaces (Wells-Dang 2012). Leveraging network connections with representatives of the state may be a rational approach for the subaltern (Chatterjee 2004) or majority rural populations (Chatterjee 2008; Walker 2008) to contest resource allocation. In Laos, villagers have successfully mobilised back channels and connections with government officials to protect their village land (Kenney-Lazar 2019) in political society mobilisations that circumvent the need for clearly defined leadership. Yet networks also run across and unite the state with civil society in a wider array of organisational forms. Thus, a study of individuals who had worked both in the state and civil society organisations in the Philippines, Bangladesh, and the United Kingdom showed that non-governmental actors and government agencies were linked via 'personal relationships, resource flows and informal transactions', and that these 'may include kinship relations within elite families, age-sets or alumni groups, the social embeddedness of employees within wider communities, and public or private funding streams that create ambiguous roles, allegiances and identities among "non-governmental" actors' (Lewis 2008, 126).

These debates, then, have generated scholarship that usefully suggests how actors move between spheres of engagement and pursue civil society objectives through networks. This opens up new fields of research on the entanglement of civil society *leaders* in networks comprising leaders in other social spheres, on how their *leadership* may be built and shaped in other spheres, and on how their civil society agendas may be marked or even defined by previous or envisaged future engagement in other spheres.

### **Civil society leadership: formation, reproduction, mobility**

While civil society leadership surfaces in the above debates, it is not a research object in its own right. One reason for this may be that to many, it seems counterintuitive to think of civil society leaders as 'elites', given the normative commitment to egalitarianism associated with this sphere. Only recently has a research agenda been proposed on who civil society leaders are, through what processes they emerge, and how their positions are challenged or maintained (Johansson and Uhlin 2020: 83; Norén-Nilsson, Savirani, and Uhlin 2023). Emerging contributions demonstrate that processes of elitisation take place in civil societies across political and geographic contexts, and across organisational forms ranging from formal civil society organisations, to informal networks and platforms, to think tanks (Johansson and Uhlin 2020: 83). Johansson and Uhlin (2020: 84) call for conceptual debates on the forms of capital that can be mobilised for civil society leadership, and for comparison across country contexts so as to 'identify the mechanisms and factors that institutionalise power in civil society', including to what extent these converge with or differ from those in politics or business.

In the following brief sections, taking Cambodia as a case study, I sketch different factors that prompt and cement leadership in civil society using two analytical lenses: first, identifying pathways to assume and maintain civil society leadership and second, tracing the relations between leadership in civil society and in other spheres, including the state and electoral politics. I argue that this perspective can fruitfully inform the debates discussed in the first half of the chapter. A focus on key individuals at the helm of civil society promises insights about the direction of civil society and its liberal versus illiberal nature. Moreover, studying the relations and mobility between leadership in

civil society and in other spheres has implications for our understanding of relations with the grassroots, as well as of the boundaries and reach of civil society.

### ***Who becomes a civil society leader?***

Recent years have seen the publication of a number of autobiographies (e.g. Chea 2016; Thon 2017) and biographies (Coffey 2018) of Cambodian civil society leaders. Whilst this attention to individual life stories reflects a recognition of the importance of individual leadership roles, such individual stories have yet to be integrated into academic analyses of Cambodian civil society.

A first frame to make sense of who becomes a civil society leader is to consider civil society as a social force that undertakes activities through a variety of organisational forms within the state/society constellation – which bears on patterns of leadership formation over time. In Cambodia in the 1990s, international NGOs were established mainly in Phnom Penh and mostly led by expatriates. These were replaced by local NGOs and community-based organisations (CBOs) led by Cambodians (Öjendal 2014) by the 2000s. Local saving groups and agricultural self-help associations also emerged, whose leaders must not engage in rural mobilisation or party politics to be tolerated by local authorities. On the other hand, the leaders of emerging grassroots mobilisations and network-based activism over land conflicts and common-resource enclosure (Henke 2011; Young 2019) need credibly and forcefully to represent the grievances of affected communities. Following demographic change, youth is today a key political constituency heavily courted by political actors. Youth civil society leadership is consequently split between state-sponsored initiatives and independent youth initiatives. The implication is that today's Cambodian civil society leaders, especially the younger generation, are more politically enmeshed than the previous generation of expatriate NGO leaders and found at the helm of a variety of organisational forms, which include networks, mass organisations, and loosely organised platforms (Norén-Nilsson and Eng 2020, 110).

Another factor that impacts on the formation of civil society elites is state regulation. Lay and Eng (2020) find that when Cambodia underwent a move towards increased authoritarianism, the bureaucratisation of CSOs reduced the space for elite competition so that a regime-loyal 'hyper-elite' emerged at the helm of civil society. Conversely, the formalisation and bureaucratisation of CSOs in post-authoritarian Indonesia resulted in an intensified competition for formal positions and a diverse civil society elite.

A third frame to approach the question of who becomes a civil society leader is to look at what resources activists can mobilise to this end. Here I sum up findings from my research on civil society initiatives in the youth sector, and my joint research with Kimhean Hok on civil society initiatives in the environmental sector, in Cambodia over 2018–2019. In the Cambodian youth sector, a key resource found was trust, reflecting the polarisation and mutual suspicion the politicisation of the sector as well as recent autocratisation have caused. In a non-partisan discussion platform on political and social issues, core members identified trust as a necessary criterion for their position. Belonging to similar social circles here guaranteed that a new recruit would not seek to sabotage the forum, which the government views with suspicion. Also, in a state-sponsored debate platform, trust was paramount, but here it was built through belonging to social networks that penetrate the state. These networks were mainly forged through youth volunteering in organisations patronised by the ruling Cambodian People's Party (CPP) and enjoying close links with the Ministry of Education, Youth and Sports (MoEYS).

In the forest conservation sector, partly different resources have been mobilised that reflect the embeddedness of these initiatives in local, rural life. Here we compare a monk-led community forest-turned-wildlife sanctuary to a forest conservation network. Representativeness of local ways of life is a key quality in this sector, pushing issues of identity to the forefront of legitimate leadership. The monk founder of the community forest was synonymous with the initiative, and its success fundamentally depended on recognition of his religious leadership – by the local and national state, volunteers, and loggers alike. The local population, state, and activists came to perceive the forest as the domain of the monk; it was known locally as *Prey Lok*, ‘the monk’s forest’. In the forest conservation network, in-group belonging was a fundamental criterion for leadership. This entailed that leaders shared villagers’ ethnic and socio-economic backgrounds and resulting knowledge about village life and its daily livelihood struggles, setting the network’s leaders apart from those of professional NGOs. A second leadership resource was the ability to manage interactions with the state. The monk leader leveraged ties and networks he made through performing religious ceremonies with a string of provincial governors, to build a strong relationship with the local state and finally the prime minister. In the forest conservation network, the ability to manage negotiation, confrontation, and collaboration with local and state authorities was a key criterion for leaders.

Across the sector, activity and engagement were key requirements for leadership. Dedication propelled some ordinary members far up the echelons to become leaders. Leaders were typically defined in terms of the time and effort activists put in. This opened a window for activists with various backgrounds to develop civil society leadership.

Building on these empirical findings, we can draw a few conclusions. Key resources for leadership can and do differ significantly between civil society sectors: the emphasis on trust in the youth sector, for example, reflects its status as a battleground for the political allegiances of a key demographic group. Type of organisation also matters: grassroots initiatives stress familiarity with local culture, which may differ from the criteria of NGOs. The ability to manage the relationship with the state is crucial – whether through confrontation, collaboration, or both – for perceived efficacy as leaders. Through these interactions, states influence the parameters for civil society leadership within various forms of organisation. Another dynamic is that the emphasis on activity and engagement enables the emergence of civil society leaders from sometimes atypical backgrounds.

### ***Leadership relations and mobility between civil society and other spheres***

Civil society leadership is made not only through civil society activity but also through interactions with other spheres, such as the state and electoral politics, as well as through crossing – in any direction – between civil society and those spheres. Relations with, and engagement in, other fields play a role in one’s becoming a civil society leader.

Firstly, interactions with the government and electoral politics can sometimes be a pathway to civil society leadership. This may take different expressions. For example, civil society activists whom the state consults for their expertise may rise in importance within civil society. With the rise of a neoliberal framework of state–civil society partnership in the 1990s, this dynamic has become apparent across Southeast Asian contexts. In an authoritarian context, authoritarian durability benefits from elite cohesion across different camps (Slater 2010). This, arguably, may be envisaged as stretching beyond the state, party, and military to reach to civil society. Returning to our example of the



Cambodian youth sector, for the MoEYS-sponsored, CPP-affiliated debate platform, interaction and integration with the state and electoral politics fields was foundational for, as well as an intended outcome of, leadership. The stated ambition of the programme's founders is to create a close-knit community of leaders across the civil society, state, and economic fields – tying together future civil society, political and economic elites.

Secondly, civil society leadership can be attained and exchanged through mobility between different social spheres. 'Boundary crossers' move between civil society and other fields, following linear, multi-directional, or sometimes even cyclical patterns. Democratic openings enabled new and formal roles for civil society leaders, who consequently crossed to government in the Philippines (Lewis 2008; 2013) and Indonesia (Mietzner 2013; Haryanto 2020). In the two decades following Reformasi in Indonesia, CSO leaders have either entered the state through direct strategies (running in elections) or indirect strategies of zig-zagging between different sectors in civil society and then crossing to the state, while staying engaged within civil society (Haryanto 2020).

What is less documented is that moves towards autocratisation have also encouraged boundary-crossing from civil society to the state. Again taking Cambodia as an example, we note that state-sponsored organisations and initiatives – which claim to be independent but nonetheless enjoy state patronage – rose in importance and visibility in connection with deepening authoritarianism over 2017–2018. These offer opportunities to build networks that run through the state and across its boundaries. The foremost example is the Union of Youth Federations of Cambodia (UYFC), a purportedly politically neutral NGO where next generation CPP leaders build their reputation as UYFC leaders, before being handpicked for important government positions – in this way enabling the regeneration of political elites (Norén-Nilsson 2021).

Such mobility has implications for the international community's involvement in strengthening civil society. In Cambodia, a group of civil society leaders who emerged with the support of international donors subsequently became political elites in the CPP, with many playing prominent parts in the country's turn to hegemonic authoritarianism. One important actor was the International Republican Institute (IRI), which sought to strengthen accountability in Cambodia by supporting civil society, youth, and political parties starting in 1992. Between 2009 and 2014, IRI's work focused on generating progressive leadership in Cambodia through USAID-funded programmes, including efforts focused on increasing youth involvement in politics, engagement with political party youth wings, and youth involvement in 'edutainment'-type televised programmes (Antoon et al. n.d., 27). One of these initiatives, 'Future Leaders', aimed to place graduates in government positions. Another, 'Next Generation' (*Nek Bantor Ven*), Cambodia's first televised youth debate, brought together contestants from civil society groups and political parties to debate pressing social and political issues (IRI 2013; Sibley 2017). No fewer than 18 alumni of IRI programmes, nearly all from 'Future Leaders' and 'Next Generation', went on to receive positions in the 2013 government as undersecretaries of state, including at the Ministry of Justice, Ministry of Information, Ministry of Labour and Vocational Training, Ministry of Defence, and Ministry of Environment (IRI alumni, 2013). These programmes were forerunners to debate initiatives that, after the Cambodian government expelled IRI in 2017 over accusations of helping the opposition Cambodia National Rescue Party (CNRP), would be spearheaded by the UYFC and Ministry of Education, Youth and Sports.

Also instructive is the example of the Extraordinary Chambers in the Courts of Cambodia (ECCC), also known as the Khmer Rouge tribunal, a Cambodian court that

receives international assistance through the United Nations. International assistance to the Court has been motivated by a transitional justice agenda rooted in a liberal peace model (Kent 2016). Part of the international advisors' expectations of the court was that it would train a generation of domestic lawyers to uphold international legal standards, supporting this agenda. It is therefore noteworthy that ECCC-trained lawyers have played leading parts in the trial against CNRP President Kem Sokha, who was arrested in September 2017 on politically motivated charges of treason.

Civil society leaders may also cross to electoral politics to exercise significant political influence. In Indonesia, we see a pattern whereby civil society leaders have seldom established their own parties but have rather become involved in mainstream parties led by members of the oligarchy (Ichwanuddin 2010; Haryanto, Juru, and Norén-Nilsson 2023). In Malaysia, by contrast, civil society activists have cooperated with opposition parties to bring about democratisation (Weiss 2006), including by standing as candidates (Weiss 2009).

In Cambodia, civil society leaders have established opposition parties based on their grassroots networks. It was as the founder of the Cambodian Centre for Human Rights that Kem Sokha built support, before he founded the Human Rights Party in 2007 that later merged into the CNRP. The extent to which Kem Sokha leveraged that previous grassroots mobilisation in seeking to instigate political change through the CNRP is now at the centre of the treason case against him (Kann and Baliga 2020). Other civil society activists have crossed to electoral politics so as to offer a technocratic, local development-focused political party alternative to what they perceive as toxic political polarisation (Norén-Nilsson 2019). This dynamic was set in motion by the political stalemate that ensued from the CNRP's strong electoral performance in 2013, upon which civil society elites proposed 'third-way politics' as a way of ending political division, through the electoral vehicle of a Grassroots Democracy Party (GDP) headed by leaders from different civil society sectors.

A number of points on civil society leadership can be drawn from this discussion. Each social sphere offers particular types of power and possibility. Just as this is part of the calculation for any activist when choosing where to engage (cf. Weiss 2017), this also informs the decision to vie for leadership in civil society. For some civil society leaders, civil society leadership is not an end in itself, but rather a strategic pit-stop which will enable the assumption of leadership in other social spheres. The civil society sphere is for these individuals a space to 'accumulate, mobilise and convert forms of capital' (Haryanto, Juru and Norén-Nilsson 2023) before moving to take up leadership elsewhere. Boundary-crossing to the state or electoral politics, while offering opportunities for direct political influence, also comes with the loss of other forms of power and influence specific to civil society (Haryanto 2020).

## **Conclusion**

For all their real-life visibility, energy, and, often, charisma, civil society leaders are mostly absent from academic analyses. To the extent that they surface in key debates on civil society, it is more often than not in indirect and roundabout ways. Sustained and systematic attention to leadership dynamics does, however, hold out promise to inform these debates in significant ways. A focus on leaders at the helm of civil society initiatives, in their variety of organisational expressions, promises insights about how these initiatives may contribute to strengthening or undermining democracy.

For example, what resources have these leaders leveraged to assume leadership that are consequently valued by activists? What ties link these leaders to counterparts in government and in electoral politics, with what democratic or anti-democratic agendas? If these civil society leaders move in and out of civil society, what is their envisaged destination, reflecting what larger agendas, with what democratic consequences? Secondly, attention to civil society leaders, and, in particular, how they are situated within wider domestic elite networks, has implications for grassroots representativeness. Beyond owing accountability to donors and local constituencies, what accountability and allegiance do civil society leaders owe to networks spanning the state and political spheres? How does this impact accountability to grassroots activists and communities? Finally, homing in on the relations between leaders in civil society and leaders in other spheres also has implications for our understanding of the boundaries and reach of civil society. Practices such as boundary-crossing demonstrate the interdependent nature of civil society, the state, and electoral politics. It also draws our attention to the particular types of power that may be won or lost in each realm.

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# 11

## VIOLENCE AND CIVIL SOCIETY IN SOUTHEAST ASIA

*Joakim Kreutz*

Scholars have increasingly debated conceptualisations of civil society as inherently peaceful and democracy-promoting in recent years. It has been recognised that neither by definition nor empirically is there a clear dividing line that excludes organisations and activities that may promote anti-democratic views or may use violent means (Stacey and Meyer 2005, 2021). While the latter sometimes have been referred to as ‘uncivil society’ (Glasius 2010; Heinrich 2005; Kopecký 2003), suggesting a possible categorisation, the literature has yet not provided any conclusive explanation for why and when actors in civil society choose nonviolence or violence. Broadening the scope to related literatures on social movements, protest, and civil conflict suggests the situation is not much different – nonviolent and violent mobilisation are often studied separately, but commonly theorised as caused by similar factors.

This chapter will begin with a brief overview of these existing theoretical explanations, before moving on to an empirical section that maps the relationship between the use of violence and civil society in Southeast Asia. The focus of that section will be specifically on the types of violent non-state actors visible in the region in the 21st century and the extent to which these organisations and activists can be conceptualised as belonging within civil society space or not. The chapter thus deliberately excludes the vast number of nonviolent civil society organisations (CSOs) in Southeast Asia, except if they have shifted in strategy between nonviolence and violence (or vice versa). The final section reconnects with the theoretical debate and provides some suggestions for further research to advance our understanding about why and when civil society becomes violent.

### **What explains violent non-state actors?**

The burgeoning interest in violent civil society overlaps with recent advances in scholarly work on social movements and civil conflict. Across these different literatures, the most prominent explanations for why violence is used can be roughly classified into three themes, which are not mutually exclusive: mobilisation/recruitment, tactical choice, and the dynamics of contention.

Contemporary scholarship on civil conflict has identified the challenge of rebel recruitment as the key determinant for when and how insurgencies begin, prevail, and succeed

(Gates 2002; Kalyvas 2006). Whether as a defining feature of ethnic or religious conflict (Bormann et al. 2017), so-called new wars (Kaldor 2012), opportunity costs (Fearon and Laitin 2003), greed or grievance (Collier and Hoeffler 2004), or wartime political orders (Staniland 2021), the most important aspect for rebellion is non-state actors' ability to mobilise recruits. The starting point is a recognition that the so-called collective action problem is an even greater challenge for recruitment into violent activism than for mobilisation of nonviolent social movements (Lichbach 1998; Olson 1965; Tarrow 1994). Whereas participation in a social movement or rebellion is costly and risky for the individual – especially if it fails – the potential benefits of a success will be distributed across society. Consequently, a rational individual has incentives to 'free-ride' and avoid the costs of participation.

In general, the collective action problem does not distinguish between recruitment into violent rebellion or nonviolent social movements, and either type of movement can use the same strategies to overcome this problem (Diani 2002; Larson and Lewis 2018). Some measures may, however, be more likely to be used by violent actors. One common approach to address the collective action problem is to offer participants selective incentives (Oliver 1980). These could be in the form of immediate or promised economic rewards and/or social status. Actors who offer participants one-off payments or salaries need access to funds, which can be collected through donations, crime, taxation of local populations or businesses, or from external sponsors, such as other states or communities in exile (Collier and Hoeffler 2004; Gates 2002; San-Akca 2016). Organisations can also offer financial and social support for the families of participants who become imprisoned or otherwise victimised because of their activism (Gupta 2020). For movements that lack sufficient resources, another approach to offer credible future awards consists of the establishment of a hierarchical organisation and the appointment of key activists to top positions. Being appointed to an important position within a movement does not only provide information about future influence, but it also immediately conveys greater status to the individual participant (Willer 2009). This practice links the financial rewards and so-called social rewards that come from being recognised as important for a group, as well as the comradeship that exists inside a movement. Research into high-risk activism across different empirical settings has identified such social rewards as arguably more important than payment, especially for the early members of a movement (della Porta 1992; Wood 2003). Both factors may be more likely to be of use to violent than nonviolent actors. The capacity for violence is useful for the ability to raise funds to pay participants, while armed groups tend to organise in more stable hierarchical structures than nonviolent social movements.

The second explanation for why we occasionally see the use of violence by non-state actors emphasises tactical choices from the available 'repertoires of contention' (Tilly 1993). Studies that have gone into greater detail about the tactical choices of social movements have explored this in greater detail than just in terms of a crude distinction between nonviolence and violence (Doherty and Hayes 2019; Tarrow 1993, Schock 2005). It has been suggested that disagreements between radicals and moderates within movements about what tactics to use may cause splits and encourage the former faction to use violence (Haines 1984). While existing political opportunity structures constrain the options for a movement (McAdam et al. 1996), it is generally assumed that an organisation will pick the tactic it thinks will work to achieve its goal. To this end, the factors movement strategists are likely to consider in order to maximise the utility of a given tactic are how popular it is likely to be within the movement and among its



supporters, the state's likely response, and the organisation's capacity to implement the tactic (Chenoweth and Stephan 2011; Cunningham et al. 2017). This argument, however, is merely a starting point for exploration into specifically why actors decide to choose nonviolence or violence – which remains an understudied question. One possible factor that might influence this choice is that the option of violence may become more attractive when states are unresponsive to the demands of citizens (Gurr 1970). Civil society organisations and movements that propose policies that challenge the ideology or legitimacy that underpin a regime will more likely be ignored or repressed (Staniland 2021). Consequently, these groups have incentives to escalate their actions beyond nonviolent protest to attract more attention or, if they conclude that the government will never be responsive, seek to overthrow the current regime (Vogt et al. 2021). This pattern – that activists who are disappointed by the failure of nonviolent measures form more radical and violent organisations – has been identified in many different settings (della Porta 1995).

Having touched upon the role of political opportunity structures, we come to the third set of explanations for the use of violence by non-state actors. These explanations centre on the dynamics of contention and, in particular, organisations' or movements' experience of repression by state forces. The so-called repression–dissent nexus is a central feature in both the social movement and conflict literature for explaining forms of contention, including the use of violence by non-state groups (Davenport et al. 2019; Moore 1998). In line with the arguments about political opportunities, scholars in this vein note that states can impose restrictions on the freedom of assembly and organisation, and state agents can repress attempts at mobilisation (Boudreau 2004; Tilly 1978). The severity and type of repression used is largely determined by to what extent the regime perceives a given social movement as a threat to their political survival. As such, even states with limited political rights often accept non-threatening civil society organisations, such as, for example, religious and cultural institutions, business-owners' associations, or sports and leisure organisations (Davenport 2008; Tullock 1987). Conversely, civil society organisations and social movements that regimes perceive as greater threats will be met with harsher repression – meaning those that more actively challenge political leaders and are able to attract mass participation (DeNardo 1985; Kim and Bearman 1997). Organisations with the capacity for violence are also often more heavily repressed, although that response is not necessary because states perceive them as greater threats to the regime.

State repression does not, however, always prevent and contain activism; it sometimes backfires and instead facilitates mobilisation. Since violent repression violates social norms, the effect on participants and bystanders may be an increased aversion to living under a regime prepared to attack unarmed protesters, thus motivating further commitment to collective action (Francisco 2004). This process often also pushes individuals towards joining more radical movements. State repression hence increases the probability that activists start using violence (Moore 1998). Having noticed that citizens' disapproval of state repression may offer an opportunity for recruitment, some non-state actors use violence primarily as a strategy intended to provoke the state into indiscriminate repression (Price 1977).

To sum up, non-state actors ranging from armed groups to social movements have been suggested as more likely to use violence if such capacity helps them secure funding, if they consider that tactic as having the greatest chance of success, and/or when they are faced with violent repression. The question remains whether actors that include violence

as part of their repertoire of contention constitute civil society. What is important to note here is that, first, organisations and movements can be involved in many different functions and, second, that even actors who seem to be exclusively involved in violence (such as terrorists) may overlap and interconnect with broader movements. Scholars have, for example, recognised that the presence of a violent radical flank sometimes increases and sometimes decreases the likelihood that a social movement is successful (Chenoweth and Schock 2015; Haines 1984). Consequently, to explore the issue of violence and civil society in Southeast Asia, it is not possible to begin with a pre-set list of civil society organisations and map their relative inclination towards violent behaviour. In what follows, this chapter instead focuses on violent actors in the region (excluding those oriented around pure criminality) and discusses to what extent they and their affiliates are active in civil society space.

### **Violent non-state actors in Southeast Asia**

The country with the most numerous and active violent non-state organisations is Myanmar. The country has experienced a civil war continuously since independence in 1948, which escalated again in 2021 following a military coup d'état. Although the conflict includes armed groups mobilised in terms of both ideology and ethnic minority grievances, the most prominent non-state actors represent the latter category. There are more than a dozen insurgent armies that control some territory in the country. Several have agreed to ceasefires with the government, even though any progress on settling their political issues has been limited. Almost all these groups fulfil functions beyond the armed struggle, but due to their responsibilities as at least partial de facto governing authorities in their areas, it is conceptually difficult to view them as taking up roles within a civil society space outside the state (Keenan 2013).

However, linked to these non-state armed groups is a plethora of activist initiatives by civil society organisations operating in these areas outside effective Myanmar government control, many of them with their main offices in exile. These movements, which address a range of issues, have formed both within different ethnic minority communities and among refugees. Although this has led to a multiplicity of organisations, they have remained connected through institutionalised co-operation and joint projects. Much of the early focus of these groups centred on the situation for refugees and those in exile, discussions about political co-operation against the government, as well as documenting human rights violations by the Myanmar army (Sadan 2013). Over time, activists have broadened the agenda for these efforts, establishing organisations for several additional issues, including gender equality and environmental protection. Because of their anti-government agenda and for pragmatic reasons, much of this nonviolent civil society may overlap and/or have links with violent insurgent organisations. For example, organisations such as the Karen Environmental and Social Action Network (KESAN) and Karen Women's Organisation (KWO) sometimes co-operate with, but also sometimes critique, the activities of the different armed factions controlling the territory where the Karen ethnic group predominates. Besides, with these ethnically based grassroots movements, non-state armed groups in Myanmar have also maintained contact with other activists organising nonviolent protests during military rule, from 1962 to 2011, and after the 2021 coup (Henry 2011). Despite harsh repression from the regime throughout these time periods, such activism to promote human rights and democracy has occasionally coalesced in mass mobilisations against the ruling military. The most

notable such were the democracy movement of 1988–90 and the ‘Saffron Revolution’ in 2007 (Kyaw 2009; Watcher 1989).

During the brief period of partial democracy in the country, from 2011 to 2021, many exile organisations returned to set up offices in the largest city, Yangon, and/or the capital, Naypyidaw (Chan 2017; Morgan 2014). Interestingly, efforts during this decade to negotiate peace with the different armed groups in the country contributed both to expanding the visibility and activity of civil society actors in ethnic minority areas, and to these organisations’ starting to act more independently and to become more critical of the violent representatives of their communities (Cárdenas and Hedström 2021). This opening up of civil society space did not, however, only encourage activists concerned with human rights, environmental pressure, and inequality in the country, but also ‘uncivil society’ groups advocating discrimination and supportive of violent mobilisation. Although the seeds for these movements existed already prior to political reform, the removal of censorship, combined with the rapid spread of social media in the country, made them more visible and allowed them to grow in influence.

Arguably the most prominent example was the role of Buddhist-nationalist activism in the communal violence and army campaigns against the Rohingya and other Muslim minorities that led to thousands of deaths and the displacement of more than a million individuals to Bangladesh and beyond (Chowdhury 2020). Much of the anti-Muslim violence and propaganda was orchestrated by members of the military-linked political organisation, Union Solidarity and Development Association, and some Buddhist monk associations that had been supported by the Myanmar military since the early 1990s. After direct involvement in organising anti-Muslim violence in 2012–15, these activists later focused more on agitating for and encouraging the armed forces in their repression of these communities.

The situation in Myanmar changed completely when the military reclaimed power in February 2021. Soon both existing and newly formed civil society organisations organised mass mobilisations against the coup d’état, using nonviolent means including demonstrations, civil disobedience, online activism and calls for support from the international community (177 Myanmar Civil Society Organizations 2021). However, as the military responded with violent repression, some protesters started to form self-defence militias that eventually evolved into the official establishment of an armed wing by the ‘exile government’, to meet force with force (ICG 2021, Stokke in this volume). Much of the independent stance that ethnic minority civil society had established during the semi-democratic decade was reversed as organisations had to retreat into rural areas or exile and strengthened their connections with the armed groups. Furthermore, many activists from the initially nonviolent opposition to the coup have either adopted violent strategies themselves or established alliances with violent non-state actors (Thawngmung and Noah 2021).

The country in the region with the second-most numerous non-state armed actors is the Philippines, where communist insurgents continue to be active mainly in the north of the country, and Islamists continue to fight in the Mindanao region, despite the government’s having concluded a peace agreement with the most prominent rebel group, the Moro Islamic Liberation Front, MILF, in 2012. The Communist Party interacts with the local population in the areas it controls in a manner similar to that of the ethnic armed groups in Myanmar, taking up a role more like that of a state than of part of civil society (Rubin 2020). Taking its cue from the Marxist-Leninist concept of a vanguard party, it initially organised and forged links with civil society, including

labour unions and similar associations. Due to a split within the movement in 1992 over tactical choices, most participants in civil society activism left the party; since then, the remaining militants have primarily relied on violent means (Quimpo 2014). Meanwhile, in Mindanao, MILF had focused a lot of effort since its formation on spreading Islamic education and culture, thus creating links with a civil society network. The remaining active groups are, however, either connected with the global Islamic State movement and/or purely focused on the use of violence (Ramakrishna et al. 2021).

Focusing on the vibrant civil society that exists in the Philippines, however, reveals that some CSOs are willing to consider links with violent perpetrators. Activists critical of corruption in politics and the lack of progress in addressing this problem have at times suggested that violent means may be justified, including outright support by some parts of civil society for a failed coup attempt in 2006 (Lorch 2021). A similar tendency was visible around the campaign and subsequent administration of President Duterte: civil society was split between criticising and supporting him, even as he openly embraced repression, censorship, and undermining the accountability of the security forces (Lorch 2021; Rama 2018). These positions can be understood both in light of the visible lack of change in Filipino politics and society, despite the prominent role of civil society, and as a pragmatic strategy, as Duterte has retained high public support (Garrido 2021). It has been difficult to mobilise large parts of the population to criticise the regime's human rights violations since the state has effectively framed these as targeting minorities and dangerous criminals.

The third country in the region with an ongoing insurgency is Thailand, where violent separatists have been active along the Thai–Malaysian border for decades. Despite also decades' worth of attempts by the central authorities to establish full control of Thailand's southern provinces, the porous border has provided an attractive environment for criminal organisations, as well as for both leftist and ethno-religious insurgent movements. While there have been instances of large-scale nonviolent mobilisation, the conflict has since 2004 mainly featured violent tactics (Harish 2006). Since 2014, the situation has stabilised at a level that still includes hundreds of incidents per year and negotiation attempts have been unsuccessful, which can be attributed in part to the fragmented nature of the insurgency (Engvall and Svensson 2020). Their organisational structure has also meant that the insurgents are not active in civil society space.

Another political dispute in Thailand pitted loose coalitions of activists against each other for more than a decade, including interactions that became violent following both lethal repression by state forces and occasional fighting by participants. With Thailand's turn towards democracy in the 1990s, civil society had grown, including in the form of residential and agricultural associations, beyond groups organised around political aims and rights (Connors 1999). Thaksin Shinawatra, prime minister from 2001 to 2006, implemented a new rural development programme and launched a 'war on drugs' campaign in 2003; both initiatives drew criticism from civil society (HRW 2004; Lorch 2021; Pitidol 2016). This pushback formed the background to the conflict from 2006 to 2014 between the 'yellow-shirts' (including the People's Alliance for Democracy, PAD) critical of Thaksin and the pro-Thaksin 'red-shirts' (including the United Front for Democracy against Dictatorship, UDD). Although most demonstrations were nonviolent, the security forces often responded with violent repression and there were clashes both between protesters and police, and occasionally between participants on the two sides. PAD began as nonviolent demonstrations in support of the 2006 coup but then reconvened to protest the 2007 elections that brought Samak Sundaravej to power.

The protesters called for the army to intervene in politics, as well as supporting the use of force against Cambodia in a border dispute over the area around the Preah Vihear temple (Ockey 2009; Puangthong 2013). The situation continued to escalate after non-violent mass protests by UDD in Bangkok in 2009 met with violent repression by the army. Later, it was reported that among the protesters had been an armed ‘security wing’ that ended up fighting against both government forces and the yellow-shirts (HRW 2011).

Indonesia has no active armed conflict at present, but has a recent history of separatist insurgencies, communal violence, and terrorist attacks. The conflict in Timor-Leste ended with a peace agreement in 1998 and independence in 2002, and the conflict in Aceh ended with a peace agreement establishing greater autonomy in 2005. In Timor-Leste, violence has recurred since independence between factions of the army (or veterans) and thus lacks a direct civil society connection. In Aceh, a terrorist training camp was raided by the police in 2010, but the members of a terrorist network were found to have settled in the region from other parts of the country and had few local connections (Fealy 2010). The conflict in West Papua ended after opposition leaders in 2006 held meetings and engaged in ‘a cost-benefit analysis of the relative effectiveness of different methods’ (Macleod 2014, 71) before they decided to focus primarily on nonviolent action. This tactical shift, however, was only temporary, as there were more than 100 armed interactions in the area from 2010 to 2019 (Lele 2021). As the inclusive nature of decision-making noted above indicates, the West Papuan independence movement combines nonviolent and violent means and is also engaged in civil society space, including activism around cultural and historical matters (Philpott 2018).

Indonesia has suffered several high-profile terrorist attacks by Islamist groups, including those with links to transnational networks such as al-Qaeda and the Islamic State, as well as several instances of communal violence, often across religious divides. Participants in the former are not directly linked to civil society organisations, in contrast to the latter (Haripin et al. 2020; Suryana 2019). During the same time period, there has been a growth in Islamic civil society mobilisation in the country. Some – but not all – of those movements have at least been inspirational for the perpetrators of violence. Different Islamist social movements have lobbied the government and politicians to advance their political agenda, provided economic and social services in line with *sharia* principles, and engaged in training, but have also organised large-scale protests against perceived immoral behaviour such as Indonesia’s hosting the Miss World pageant in 2013 (Munabari 2017). It is, however, also worth exploring the links these movements have to the regime, in a similar manner to those of the violence-supporting Buddhist civil society in Myanmar. Following democratisation in 1998, then-President Habibie allowed the formation of self-defence militias across the country, some of which adopted Islamist rhetoric but had support from the army, such as the Pam Swakarsa (Barton et al. 2021). Several other prominent organisations had similar backgrounds, including the Majelis Ulama Indonesia (Indonesian Ulama Council, MUI) and the Front Pembela Islam (Islamic Defenders’ Front, FPI), both of which promoted the idea of the adaption of *sharia* law in Indonesia. These organisations were also involved in violent attacks on Christians and on Shi’as and other Muslim sects (Barton et al. 2021; Freedman 2009; Suryana 2019).

These constitute the main countries in the region that have experienced violent activism in the last two decades, although other countries have experienced occasional incidents, as well, including Laos, Malaysia, and Vietnam. Most of these cases, however, are marked by some uncertainty with regard to the perpetrators or what could have led to that type of action.

## **Conclusion**

Taking account of this descriptive mapping of violent non-state activism in Southeast Asia, what can be said regarding the proposed explanations for violent and nonviolent mobilisation with which we began? The first thing to note is that there is little tactical flexibility in the form of civil society groups that start to use violence when they haven't before or that transition solely to nonviolence if they previously have used force. The main example of a process of escalation is in Myanmar after the 2021 coup d'état. In that case, the original mobilisation was completely nonviolent, but state repression led to the radicalisation of the movement. When it comes to movements that stop using violence, the often used example of West Papua in Indonesia is the only clear such outcome – and even that cessation was only temporary.

Second, whereas several organisations have used their capacity for violence as a way to establish effective authority and, potentially, participate in crime, there have also been some that did not do so. This may indicate that the proposed link with the challenge of overcoming the collective action problem is less useful for the study of tactical choices. Considering that this theory is used without any modifications by scholars seeking to understand mobilisation both for protest and for war, that lack of leverage may not be so surprising.

Third, we see clear evidence to support the suggestion that actors carefully consider and decide on which tactic to choose. But we are left with the question of why we do not then see shifts in tactics more often. If tactical choices could be made with relative ease, it would make sense for contenders to change their approach whenever the outside context changes.

Fourth, the role of government repression seems to be the most influential external factor that pushes protesters to escalate from nonviolent to violent behaviour. This is particularly visible in the case of Myanmar, where the repression of nonviolent protests against the 2021 military coup directly influenced both individuals and movements as a whole either to take up arms or to forge collaborative links with violent actors. Looking back into the history of Myanmar, we can see that this episode is merely the latest iteration of a process in which the state's repression of urban nonviolent protests forces activists to seek refuge and join armed insurgencies in the countryside. Much the same happened immediately after independence in 1948, and after student-led protests against the military regime in 1962, 1975, and 1988.

In contrast to Myanmar, there has not been a similar radicalisation of protest movements in Thailand, Indonesia, or the Philippines in recent years, even though such a dynamic was visible in earlier waves of contention in those countries, as well. This suggests that it is not only the amount of repression that the state uses against civil society that matters, but also the type of measures that are deployed, and potentially also to what extent the protesters perceive that future nonviolent protests may be successful. An indicator of the last aspect is that even in regimes where the military is dominant – like in contemporary Thailand – other influential actors persist in mobilising, as well.

This chapter has provided an overview of how violent activism relates to civil society in Southeast Asia. Elements of this survey indicate that some aspects may warrant further investigation, not only in the region, but also in the field overall. Among those aspects is that it may be beneficial to start looking at the exact relationship between the state, or parts of the regime, and different efforts at mobilisation within civil society. Civil society organisations in both Indonesia and Myanmar that eventually became

violent were from the outset initiated or at least supported by the military in the country. Similarly, groups that were closely aligned with the regime at the time have also been more supportive of the use of violence in both Thailand and the Philippines. It is hardly surprising that scholarship on civil society and protest movements have, to some extent, avoided the study of state institutions, but looking at these linkages may be a fruitful line of inquiry in the future.

Another factor that features prominently in these cases and that has been previously understudied is the fact that it is relatively rare that the same organisation is involved in both nonviolent and violent activities, but it is common that there are bridges between organisations using such different tactics. While social movement scholars have explored the role of so-called radical flanks, these are often understood as constituting just a small share of the overall movement. Looking at the relationships between non-state armed groups and civil society in Myanmar and the Philippines, we note, tellingly, that even groups that are explicitly formed for the use of violence tend to create or allow the emergence of allies that are active in civil society space. In these cases, the groups in civil society often have fewer resources and less influence than the armed organisation, and they may be both collaborators and in opposition to the actions of the latter. Both civil society activists and conflict scholars should start considering the actions of such ‘moderate wings’ to understand wartime political orders.

There are several further aspects of the activities of civil society actors with links to violent non-state groups that this chapter has not addressed. What is evident, though, is that civil society and violent activism and mobilisation not only commonly co-exist but are also often more connected than what might initially be expected. As the literatures on civil society, social movements, and armed conflict around these issues are beginning to coalesce, we will hopefully soon have a greater understanding of these networks of actors and activities.

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## **PART IV**

# Identity formation and claims



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# CIVIL SOCIETY AND GENDER ADVANCEMENT IN THAILAND

*Duanghathai Buranajaroenkij*

The political space of civil society has long been crucial for women to advance their political competency, interests, and gendered agendas because women have been excluded from formal political establishments (Cornwall and Goetz 2005). Collective action allows women with diverse interests to influence political processes and outcomes. Women's groups utilise public spaces to push their agendas for social change and lobby policymakers and lawmakers to enhance gender equality (Krook and Childs 2010). This chapter examines strategies of political activism of women's groups and networks in Thailand, employing a feminist approach to explore women's life experiences, including those of women with sociopolitical-minority gender identities. To understand women's political activism, the chapter focuses on the development of women's organisations to advance gender equality in the case of Thailand, by reviewing how the experiences, ideas, incentives, efforts, and initiatives that deliver women's voices, issues, demands, and agendas to the public interface with the political system. Besides exploring women's strategic engagement with powerful political actors and establishments, the chapter also discusses the state's strategies, in particular the military's, in instrumentalising women's groups to legitimise and sustain their political power.

Women in Thailand have actively engaged in social movements and civil society organisations to intervene in developmental and environmental policies across the country (Laungaramsri 2017; Hassarungsee 2018). This chapter will examine women's participation in civic space broadened by political conflict under a hybrid civil/military regime in Thailand. The chapter focuses on two cases: the first is a political conflict between pro-democracy and royalist movements from 2005, during the premiership of then-Prime Minister Thaksin Shinawatra, up to the present (2022, as this chapter is written). The second case is an ethno-political conflict between the government and a Malay-Muslim resistance movement in the southern border provinces of Thailand, which entered a new phase of armed struggle in 2004 and also persists to the present. While these two conflicts have been going on, the military has staged two coups d'état, in 2006 and 2014. Elected civilian and military governments have taken brief turns at ruling the country. In this context, political space for activism in Bangkok (the capital city) and in provinces such as Chiang Mai in the north, Khon Kaen in the northeast, and Yala in the south has been vital during civilian governments and more limited during

junta regimes. In contrast, political space in Thailand's southernmost provinces, the 'Deep South', has been and continues to be significantly constrained and dominated by the military's Internal Security Operations Command (ISOC) Region 4.

This chapter examines the situation of women in the formal political system, and women's organisations' and networks' efforts to advance gender equality outside the formal political system. The chapter highlights the development of political spaces that women create under protracted political conflicts, while polarisation in civil society and movement politics have given rise to human rights violations and sexism that hinder women's meaningful participation in politics. Finally, this chapter illustrates a political dynamic in which contestations over gender have become vibrant in Thai politics, as evidenced in the recent emergence of a young-feminist movement's attempts to challenge patriarchal values embedded in social and political institutions, and in the state's changing its approach to gender as a means to legitimise its authority. Women's attempts to manoeuvre through public space not only have revealed the difficulty of shifting norms and claiming autonomous, empowered political space but have also fostered both a growing feminist movement and women's increasing political engagement.

### **Women in politics**

Thai women are often described as having achieved more remarkable advancements than women in other countries in the region. For instance, Thai women gained the right to vote at the same time as men after the democratic revolution in 1932. Thailand has significantly pushed forward gender equality by integrating international instruments and principles, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1985, its Optional Protocol in 2000, and the Sustainable Development Goals (SDGs) in 2015, into legislation and policy, as evident in the Constitution of the Kingdom of Thailand BE 2517 (1974), which specifies that 'men and women have equal rights', and the present Constitution of 2560 (2017), which stipulates that 'men and women shall enjoy equal rights'.

Significant numbers of women have been engaged in public affairs, particularly in the economic and social sectors. The percentage of women in senior management positions within the business sector increased from 32% to 37% during the period 2014–2020, which is above the global average increase from 22% to 27%, and the average increase in the Asia-Pacific region from 22% to 26%. The percentage of women in senior management positions in Thailand declined to 29% in 2021, which is still higher than the Asia-Pacific average (27%) but slightly less than the global average of 30% (Grant Thornton, 2021).

In contrast, there is significant inequality in the political realm. The percentage of female members of parliament (MPs) increased from 5.4% under the post-coup junta administration in 2019 to 16.9% of the 500 members in the latest national election in March 2019 (Table 12.1). The percentage of female MPs remains lower than the global average (24.9%) and the Asia average (20.5%) (UN Women 2021).

Kazuki Iwanaga (2008) notes that Thai women have become more involved in politics in recent years. A significant turning point was during the drafting process of the 1997 constitution. The new constitution removed and reformed structural barriers to women's entry. It increased the number of women in electoral office and enhanced women's role in policymaking. However, gender equality still needs to take a great deal more into account. Iwanaga states that crucial obstacles for women in Thai politics are cultural factors, including gender stereotypes, 'double-binding', and gender barriers. First, in

*Table 12.1* Percentage of women in political positions at the national and local level (2019–2020)

<i>Position</i>	<i>Percentage women</i>
Members of Parliament (MPs) (500 MPs)	16.90
Senators (upper house) (250 representatives)	10.40
Governors (77 provinces)	1.32
Chiefs of Provincial Administrative Organizations (PAO)	8.00
Heads of Sub-district Administrative Organizations (SAO)	9.15
Civil servants at the level of Director General	19.83
Civil servants at the level of Permanent Secretary	11.11

Source: UN Women (2021) and Ministry of Social Development and Human Security (2022).

terms of gender stereotypes, Thai society stereotypes women as weak, indecisive, emotional, dependent, and less productive than men, hence perceiving them as not suitable to be politicians. Second, the phenomenon often termed double-binding means women are constantly subjected to contradictory demands between being soft and feminine, as tradition prescribes, and being determined and decisive, as a politician should be. No matter how Thai female politicians act, they cannot avoid criticism. Finally, Iwanaga highlights two gender barriers: one is that society portrays women in terms of a moral ideal, unfit for the dirty world of politics. The other is the spatial separation between the private and public sphere, and the division of labour, which has a strong influence on women's roles, confining women to the home. To survive in their political careers, women have adopted three different strategies to carve out a place in the political arena: first, denying the existence of gender barriers; second, being aware of and adapting themselves to these barriers; and finally, trying to change the barriers (Iwanaga 2008).

Sukhawattana (2008) states that Thai women engage in the political arena via three main channels. One is through women's competence, but this is rarely the case, because Thai culture expects women to give priority to their role as mothers. The assumption is that women are responsible for their households in the private sphere, while men should take on leading roles in the public sphere. The second is through a connection with a powerful man, such as a father, brother, or husband. The third is as a stand-in for a male politician who has been banned from political activities, to preserve their political space. In this vein, in 2011, Thailand gained its first female premier after 80 years of male political domination. Critics charged especially that Yingluck Shinawatra was merely a proxy for her brother, Thaksin Shinawatra, the former prime minister, then in self-imposed exile. Mainstream women's organisations did not support or show appreciation for Yingluck, as the political stance of most of them was essentially against her brother, Thaksin.

Despite continued efforts at pushing for an increase in the number of women in political positions, formal political space remains a domain of power that is difficult for women to access. Another channel, beyond the three Sukhawattana mentions, is in the public sphere, e.g., civil society organisations and social movements. This channel has increasingly become a vehicle for women to advance a gender agenda. In modern Thai history, women have pursued various approaches within civil society aimed at politicising issues of women's rights and gender. Moreover, increasingly diverse actors have come to navigate and negotiate agendas regarding gender, including intellectuals, academics, women's groups, and allies/others within the civil society sector.



### **Efforts of women's organisations to advance gender equality**

Women from all walks of life have increasingly engaged within civil society to reduce inequalities and to create more space for women's participation in agenda-setting and pursuing issues related to gender. During the late 19<sup>th</sup> century, women's organisations were founded by the elite and well-educated. For example, the very first women's organisation was the Red Unalom Society of Siam (which later became the Thai Red Cross Society), established in 1893 under the patronage of Queen Saovabha in the reign of King Rama V. The Women's Solidarity Association was the first organisation providing information on household affairs and childcare for middle-class women. Businesswomen, nurses, lawyers, and others also founded women's professional organisations. Later, women's organisations were established and expanded to provide different forms of support for women workers (Purisinsit 2002).

In 1943, a decade after the democratic revolution, women's cultural clubs were founded by governmental organisations (e.g., the courts of justice, the army, the police, and female teachers and lecturers). Through these clubs, the wives of civil servants participated in charity work on behalf of their husbands' affiliations (Tantiwiramanond and Pandey 1991). During the administration of Prime Minister Field Marshal Plaek Phibunsongkhram, his wife Thanphuying (Dame) La-iat Phibunsongkhram took the lead in creating the ideal of the 'Thai Woman' as the 'Flower of the Nation', displaying beauty, humility, politeness, and neat attire. A 'Good Thai Woman' was expected to be a good mother and wife (Subhimaros 2006). The result was the assumed right of society to control women's behaviour and image.

Moving beyond charity work, in 1953, the Women Lawyers Association of Thailand was founded to advocate for women's awareness of their rights and amendments to the law. In line with its ratification of the Convention on the Political Rights of Women in 1954, the Thai government issued a law on family and inheritance. Not until the first National Economic Development Plan was enacted in 1961, however, was economic growth fostered and the door opened for women to join the labour market. Women began to have a greater role in public economic space, as the Plan encouraged them to take up positions in the public sector and political institutions. Consequently, Thailand appointed its first female judge in 1965 and the first female mayor of a local municipality in 1969. On the other hand, urban development and industrialisation increased pressure on working-class women to migrate to work in the city.

The success of the student movement in the October 1973 Uprising – which included a 'Women's Group of Thammasat University' led by Sucheela Tanchainant – resulted in growing enthusiasm towards student activism and public political engagement (Na-ranong 1983; Silpa-Mag 2021). In 1974, female students of Thammasat University joined together to raise questions about social justice as well as women's rights and status, such as women's participation in development, the relation between sex workers and capitalism, and sexual commodification and the objectification of women's beauty contests (Ungpakorn 2006; Chaiyarot 2011). From 1975 to 1976, the students also joined together with workers, e.g., during labour strikes at the Standard Garment Factory, the Bangkok Weaving Factory at Bang Son, the Hara Factory, and other actions. These struggles demonstrated the strength of female workers in negotiating with capitalist powers (Chantrarachai 2008).

From 1987 onward, many of the student activists from the 1970s became social activists and established non-governmental organisations. These 'Octobrists' (a.k.a. October

activists or '*khon duean tula*')<sup>1</sup> decided to return from the forest to the city because of the dissolution of the Communist Party of Thailand (Lertchoosakul 2012) and a change in government policy under Prime Minister's Order Number 66/2523 (Na-ranong 1983; Tantiwiramanond and Pandey 1991). Some went overseas to further their studies. In the 1980s, the October activists established many non-governmental organisations (NGOs), which mainly focused on development. Two women's groups were founded, the Friends of Women Foundation (FOW) in 1980, and the Women's Information Center (WIC) in 1984. Initially, women's groups mainly focused on addressing women's practical needs, which they perceived as more urgent than women's subordinated position. For example, FOW initially started with charitable activities to provide help and protection to disadvantaged women in rural areas and in the sex industry.

Growth in the solidarity and strength of women's civil society organisations and networks began after the May 1992 political crisis and continued until the 1997 economic crisis. At that time, the government was weak, while the civil society sector was strong. In 1996, when the country was in the process of drafting a new constitution, women from diverse sectors, including politics, business, civil society, and academia, united as the Women and Constitution Network. The Network received support from international organisations to organise activities for public education and to raise awareness about issues pertaining to women and the constitution. They undertook research and publications to justify and support women's issues, making them more persuasive when they presented these issues to the Constitution Drafting Assembly of Thailand (CDA) and sponsored members for election to the CDA as a way to participate in the drafting process and to motivate wider political participation (Doneys 2002).

The Network's most significant achievement was its push to include Article 53 in the 1997 Constitution, while called upon the state to protect family members from violence and unfair treatment. This Article changed the conception of domestic violence from a personal problem into a political issue that requires legal protection. The Network remained active until the military staged a coup in 2006. The Network had built pressure for relevant political agendas and to solicit cooperation among women's organisations and others, such as in the academic, private, and public sectors, when working towards social justice for gender issues.

Another influential network is a coalition of organisations on women's reproductive rights, called the 'Choices Network'. It is an alliance of organisations from the public, private, and academic sectors that joined forces to connect policies and practices in pursuit of knowledge-based rights to reproductive health. The 68 members of the Choices Network are multidisciplinary organisations working on sex education, reproductive health, family planning, and safe abortion. The Network divides its work into two areas. The first area is a support system for unplanned pregnancies. The system supports women whether they decide to access safe abortion (available through a Referral system for Safe Abortion, or R-SA, which has 56 service centres nationwide) or choose to continue their pregnancies (providing prenatal homes, foster families, support for single mothers' parenting, etc.). The support system consists of a multidisciplinary team of professionals, including doctors, nurses, social workers, and lawyers. The second area is providing alternative counselling around unplanned pregnancies, drawing on feminist and holistic gender perspectives.

Organisations that join the network have proven, specific expertise in their relevant sectors. Cooperation between civil society organisations and public organisations is based on mutually supportive knowledge and professions. They try to create constructive

mechanisms and structures so that work at the network level is holistic and responsive to the needs of women in various target groups, to help provide women with choices in the event of an unplanned pregnancy. As a result, the incidence of dangerous and illegal abortions has been reduced, while women with unplanned pregnancies have more choices without constraints. At the same time, after years of collaboration between the public sector and civil society organisation networks to develop its content, the Department of Health, in the Ministry of Public Health, came to back a law on prevention of and solutions to teen pregnancy, which was enacted in 2016. The law's objectives were to prevent unplanned pregnancies and offer holistic solutions to the problem, and to facilitate cooperation among related agencies. The law is based on the protection of the human rights of women and girls, i.e., the right to access healthcare services safely and securely.

In summary, the discussion above reveals diverse actors and champions for women's advancement, evolving from elite and well-educated individuals and groups to women's organisations, both governmental and non-governmental. Women's organisations have developed their strategies by strengthening their networks and reaching out to government agencies and ministries to tackle gender issues, particularly regarding legal issues and state structures/institutions, violence against women, and reproductive rights. The political space of women's organisations is not only limited to civil society but also reaches out to individual civil servants and politicians who can utilise the state apparatus to advance the cause of gender equality.

In the past two decades, political conflicts have significantly enhanced the quality and the extent of women's participation in Thai political life. Political conflicts centred in Bangkok and in the southernmost provinces of the country serve as vehicles for promoting women's space in the political realm, as groups form to promote equality and equity in political participation. Gender awareness – realising their new political roles and power to create alternative political spaces – is not generated by women's organisations or feminist networks alone. This will be discussed further in the following section.

### **Women's political spaces and socialisation nurtured by protracted socio-political conflicts**

Thai women who had been involved in earlier social movements were limited to particular issues of interest and demanded to influence specific state policies, such as around the environment, human rights, and poverty. For example, in the Assembly of the Poor (see also Pye, this volume), a grassroots movement against government mega-development projects, women made up the majority of members, and many were leaders. Because vast numbers of women were affected by these projects, including those from among the slum-dwelling urban poor, or fighting for environmental conservation, popular perception tended to portray women as victims in a specific issue-based social movement, representing vulnerable groups affected by state development projects, even as women exercised political agency. Most of the issue-based social movements were led by NGOs that acted as mentors, mobilisers, and facilitators to push forward the agenda of the movements. Remarkably, civic space gradually and broadly opened up for ordinary and grassroots women when Thaksin Shinawatra was in his second term, when populist policies had an immense impact on quality of life at the grassroots and his single-party parliamentary majority threatened former powerholders.

Two parallel conflicts in Bangkok and the Deep South erupted almost simultaneously during Thaksin Shinawatra's administration. These conflicts significantly drew a number of women to become more active in political affairs in various capacities – as followers, contributors, activists, and even politicians-to-be. Women's perceptions and attitudes towards politics and elections changed. They realised their power as citizens and wanted to share in steering the nation's direction. The two conflicts caused large numbers of women to engage in politics and are still ongoing.

Political conflict erupted in Bangkok in 2005. This conflict was fuelled by a political power dynamic between the camp that supported Prime Minister Thaksin Shinawatra or the pro-democratic movement, known as the Red Shirts, and the camp that had the opposite stance, against Thaksin Shinawatra and his political network, or the royalist movement, known as the Yellow Shirts. A study of women's participation in the Red and Yellow Shirt movements from 2006 to 2015 (Buranajaroenkij et al., 2018) found that the color-coded movements provided greater scope to accommodate the needs and interests of women from different backgrounds through political engagement in various forms. First, they provided a vehicle for promoting women's space in the political realm by forming groups to promote equality and equity in political participation. Although these movements did not have a stated goal of gender equality, women's groups positively impacted their male counterparts' perceptions of women's capabilities. Thanks to the flexibility of political space within the social movements, women were able to create political groupings without resistance while at the same time maintaining partnerships with their political allies.

Second, some women, particularly at the grassroots, believed in the legitimacy of movement politics since it served to monitor and make political institutions and politicians responsive to people's demands and interests. The apprenticeship gained from their political participation allowed them to exercise meaningful political activism, including challenging the agendas of their own political camps. Women from both the grassroots and upper classes have thus been able to transcend the public-private divide by emphasising discourses of the common good and upholding the nation's values, while gaining recognition from their respective organisations. These women – on either side of the political divide – who believed in the legitimacy of movement politics and took refuge in social movements as a source of power engaged in politics to claim a fairer distribution of resources by the state. Their involvement in these social movements paved their way to further participation in community affairs. In order to realise their political goals, women could stand firm as legitimate citizens with rights and feel justified in negotiating with the government to have a say in its policies and projects.

Finally, for some women who were movement coordinators and leaders at the provincial and national levels, participating in social movements provided them with the opportunity to develop their constituencies and paved their way into electoral politics. Gradually, over time, women accumulated the necessary capabilities and assets (e.g., knowledge, skills, confidence, trust, mass-based support, and networks) to transform power relations. This made it possible for them to shift their position in the political terrain and expand the boundaries of their political actions. They moved from the periphery (first as participants and then as leaders of social movements) to the centre (as elected representatives) of political power. This development contributed to a change in power relations with the state.

Socialisation into movement politics has cultivated women's political competence and creativity. Individually and collectively, women have developed their roles through

involvement in protests, from being ‘members and participants’ to becoming ‘political actors’. The recognition of women as political actors has resulted in an increase in their authority and ability to have political influence within the color-coded movements and their local political communities.

The study of the color-coded movements suggests and reaffirms that gender awareness is not generated by women’s organisations or feminist networks alone. These movements do not necessarily have a stated gender agenda, yet gender dynamics that occur in the enabling environment of Thai political conflict serve to promote women’s political participation. Essentially, gender-mixed movements have increased gender awareness among men by offering them first-hand experience of being active with women who are engaged in politics, and with women who are effective, constructive, knowledgeable, and skilful. These women have not been limited by the illusion of the public–private divide. They have been able to dismantle ill-gendered relations in a non-confrontational manner. Women have been able then to realise their new political roles and power to create an alternative political space without men’s adversarial resistance. This has led to new forms of partnership between women and men. As a result, women and men have more opportunities to combat social problems, share their experiences and knowledge of political interventions, and redress inequalities of political power. Indirectly, this also serves to redress gender inequality, as women’s new political influence can contribute to changing the old political paradigm that had left women out of politics and favoured men in its allocation of benefits.

Shortly before the onset of this mobilisation in Bangkok, in 2004, ethno-political conflict had erupted in the southern border provinces. The ethno-political conflict was between the government and Malay-Muslim movements in the southern border provinces of Thailand: Pattani, Yala, Narathiwat, and four districts of Songkhla (Thepa, Chana, Na Thawi, and Saba Yoi). The provinces demanded rights to self-determination – independence from the Thai government. During 2004–2021, over the course of 21,328 violent incidents, 13,584 people were injured and 7,314 were killed in these provinces (Jitpiromsri 2022). The insurgency resulted in 3,000 widows and over 6,600 orphans. Women suffered the stress of these losses along with the increased burden of having to support their families, their communities, and society. The impacts on women from the conflicts between the Thai government and the separatist movement in local areas are obvious. Women live in conflict-prone areas deprived of safety in daily life. They have to shoulder the burden of earning income to feed the family because men are no longer present, or often feel unsafe going to work. The women have to take responsibility for care of the disabled. The unpredictable violence, insecure future, and lack of peace prospects have pushed women into the public sphere, either of necessity or voluntarily. However, women are not merely victims of conflict and violence but attempt to mitigate violence and resolve conflict in their communities. They are determined not only to protect their immediate families, but also their society as a whole.

Women’s groups have been recognised and acknowledged as potential actors to build peace because they have been involved in peace activism since the unrest began, starting with self-help groups formed to help victims of violence. Today, women’s groups are at the forefront of humanitarian assistance efforts, as human rights defenders, and as advocates for ending the violent conflict. Under traditional gender norms in the southern border provinces, women are typically expected to be housewives and be confined within the private sphere. The ongoing conflict in the south of Thailand has had the effect of significantly increasing the number of women assuming roles as human rights defenders

and peace activists over time. Female human rights defenders have been encouraged by the fact that men would be at a higher risk if they engaged in human rights advocacy. Some women have developed skills and knowledge while attempting to stay informed about their immediate family members, either husbands or sons, who have been prosecuted on security charges (Charoenpolpiriya and Sombatpoonsiri, 2009). The knowledge and skills they have gained include learning relevant laws and mechanisms, as well as the Thai language, as some of them speak the Malay language in their daily life (Buranajaroenkij, Suwanbubha and Yimyong 2017).

Knowledge of human rights and skills in working with conflict have enabled women to assume roles in promoting social justice and transforming conflict. In the Deep South of Thailand, women have facilitated dialogue between the military and villagers to reduce tension and promote understanding. Their ability to work with all actors and stakeholders enables them to gain trust from diverse social groups, ranging from sympathisers of the Thai government to the resistance movement, and from the government to ordinary residents. Notably, in 2016, the women's peace network, called the Peace Agenda of Women, advocated for a public-safety zone whereby public venues, such as schools, hospitals, markets, and places of worship, would be free from violence perpetrated by any party. The clear evidence is that both principal peace-dialogue delegations, the government and the resistance movement, have made receptive gestures towards the proposals of the women's movement. However, both delegations interpret the concept of safety zones differently from the women's movement: they view them from the perspective of a security paradigm of militarism, which designates ceasefire zones as a part of delegations' confidence-building measures.

It was not until December 2021 that women's organisations and peace movements in the southern provinces came to emphasise the number of women participating in the peace process. They prioritise developing the knowledge and skills necessary to promote social justice and security in everyday life. Some organisations even deliberately refrain from using the terms 'feminism' and 'gender' in their advocacy. In some countries, campaigning for women's human rights might be crucial to increasing women's participation. But social norms in the Deep South recommend instead strategically contextualised campaigns on public issues, including on development or politics, in which women can integrate gender perspectives.

Facilitating factors for this integration include changes in the social and political context that allow women's self-mobilisation for mass action and networking and the accumulation of knowledge and skills that enable women to intervene in the conflict and articulate their demands. These factors contribute to women's success both in asserting a gender-sensitive agenda in the peace dialogue process and in beginning to redress some traditional gender practices, such as child marriage and domestic violence, that have long been put aside as possible targets for reform in the southern border provinces.

Muslim women in the southern border provinces have also become politically active. They have learned to negotiate for the expansion of their political space, which was previously restricted by local cultural practices. Despite only limited electoral success thus far, with only two women elected to parliament from the Deep South since 1992, we can see increasing numbers of Muslim women interested in participating in politics and increasing numbers of female candidates in the general election in 2019. However, traditional religious interpretations still resist Muslim women's participation in politics (Sattar et al. 2021). Women's organisations in the Deep South actively make an

effort in their advocacy and capacity-building programmes to erode bias and fortify opportunities for political participation for women as they aim to have a more significant number of women in decision-making positions in both local/national politics and the peace process (Subcommittee on Women of the Local Working Group in the Peace Process 2021).

These two cases demonstrate the increasing desire among and demands from women for meaningful political participation. However, there are common challenges that women in social movements experience: sexism and human rights harassment. These issues will be discussed in the following section.

### **Sexism and human rights harassment in movement politics**

Sexism is a significant hindrance to women's political participation, both inside and outside formal platforms, notably during the political conflict that has divided Thai society into clashing political camps. Dehumanising insults and sexism have been used as weapons to repudiate and put down political opponents. Yingluck Shinawatra, the then-prime minister, was the main target during her term in office, as have been female leaders of social movements. Sexism has been severe in the royalist movement – the demonstrations of the People's Democratic Reform Committee (PDRC), derived from the Yellow Shirts – with the opposition actively intensifying pressure against Yingluck to oust her from office (Kaewmala 2014). Yingluck was called names in an abusive and derogatory way, and she was attacked with sexual innuendo and sexist verbal abuses on many occasions (*Chiangrai Times* 2014). Thai feminists and women activists, who promote women's rights, were accused of being silent on sexually based hate speech against Yingluck because they were divided into different political stances (Songsamphan 2011). The political conflict deeply divided the social fabric; conflict affected every sector of society, causing rifts even within civil society.<sup>2</sup> Analysts observed that some feminists and female activists ended up compromising on the issue of sexism against Yingluck rather than sticking with an ideology of human equality and rights, thus relinquishing their feminist principles in the interest of politics (Kaewmala 2011).

The PDRC faced pressure from the public, the media, women's rights networks (which issued a statement condemning sexual discrimination), and a UN Women statement criticising sexism in politics. Mainstream women's organisations might have had different opinions and standpoints on Yingluck, as discussed above. However, since sexism was running high at political rallies, female and transgender leaders of the PDRC were also harassed. These events became opportunities for women's rights advocacy when a network called the Women Networks Reshaping Thailand brought sexism into public discussion. Gender issues became a stated concern for the PDRC movement; organisers even monitored PDRC events to prevent sexist speakers from going on stage.

Yet, within the same movement, sexual harassment was also an issue. During my fieldwork in 2014, I had a chance to interview a Royalist supporter. She was famous at that time, so she was invited to give a speech to the masses. While she was on the stage, a male leader suddenly hugged her tightly. She was confused and embarrassed but had to compose herself, pretending nothing had happened. After that, a rumour circulated that she must have had an affair with that male leader. After that, she decided to take a low profile and avoid engaging with male leaders. Intragroup sexual

harassment by a leader raised no concerns and was not questioned by supporters; however, it hampered women's participation in civil space. Sexual harassment seems never to fade away in movement politics. Again recently, the sexual misconduct of a leader of the pro-democracy movement received attention from their movement leaders and media. Eventually, the male leader was stripped of his membership in the United Front of Thammasat and Demonstration, a leading student movement organisation founded in 2020 (*Bangkok Post* 2022).

Furthermore, women and lesbian, gay, bisexual, and transgender (LGBT) activists experience diverse forms of human rights violations aimed at delegitimising and discouraging them from participation in political activism. The Observatory (2021) interviewed 22 female political activists and human rights defenders. They found that these activists had experienced diverse forms of human rights violations, for example, men's stalking them and visiting their educational institutions and residences, monitoring their activities, and imposing repressive laws to arrest them. In addition, female activists experienced a variety of forms of gender-specific harassment, including verbal and physical abuse. Some of them also experienced online sexual harassment by non-state actors. Gender-based human rights violations result in chronic stress, burn-out, or self-esteem issues among young women political activists (The Observatory 2021).

Sexism in politics reveals a real face of Thai society in which gender bias is vibrant. Gendered and patriarchal norms have played a crucial role in upholding a glass ceiling in Thai movement politics and formal politics. In the past, female activists were less successful than they hoped in asserting a gender agenda within movements, and gender discrimination and sexism in politics were often high. However, since 2020, for the first time, we have seen women activists come together to forge a feminist movement in Thailand. They can assert a feminist agenda and values in movement politics to mitigate gender discrimination and sexism in politics when these incidents occur. They can also secure allies and employ alternative strategies in the form of peer pressure to delegitimise sexists and human rights violators.

### **The emergence of a young-feminist movement**

Young women have been on the front line of the political protests during the new surge of political tension that ignited in 2020. After the general election in 2019, the courts dissolved a newly formed political party, Future Forward, which opposed authoritarianism. Pro-democracy protests led by a youth movement challenged the legitimacy of the government for failing to return to democracy. The young citizens flooded Bangkok with a series of demonstrations that quickly spread to the provinces. The leaders of the movement have since been arrested and detained for long periods in pre-trial detention; some have already been convicted and sentenced. At the same time, Section 112 of the Thai criminal code, which prohibits *lèse majesté*, has been used repeatedly to silence students and political activists. As a result, the pro-democracy youth movement has coalesced around three demands: the resignation of Prime Minister General Prayut Chan-o-cha, who is supported by a proxy military-led political party; amendment of the Constitution to end the military/monarchy establishment's manipulation of the election system and the Senate (hand-picked by the junta) and their power to choose the prime minister; and reform of the monarchy (Phoborisut 2020).

Besides addressing controversial issues, particularly reform of the monarchy, the youth-led movement has exposed gender-based violence against female and LGBT



students in high schools. High school girls, who were in the majority at some protests, have raised gender issues in schools. Usually, gender-based violence in schools has been covered up by the authorities, unless it draws media attention. This recent exposure has been enabled by social media and influenced by the MeToo Movement at the international level, providing feminist knowledge and language to members of the young generation who may have no connection with the older feminist generation.

Today's young women are not the first to promote feminist claims. Feminist figure Maleerat Kaewka once promoted a gender agenda in the royalist People's Alliance for Democracy (PAD), for instance. A co-founder of the Women and Constitution Network (WCN), a successful women's network that ensured women's rights were written into the 1997 constitution, she was also the only woman to be appointed as one of the second-tier leaders of the PAD in November 2008. In the interim, during a term as a senator, she chaired the Thai Women's Parliamentarian Association from 2003 to 2005. She fully participated with the PAD after her term as senator ended. However, a proposal Maleerat and her allies proposed to mainstream gender in political reform did not attract the movement's support. They did not gain adequate space to promote the agenda, as women leaders had significantly less time on the stage to give speeches to audiences (Buranajaroenkij 2016). At that time, PAD leaders perceived gender issues as separate from the movement's political reform agenda.

In contrast, women and LGBT communities gained recognition and space to voice gender issues and feminist values with the new generation of protesters. The youth-led movement is recognised as an 'unprecedented movement for gender equality' (The Observatory 2021). They name and delegitimise gender-based violence in movement politics, whether the violators are members of the same or different movements, bystanders in social media, or state authorities. They advocate for a reinterpretation of politics – insisting that the democratic system should promote and respect gender equality at cultural and structural levels (Prachathai 2022). At every protest, they assert their voices by participating as speakers, organising educational booths, and presenting art performances. They address a wide range of gender issues, such as campaigns for equal marriage, decriminalising abortion, legalising sex work, and eradicating gender-based violence. They aim at eradicating patriarchy – unpacking gender stereotypes, discrimination, harassment, and rape culture in Thai society.

Until this recent emergence of the feminist movement, few women's organisations would call themselves 'feminist'. Earlier, feminism was mostly discussed in academia, not in movement politics or civil society. Thanks to the youth-led movement, Thai civic space has increasingly embraced feminism as part of its politics. A core debate of movement politics has shifted from who should have political power – who should lead the government – to a discussion of how power relations in society should be reconfigured. This new perspective has made politics more inclusive and able to accommodate more issues. Even advocates for the right to self-determination of Malay-Muslims in the country's southern border provinces have thus been invited to speak up in Bangkok.

The change seems vibrant but still limited to the new generation. There is a challenge for the feminist movement to assert their influence in Thai politics in contexts where synergy between the conservative elite and the military produces strong resistance to change. Not only do military and elite conservative groups in politics dominate, and exploit the law to constrain, civic space, but the Thai authoritarian regime is also intruding into and co-opting civil society by employing a gender approach of its own.

### **The advancement of women's rights under a hybrid civil/military regime and state-organised women's groups**

The military has intervened in politics in Thailand throughout its democratic history, as evidenced by 13 coups since the democratic revolution in 1932. After the most recent coup in 2014, Prime Minister General Prayut Chan-o-cha utilised sweeping powers under Section 44 of the 2014 Interim Constitution promulgated by the military-led National Council for Peace and Order (NCPO) to address administrative problems and keep social peace and order. The junta regime has attempted to take complete control and suppress political activism. For example, Head of NCPO Order Number 57/2014 stipulates, 'all existing political parties are prohibited from holding meetings or undertaking any political activity'; and Article 12 of Head of NCPO Order Number 3/2015 stipulates, 'Political gatherings of five or more persons shall be punished with imprisonment not exceeding six months or a fine not exceeding ten thousand baht, or both, unless permission has been granted by the Head of the NCPO or an authorised representative'. Especially over the past five years of the junta regime, the military has intervened in politics through weaponising the law, resulting in limited political activism and significant human rights violations against political activists (iLaw 2017; Thai Lawyers for Human Rights 2020).

Since the general election in 2019, under the new 2017 Constitution, Section 112 of the Criminal Code on *lèse majesté* has been frequently applied as a Strategic Lawsuit Against Public Participation (SLAPP) to detain youth leaders, in order to undermine the movement and discourage public participation. During the COVID-19 pandemic, General Prayut exploited special legislation, an Emergency Decree, to prohibit public assembly, ostensibly to prevent the pandemic's spread. The Emergency Decree has been repeatedly extended to suppress political demonstrations (Human Rights Watch 2020). Overall, civic space in Thailand has been shrinking since the coup.

The military has also relied on securitisation to suppress the insurgency in the Deep South of the country. Securitisation addresses public security through a discourse of militarism. It is built on a concept of otherness – a 'friend and enemy' dichotomy (Lopez 2017). The government has enforced three special security laws to counter the insurgency. The first is the 1914 Martial Law Act, which the then-government first imposed from January 2004 until July 2005, then again after the coup d'état in 2006 until the present. The second is the 2005 Executive Decree on Government Administration in a State of Emergency. The third is the 2008 Internal Security Act, now in force in all conflict-prone areas. These special laws allow military officials to hold suspects without charge for at least 37 days, thereby granting excessive power and immunity for officials from civil or criminal prosecution and fostering a culture of impunity (ICG 2012).

In these two decades of limited political and civil rights for the Thai people, remarkably, women's rights and gender equality have still found room for advancement. The period since the coup d'état overthrew Yingluck Shinawatra in 2014 until the present government led by General Prayut, the former head of NCPO, is notable for progress in the rights of women and LGBT individuals. We find evidence in, for example, the Measures and Guidelines on Women and the Promotion of Peace and Security the central government endorsed in 2016 and implemented in the southern provinces of Thailand in response to the violent ethno-political conflict. In addition, the military regime enacted the Gender Equality Act 2015 and the hybrid civil/military regime enacted the Law on Abortion 2021.

Table 12.2 The Global Gender Gap Index 2021 rankings for Southeast Asia

Country (out of 156 countries)	Rank		Score
	Regional	Global	0–1
Philippines	1	17	0.784
Lao PDR	2	36	0.750
Singapore	3	54	0.727
Timor-Leste	4	64	0.720
Thailand	5	79	0.710
Viet Nam	6	87	0.701
Indonesia	7	101	0.688
Cambodia	8	103	0.684
Myanmar	9	109	0.681
Brunei Darussalam	10	111	0.678
Malaysia	11	112	0.676

Source: World Economic Forum (2021).

However, over the course of 2006–2021, progress towards gender equality, per the indicators that comprise the World Economic Forum’s Global Gender Gap Index, declined significantly in Thailand (Table 12.2). Thailand fell from being ranked 40<sup>th</sup> in 2006 to 79<sup>th</sup> in 2021 in all aspects, including economic participation and opportunity, educational attainment, health and survival, and political empowerment (World Economic Forum 2021).

In the southern border provinces, civil society organisations (CSOs) have been growing in number and influence. In 2011, about 20 CSOs (increased to 32 organisations in 2022) strengthened their capacity by founding an organisation called Civil Society Council of Southernmost Thailand. This is actively engaging with the peace dialogue process that officially commenced in 2013. The state perceives some CSOs as threats, particularly those promoting human rights, rights to self-determination, and the provision of humanitarian aid to family members of former detainees and suspects accused of security charges. In 2014–2015, female human rights defenders faced defamation charges by the Army for reporting human rights violations by soldiers, such as ill-treatment and torture (*Bangkok Post* 2016). However, the Army decided to withdraw the charges in 2017 after a year of negotiation. Both sides agreed to be more collaborative on fact-finding when human rights violations happened and to pursue mutual agreement on future human rights reports before dissemination (International Federation for Human Rights, 2017). The Thai government has attempted to assert control over civil society organisations through various means, including pushing forward laws and issuing regulations to prohibit international non-governmental organisations from political activities and intervening in some areas, particularly in the southern border provinces.

The military’s attention remains focused on political power while expanding non-military activities through ‘the political wing of the military’, called the Internal Security Operations Command (ISOC). The military focuses on national security, predominantly protecting the monarchy and attacking electoral democracy. Since the 2006 coup, ISOC-sponsored mass organisations have been used to counter the southern provinces’ insurgency (Pawakapan 2021). One of the strategies ISOC employed in 2017 through a civilian governmental agency, the Southern Border Provinces Administrative Centre

(SBPAC), was to set aside a budget for grants of 50 million baht; SBPAC distributed grants to 223 organisations, from among 490 applicants (*Post Today* 2017). Allocating budget assistance to CSOs has been a state strategy to undermine CSOs in the south since before 2017. Research conducted by Col. Thanai Permpul (2018) reveals that state agencies expect the funds they provide to support CSOs' activities that make those CSOs' work more aligned and consistent with government policy. Romadon Panjor (2019) criticises government budget assistance to the CSOs in the southern border provinces because of its adverse effects in reducing the CSOs' negotiation power and undermining their attempt to carve out space to politicise a protracted ethno-political conflict.

The Thai state not only attempts to control and suppress civil society but also tries to influence activists through co-option. ISOC Region 4 established a civil society unit to engage with civil society in the conflict-prone area. ISOC Region 4 directly establishes and supports women's groups, such as the Foundation for Women Affected by Unrest in Southern Border Provinces, to support widows and families. They also founded a women's network for development and support a widows' village called Rotanbatu village, under the patronage of the Queen of the late Rama IX.

ISOC Region 4 has also intervened in both CSO- and state-led efforts by having its personnel sit as committee members of the Coordination Centre for Children and Women in Southern Border Provinces (CCWC-SBP) under the SBPAC to ensure that CCWC activities are aligned with and support the security operations of the military. For example, they proofread a report on 'the situation of children, youth and women in the southern border provinces' that CCWC launched in 2021 and requested the removal of phrases such as 'international humanitarian law', 'armed conflict', 'resistance movement', and 'women's roles in peacekeeping operations', explaining that these terms were not relevant to women's and children's affairs. This intervention reflects that military support for women's groups does not aim to increase women's meaningful participation in the peace process, but rather to steer them towards gender-stereotyped activities.

It is apparent that the military wants to keep CSOs in their sight by cultivating mutual interests. Given the fact that women are marginalised in the peacebuilding project and international non-governmental organisations have limited roles in providing support to local CSOs, military support provides these CSOs and women room to engage with the peace process and maintain their activities.

## **Conclusion**

Civil society has been contributing to women's advancement in Thailand for the 90 years of its democratic history. This space is more accommodating of women than the formal political system is. Resistance against women's participation in politics has gradually eroded, which has provided women with the opportunity to build more alliances and strengthen their opportunities for political participation. The military has attempted to take control by a securitisation approach and to manipulate elections and administrative rules in an effort to exclude opposition forces. However, in Thailand, like in other countries, such as Nepal and Rwanda, conflict can have a positive impact on women's advancement, if usually for the benefit of authoritarians. Illiberal regimes in these states instrumentalise progress towards women's rights to mimic democracy and increase international responsiveness (Valdini 2019).

The case of Thailand presented in this chapter reveals that the advancement of women does not determine that people, regardless of gender, will enjoy civil and political rights.

Women who have engaged in politics with different political stances aimed at challenging military influence have experienced harassment, for instance. Women will advance to the extent the government and the establishment offer. In Thailand, civil society space offers windows of opportunity for women to pursue gender equality. At the same time, the state has increased its attempts to intervene in that space in order to sustain their power. Indeed, one of their strategies is to camouflage themselves as women's rights supporters.

Awareness of the intersection between politics and gender is crucial. Since the state tends to instrumentalise a gender approach and co-opt women's organisations that do not stand firm in feminism, civil society may not address the imbalance in gendered power relations. Instead CSOs may focus on immediate or short-term interests that maintain gender disparity and keep women in subordinate positions. There can, however, be some hope that an emerging young-feminist movement will be able to claim their space and become an accepted part of the pro-democratic movement. This could lead to a feminist analytical perspective being integrated into mainstream Thai politics.

### Notes

- 1 The 'Octobrists' are former 1970s leftist student activists. They played a crucial role in organising political protests against military rule, until a military crackdown against student demonstrations resulted in a massacre at Thammasat University in 1976. Many student activists fled to rural areas and became members of the Communist Party. See Kongkirati (2012).
- 2 Witoon Lianjamroon, chairperson of Non-Governmental Organization Coordinating Committee on Development (NGO-COD) of Thailand announced his resignation from the chair position on 10 November 2014, after the coup d'état, as he alleged that the lack of a unified political stance among members was causing indifference towards people who were being mistreated by abuses of power by state officials, while some even agreed with the junta government's martial law. This shows how political conflict also affected the preeminent NGO network in Thailand. See Prachatai (2014) for details.

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# THE LGBT MOVEMENT IN VIETNAM<sup>1</sup>

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In the boiling hot summer of 2021, as the devastating coronavirus pandemic was sweeping across Vietnam, Lương Thế Huy, a self-identified gay person, announced that he was running for the 15th National Assembly Elections.<sup>2</sup> His candidacy marked a turning point for public involvement of lesbian, gay, bisexual, and transgender (LGBT) people in Vietnam's political life (Trần 2021). Even though he was not elected, Lương Thế Huy's candidacy epitomises how Vietnam has become 'a surprising torchbearer for LGBT issues in Southeast Asia' (Mann 2014, 1). Figures measuring social acceptance of LGBT people in 141 surveyed countries from 1981 to 2014 indicate that Vietnam has experienced a continuous increase in acceptance of LGBT people, while other Southeast Asian countries, such as Malaysia and Thailand, have seen a decrease in tolerance towards LGBT people during the same period (Flores and Park 2018; McGee 2016).<sup>3</sup>

In this chapter, we provide an overview of the ways in which the LGBT movement in Vietnam has taken form and fought for full recognition of all and equal rights regardless of sexuality and gender. The Vietnamese LGBT movement is composed of informal activist groups and networks as well as formally registered nation-wide operating associations. The LGBT movement in Vietnam, we elucidate, has been galvanised by moral and financial support provided by international non-governmental organisations (NGOs), aid agencies, and embassies that include equal rights in their platforms. The movement has successfully managed to affect public opinion and legislation on sexuality and gender, but the path to full recognition of LGBT people in Vietnam remains fraught with challenges (Human Rights Watch 2020; Nguyễn 2020).

## **Activism and scholarship in Southeast Asia**

Activism and scholarship on LGBT recognition and rights in the context of Southeast Asia are intertwined with one another and connected to transglobal solidarities and research (cf. Appadurai 1996; Einwohner et al. 2021; Mohanty 2003). These interactions inform the LGBT movement in the Southeast Asian region.<sup>4</sup> The field of LGBT/queer research on Southeast Asia, and Asia more broadly, is not only becoming increasingly demarcated but also informing LGBT movements (e.g. Liu and Rofel 2010; Luther and



Loh 2019; Wieringa and Sivori 2013). While a heterogenous and multi-faceted research field, it is dedicated to bringing the study of sexuality, the fight for recognition, and the goal of equal rights out of the shadows of colonial definitions, medicalisation, and stigmatisation of same-sex and non-binary sexualities (Chiang, Henry, and Leung 2018; Tsang 2022; Tellis and Bala 2016). Thus, working to decolonise the study of, and the struggle for, recognition and rights, scholars trace homophobia to a colonial heritage (Rao 2020), explore notions such as ‘decolonial queer’ (Pereira 2019), investigate the role of area studies in the configuration of sexualities (Arondekar and Patel 2016), and reinterrogate local and transglobal terminologies and conceptualisations of sexualities (Stryker and Currah 2018).

In the borderlands between research and activism, Rosa Cordillera Castillo, for example, argues that a significant goal of the decolonial exploration is ‘the praxis of thought-actions-reflections-actions regarding one’s positionality, place of enunciation, privileges, and biases in relation to conducting research and enacting this into ethical and decolonial knowledge production’. In a similar vein, Verita Sriratana (2022) critically considers the fight for democracy in Thailand as interrelated with the recognition of LGBT people and their rights:

[F]emale activists simultaneously need to seek tactics to handle misogynist and anti-feminist discourses ironically propagated by anti-government protesters who identify themselves as ‘progressive’, ‘fighters for democracy’ or even ‘champions of human rights’. In the case of LGBTQINA+ persons, blatant GBV [gender-based violence] in the form of epistemic violence can be seen reflected in the Constitutional Court Ruling on 17 November 2021, which determined that Section 1448 of the Civil and Commercial Code (the law which defines marriage as between a man and a woman) does not violate Thailand’s constitution.

Such a critique is part of calls for a focus on identities, politics, and citizen rights as these increasingly have become integrated into the realm of global political discourse (Winter, Forest, and Sénac 2018), including in Southeast Asia (Anugrah 2014). Integrating scholarship and activism, the *Queer Southeast Asia* journal not only acknowledges what is referred to as a ‘homosexual turn’, in terms of increased openness and achievements in the region, with increased opportunities for LGBT people to claim their identity, but also acknowledges that they continue to be subjected to prejudices and discrimination. Devoted to ‘queer Southeast Asia’, the journal contributes to galvanising LGBT activism and research, which resist regimes of power in Southeast Asia that pathologise and discriminate against homosexuality (*Queer Southeast Asia* 2022).

The linkages among global discourses, regional activism, and local movements have been captured by Anthony Langlois (2019). He discusses how LGBT rights increasingly have become mainstreamed within the United Nations (UN) human rights system since the mid-1990s and how these processes have contributed to the development of an international vocabulary of significance for LGBT movements across Southeast Asia when rallying around a critique of heteronormative regimes. Being in ‘a region that has a long and well-documented history of same-sex relations and gender diversity’ (Langlois 2019, 9), Southeast Asians find entry points for LGBT advocacy in UN discourse as well as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) with its focus on gender-based rights.

## Shaping the movement

Zooming in on Vietnam, it is important to stress that it was only about two decades ago that homosexuality was officially labelled a ‘social evil’. When post-war Vietnam in 1986 introduced the socio-economic renovation policy *Đổi Mới*,<sup>5</sup> the country opened its doors to the global world and inevitably also to foreign influences. The government linked global influences to the first registered HIV case in Hồ Chí Minh City in 1990 as verification of how global morals, and especially those coming from the Western world, had a negative impact on Vietnamese values and behaviours.

Soon the Vietnamese government labelled various activities such as drug addiction, gambling, sex work, and homosexuality as ‘social evils’ (*tệ nạn xã hội*). ‘Social evils’ were seen as indications of the existence of a ‘poisonous culture’ (*văn hóa độc hại*), both of which were to be eradicated. Hence, a ‘social evils’ campaign was launched in 1995 to combat vices (Aronson 1999; Rydstrom 2006; Vijayarasa 2010). HIV/AIDS and men who have sex with men (MSM), a group identified as high-risk for HIV/AIDS transmission, were condemned and chief targets of the campaign (Blanc 2005; Colby, Cao and Doussantousse 2004; Khuất and Nguyễn 2010).

During the 1990s and early 2000s, other Southeast Asian countries such as Malaysia and Singapore similarly became alert to the supposed impact of Western influences and social media on morality (Hirsch et al. 2012; Stivens 2010). In Vietnam, external influences, including social media, were assumed to stimulate especially young people’s aspirations for international mobility and desires for family constellations beyond a patriarchal heterosexual marriage regime, including free partner choice, sexual encounters before marriage, co-habitation prior to marriage, single parenthood, and same-sex partnership (Horton and Rydstrom 2011; Nguyễn-võ 2008; Rydstrom in press).

In this vein, the Vietnamese government emphasised the moral role of women in various public campaigns (Drummond 2004; Leshkovich 2008). Official rhetoric praised women as key to ensure the high moral standard of Vietnamese families and to perpetuate Vietnamese values through the building of ‘Happy and Harmonious Family Life’ (*gia đình hạnh phúc hòa thuận*) (Rydstrom 2003). Non-heterosexual families and practices, on the other hand, were categorised as embodying unacceptable behaviour that did not live up to the image of heterosexually organised ‘Happy and Harmonious Family Life’ and was therefore stigmatised (Khuất 1998; Khuất, Lê, and Nguyễn 2009; Rydstrom and Drummond 2004).

Vietnamese LGBT activists challenged ‘social evils’ rhetoric by zooming in on the Marriage and Family Law from 1986. The Law referred to ‘husband and wife’ but did not explicitly forbid same-sex marriage (No. 21-LCT/HĐNN7/1986, Article 7). Thus, testing the boundaries, in 1997, two men hosted a same-sex wedding party in Hồ Chí Minh City. The year after, two women attempted to register with local authorities as a married couple in Vĩnh Long but were denied a marriage certificate. While the authorities obscured these attempts at same-sex partnership registration and the Ministry of Justice interfered, they drew public attention towards the misrecognition of LGBT people in Vietnam (Horton and Rydstrom 2019; Newton 2014). Emphasising this misrecognition, the Vietnamese government, as a response to the same-sex marriage cases, issued an amendment to the Marriage and Family Law in 2000. The amended law included a reference to ‘people of the same-sex’ as a category for whom marriage would be prohibited (No. 22/2000/QH10, Article 10).

Against the backdrop of such setbacks, the LGBT movement was taking shape as Vietnamese activist groups and networks, registered associations, and research centres and institutes inside and outside universities found common ground with international NGOs, aid agencies, various stakeholders, and Western embassies operating in Vietnam in the fight for equal rights regardless of sexuality and gender (see Weiss 2020, 2021). Thus, increasingly gaining traction, the LGBT movement in Vietnam organised a series of campaigns between 2010 and 2015 to generate public support for recognition. The first Pride Parade, called Việt Pride in Vietnam, was a significant manifestation held in 2012 in tandem with awareness campaigns which the growing LGBT movement organised (Oosterhoff, Hoàng, and Quách 2014).

In the wake of the first Việt Pride, the registered association, Institute for Studies of Society, Economy and Environment (iSEE), for instance, ran a nation-wide campaign in 2013 called ‘I Agree’ (*Tôi đồng ý*) to generate public support for same-sex marriage (Lê 2013) and, in so doing, ‘keep pushing more pressure on the National Assembly to have positive policies for same-sex marriage’ (Đoàn 2016, 14). These initiatives enjoyed broad support among Vietnamese and international media and spurred the movement to rally around the prohibition of same-sex marriage (Lê 2013; Nguyễn 2016).

### Activists and ‘associations’

As a Global South movement, the Vietnamese LGBT movement carves out spaces in which to address recognition and rights in a global vocabulary to agitate for democratic agendas, including revisions of existing legislation (London 2014; see also Lewis 2001; Wignaraja 1993). At the same time, the movement operates in the context of legacies of Vietnam’s war of liberation against French colonialism (1867–1954) and the war against the United States (1965–1975), producing a history framed by questions regarding solidarity, resistance, and independence (Ho Tai 2001; London 2022; Rydstrom 2012).

With the *Đổi Mới* policy, post-war Vietnam allowed international aid agencies and NGOs to pursue various types of development projects in Vietnam (Decision No. 340-TTg/1996; Law on Organisation of the Government 1992, 1/L-CTN). Much of the work was devoted to mitigating the destructive consequences of the bloody war between Vietnam and the United States and included, for example, the development of nationwide networks, international scholarly exchange programmes, and capacity building (Wells-Dang 2012, 15). In 2003, more than 180 international NGOs were officially operating in Vietnam (Salemink 2006, 105); the number has increased to more than 1,000 within the last two decades (Oxfam 2019, 9). International agencies and NGOs integrated into the projects they brought to Vietnam notions, such as civil society, participatory development, human rights, and bottom-up approaches, and were thereby promoting Western-defined ideas about democracy (Fritzen 2003; Hannah 2007; Weiss 2021).<sup>6</sup>

Constituted in accordance with a Hồ Chí Minh-informed interpretation of Marxist-Leninist doctrine, the Vietnamese state is composed of the Vietnam Communist Party (*Đảng cộng sản Việt Nam*) and the government, which together comprise the legislative body, the National Assembly, as well as various administrative bodies (Kerkvliet 2003; Wischermann 2010). The Communist Party would ideally represent the interests of society and citizens and hence render civil society superfluous. This is the spirit in which the mass organisations (*tổ chức chính trị - xã hội*), which are aligned with the Communist Party, provide the organisational backbone of Vietnamese society. The Party intends these organisations as channels through which policies from central leadership can be

conveyed to the people and citizen critique be channelled back to the central level and monitored if the Party deems that necessary (Hansson in press; Kerkvliet and Porter 1995; London 2014).<sup>7</sup>

Citizens may form ‘associations’ (*hội*), a term used in Vietnamese rather than ‘organisation’ (*tổ chức*), which would refer to mass organisations. Even though the term ‘association’ in Vietnamese resembles what, in Western terminology, would be called an ‘organisation’, we apply the Vietnamese term ‘association’ to reflect the organisation of the LGBT movement operating in Vietnam’s civil society sphere. The forming of an association is a complex and technocratic process, guided by Decree 88/2003 on Promulgating the Regulations on Organisation and Operation of Associations. The Decree exempts mass organisations and religious groups, which operate under different legal frameworks, thus implying their special role as ‘socio-political’ organisations (as such, considered to be components of the political system, which ‘civil society’ organisations are not) in Vietnamese society (Salemink 2006; Thayer 2008).<sup>8</sup>

Registered Vietnamese associations operating nation-wide and actively involved in the LGBT movement in Vietnam include, for instance, the Institute of Social Development Studies (ISDS, *Viện Nghiên cứu phát triển xã hội*); Center for Studies and Applied Sciences in Gender–Family–Women and Adolescents (CSAGA, *Trung tâm Nghiên cứu & Ứng dụng khoa học về Giới – Gia đình – Phụ nữ và Vị thành niên*); the Institute for Studies of Society, Economy and Environment (iSEE, *Viện nghiên cứu Xã hội, Kinh tế và Môi trường*) and its Hồ Chí Minh City affiliate, Information Connecting and Sharing Centre (*Trung tâm Kết nối và Chia sẻ Thông tin*); as well as Centre for Creative Initiatives in Health and Population (CCIHP, *Trung tâm Sáng kiến Sức khỏe và Dân số*) (Oosterhoff, Hoàng and Quách 2014; Nguyễn and Rydstrom 2022).

Activist groups and networks in Vietnam wishing to register as official associations have to go through a tedious technical and bureaucratic procedure, which may also be costly, due to the various certificates that are needed to complete the registration process. This time-consuming process tends to prevent informally organised activist groups from registering as associations and, furthermore, ensures an official screening process of civil society agents depending on the type of organisation (Kerkvliet 2003; London 2014; Sidel 2008).<sup>9</sup> LGBT activist groups and networks that have not registered as associations hold a rather insecure status compared to registered associations, but join forces with the latter in the fight for equal rights. Thus, both registered and unregistered associations constitute the LGBT movement in Vietnam along with various networks (cf. Castells 2003).

### **Navigating the system**

The Vietnamese LGBT movement simultaneously navigates horizontally by collaborating with Vietnamese and international networks, organisations, and agencies and vertically by finding common ground within the state apparatus, with partners such as the Ministry of Health and the Ministry of Justice as well as various mass organisations, such as the Women’s Union and the Youth Union (Luong 2017, 6; Kabeer 2005; Roces 2010). The movement navigates a civil society landscape shaped by Vietnam’s history of colonialism and warfare as well as post-war isolation (Ljunggren in press; Pistor and Lê 2014). The notion of ‘civil society’ (*xã hội dân sự*) has increasingly become integrated into Vietnamese political discourse and is understood as ‘citizen society’ (*xã hội công dân*) or the people’s ‘community’ (*cộng đồng*). Up until recently, though, Vietnamese

authorities have resented the idea of civil society, condemning it as a Western influence in language that resembled the ‘social evils’ campaigns of the 1990s and early 2000s. ‘Civil society’ hence was deemed ‘an evil force seeking to undermine the political system of Vietnam and the leading role of the Party’ (Mai and Schweisshelm 2020, 6; see also Wells-Dang 2012).

Operating in Vietnamese civil society space, the LGBT movement navigates through networking, similar to other movements Wells-Dang (2012, 2) describes, in a continuous ‘process of building cross-sectoral networks’. This networking includes negotiating with relevant governmental partners as well as international aid agencies, NGOs, Western embassies, and other stakeholders, while balancing to retain a level of ‘relative autonomy’ vis-à-vis the Vietnamese party-state (cf. Poulantzas 1982). This balancing act has pressed the LGBT movement to avoid issues the Party deems sensitive and to direct attention towards activities such as generating research-based data on discrimination against LGBT people across the country, launching media campaigns to raise awareness of and agitate for same-sex marriage, and collaborating with various ministries and governmental bodies to contest ‘social evils’ rhetoric (Tsang 2022). This strategy has been backed by support from international organisations, agencies, and stakeholders (Ha 2020; Hoàng 2014; Lê and Yu 2019). The Hồ Chí Minh City-based ICS Centre, established in 2008,<sup>10</sup> for example, describes the impact of these initiatives:

Before 2008, the LGBT community in Vietnam was largely invisible. LGBT people faced many challenges [such as] discrimination from non-LGBT people. Same-sex couples and their households were ineligible for the legal protections to which heterosexual couples were entitled, homosexuality was generally considered a taboo or contrary to Vietnamese tradition, and so on. The need to improve society’s awareness, provide services for the LGBT communities, and enhance the visibility of the LGBT communities were obvious.

*(<http://lics.org.vn/ve-chung-toi>, 15 August 2021)*

One consequence may be that registered associations and mass organisations do not always welcome alternative ideas. According to Hà Nội trans-activist Trung, the ‘national [associations and mass organisations] are only familiar and comfortable if doing certain types of activities, such as events, talk shows, training workshops, seminars, online campaigns, petition letters [and so on]. New ideas are often brushed off’.

### **Việt Pride**

Preceding and coinciding with Việt Pride have been parades and other activism in other Southeast Asian countries. In the Philippines, the Metro Manila Pride Group, a volunteer-managed, non-partisan, not-for-profit organisation dedicated to educating the public and equipping and empowering the Filipino LGBT community, organised the first Pride parade, the Metro Manila Pride March, in 1996 – having taken over the task from the ReachOut Foundation, then Task Force Pride (Garcia 2009; Suarez forthcoming). Also, starting in the early 1990s, Indonesian gay and lesbian activists engaged with Western activists, organisations, and academics to promote equal rights for LGBT people (Yulius, Tang, and Offord 2018, 175). In Singapore, LGBT movement activists initiated an annual Pink Dot rally in 2011, generating substantial support and turnout despite a fairly hostile environment (Tan 2015). Its success has motivated LGBT activists

across Southeast Asia to carry out events aimed at increasing recognition of LGBT people and communities (Alavado 2012, 37).

Nguyễn Thanh Tâm, a Vietnamese expat in Singapore, took part in organising the first Pride parade in Vietnam, Việt Pride, which was held in 2012. Inspired by Pride parades and festivals elsewhere in the world, such as these in Southeast Asia, Nguyễn raised support for a Vietnamese Pride by engaging with established, registered national associations such as CSAGA, iSEE, ICS, ISDS, and CCIHP. In addition, the Việt Pride initiative gained support from international NGOs, aid agencies, embassies, and other stakeholders. For instance, the Goethe Institute in Hà Nội offered its premises as a base for Việt Pride events and activities (Oosterhoff, Hoàng, and Quách 2014).

Determined to counter the 'social evil' label applied to LGBT people, the movement promoted the slogans, 'Normalcy' (*Hãy nhìn nhận đồng tính là bình thường*), 'Love' (*Yêu thương*), 'Community Identity' (*Bản sắc cộng đồng*), and 'Human Rights' (*Quyền của tôi*). These slogans were disseminated widely in Vietnamese media to pave the way for the organisation of the country's first Pride parade (Faludi 2016; Nualart 2016). Thus, on 5 August 2012, the first Việt Pride took place in Hà Nội, capturing international media attention (*Australian ABC News*, August 5, 2012). The event was originally planned as a film festival, but a Cycle with Pride (*Đi trong tự hào*) idea took shape during the preparations. Việt Pride attracted approximately 150 people riding bicycles and motorbikes, who rallied under the motto, 'Proud to be Myself' (*Tự hào là chính mình*), and about 350 persons attended the film screenings and debates at the Goethe Institute (Oosterhoff, Hoàng and Quách 2014).

The second Việt Pride, held the following year, in 2013, was launched with the slogan 'Step into the Light' (*Bước ra ánh sáng*) and was larger in scale than the first Pride parade. The association iSEE and the affiliated ICS provided comprehensive technical assistance, which allowed the organisers to reach more diverse publics and, in doing so, to establish a variety of local collaborations with a focus on equal sexuality and gender rights. Hence, during the second Việt Pride, activities took place in 12 different locations throughout Vietnam, including in Hà Nội and Hồ Chí Minh City. The second Việt Pride focused on equality at the workplace and launched a scholarship entitled 'Strive with Pride' (*Phấn đấu vì niềm tự hào cộng đồng*) (Oosterhoff, Hoàng and Quách 2014). The number of participants grew: about 250 people joined the bicycle rally, while in-house events gathered about 600 visitors. Khanh, a bisexual organiser of the Pride in Hà Nội, recalled:

I have attended all of [the] Prides since 2012. It's truly a day of celebration for simply being who you are, promoting values of inclusiveness, diversity and pride. We have a physical space for being 'wild', not afraid of any judgments or sneers. It is our Tết [Lunar New Year].

With Việt Pride, the movement has reached out to local LGBT people and demonstrated that LGBT rights are a matter of concern also outside the major cities (Ha 2020; Lê and Yu 2019). Today, Việt Pride is Vietnam's largest annual celebration of the LGBT community, with parades and activities organised in more than 40 provinces across Vietnam. My, a lesbian Hồ Chí Minh City activist, captures the extent of nation-wide support for the LGBT movement:

[P]eople no longer avoid LGBT related topics and even find the topics appealing and exotic. There is media coverage on LGBT here and [this is] gradually

inclining towards more positive and less negative representation of LGBT in mass media. Maybe the topic is perceived as not being politically sensitive? Previously LGBT people were portrayed as an underground, mysterious group of people.

Clearly, Việt Pride has generated broader public awareness about LGBT rights and has engaged local communities across the country.

### Same-sex marriage

The Vietnamese LGBT movement has emphasised civil partnership, a focus that can be traced to a global lobby for marriage equality that coincided with proposed amendments to the national Marriage and Family Law of 2000. The LGBT movement perceived an explicit focus on same-sex marriage as ‘more achievable and more politically palatable for the broader LGBT movement than other policy goals given the strong heteronormative, gendered, and often religious connotations of marriage’ (Winter, Forest, and Sénac 2018, 7) in Confucian and patrilineally organised society (Nguyen and Rydstrom 2022; Rydstrom 2003). More importantly, the LGBT movement’s rallying around the right to same-sex marriage and amendment of the prevailing law coincided with Vietnam’s negotiations to enter the Trans-Pacific Partnership (TPP), which Vietnam joined in 2016. The TPP negotiations were carried out in the shadow of international critique of the human rights situation in Vietnam and thus shed light on the political climate in which transnational discourses and politics invigorated the groundwork around amendment of the Marriage and Family Law.

International donors were part of this story. They tapped into Vietnam’s LGBT movement by introducing development projects, transferring funding, and sharing grassroots experiences (Faludi 2016; Nguyễn 2018; Stuart and Samman 2017). ‘Personal and professional networks and linkages between activists, UNDP, international organisations and the Ministry of Justice’ (Oosterhoff, Hoàng, and Quách 2014, 4), as well as alliances with other international NGOs and aid organisations, paved the way for public reconsideration of same-sex marriage in Vietnam (Hansson in press; Horton and Rydstrom 2011).

Even before that, in the early 2000s, the association CSAGA and the activist group Girls’ Forum had sought support for projects from embassies with a focus on LGBT rights, such as the Swedish Embassy. This collaboration resulted in various studies and activities, including two books published in both English and Vietnamese with the titles, *Left-Handed (Thuận tay trái)* and *Real Life, True Happiness (Hạnh phúc, Là sống thật)*. Reflecting the extent of international influence, First Secretary Elsa Hastad from the Swedish Embassy in Vietnam authored the preface to *Real Life, True Happiness*, which she opens with the words, ‘My sister is a lesbian’ (Bùi et al. 2010).

The initiative epitomises the objectives of Sweden’s development cooperation with Vietnam, which have been ‘to strengthen the capacity of Vietnam to reduce poverty on an environmentally sustainable basis, and promoting openness, development towards democracy and respect for human rights’ (Kääriä et al. 2009, 19). The Swedish strategy, furthermore, was sustained through a long-term capacity building project called ‘Strengthening Legal Training in Vietnam’ (1998–2010). This twinning project included, on the one hand, the Hanoi Law University and the Law University of Ho Chi Minh City and, on the other, the Faculty of Law at Lund University, Sweden. The project,

which offered courses, student exchange, and library support amongst other activities, was funded by the Swedish International Development Cooperation Agency (Sida) (Kääriä et al. 2009).

Such collaborations impacted the international and transnational environment and the backdrop against which the Vietnamese government navigated when beginning to move towards a more progressive view of same-sex marriage. The move expressed a sensitivity to international donors and discourses. Yet, this adjusted path may also reflect a generational change of views in various governmental departments. In any case, in connection with the first Việt Pride Parade in 2012, the Ministry of Health and the Ministry of Justice signalled that they were now both in favour of revisions to allow increased legal and social recognition of homosexuality in Vietnam. Specifically, Minister of Justice Hà Hùng Cường stated that it might be time to legalise same-sex marriage in Vietnam (*Channel News Asia*, August 6, 2012; Mann 2014; *tuoitrenews.vn*, March 10, 2013).

In 2012, after the first Việt Pride, the Ministry of Justice and UNDP jointly organised a workshop entitled, ‘On Comparative Experiences in Protection of LGBT Rights in the Family and Marriage Relations’ (Horton and Rydstrom 2011). The chairman of the workshop, who was also the head of the Ministry of Justice’s Civil-Economic Law Department, Dương Đăng Huệ, explained that ‘the Marriage and Family Law needs some fundamental changes to reflect the principle of respecting and protecting at the highest level the human rights and citizen rights that Vietnam has committed to’ (*isee.org.vn*, December 21, 2012). As a first step towards possible legalisation of same-sex marriages, the government issued Decree 110/2013/ND-CP on 24 September 2013, which removed the ban on same-sex marriage and abolished fines for homosexual weddings (*tuoitrenews.vn* March 10, 2013; UNDP and USAID 2014). In 2014, the revised Marriage and Family Law removed same-sex marriage as a prohibited relationship, though still recognising only those marriages between men and women; this less-specific language than previously ensured that same-sex marriage was neither legalised nor prohibited (Article 8).

### **Transgender recognition**

In 2015, the National Assembly revised the Civil Code to allow transgender people to change their legal gender (Human Rights Watch 2020; Nguyễn 2020). The Ministry of Health was put in charge of drafting a Gender Affirmation Law to ‘implement the Civil Code with the explicit purpose to respect and ensure the rights of transgender people, who wish to undergo medical intervention’ (UN 2019, 3). As part of the work involved in developing the law, the Ministry has reached out to the LGBT community and consulted transgender activists. Concerning this ongoing advocacy, Trung, a transman activist from Hà Nội, explained:

Even though the Draft Law is not perfect and inclusive, but when it is passed, it will create opportunities for transgender people to access comprehensive healthcare services. Through the past few years advocating for this Draft Law, I appreciate the effort from the government, especially the Legal Department, Ministry of Health to reach-out and include us in the discussion. The advocacy promotes representation of transgender people in the media and touches on other challenges that we as a community are facing.



Some representatives of the LGBT community appreciate the Draft Law as an indication of the government's commitment to ensuring the rights of transgender people. The new National Strategy on Gender Equality for the period 2021–2030 (Resolution No 28/NQ-CP 03/03/2021), for example, emphasises the significance of the health sector and the improvement of healthcare access for homosexual and transgender people. Terms such as homosexual people (*người đồng tính*), bisexual people (*song tính*), and transgender people (*chuyển giới*) were introduced into the resolution and seen as expressions of explicit public recognition of LGBT rights (cf. Horton 2014).

Meanwhile, serving on the UN Human Rights Council, Vietnam voted in 2016 to support a resolution on protection against discrimination and violence on the basis of sexual orientation and gender identity. A representative for the Vietnamese government explained ahead of the vote in a statement that, 'the reason for Vietnam's yes vote lay in changes both in domestic as well as international policy with respect to LGBT rights' (quoted in Human Rights Watch 2020, 11). In the same spirit, Vietnam launched strategies to improve gender equality across the nation and later, in 2017, adopted the Agenda 2030, Leave No One Behind (*Không để ai bị bỏ lại phía sau*) principle (Nguyễn 2022).

### **Informal groups vis-à-vis formal associations**

The role of international donors in the Vietnamese LGBT movement has been apparent in terms of providing funding and general moral support not only for informal activist groups and networks, but also for formal associations such as iSEE and even the mass organisations (cf. Nguyễn 2018). This engagement indicates a process of NGO-isation and technocratisation not unique to movements in Vietnam but, however, taking specific shape in this context. The way in which funding has become a matter of concern for the LGBT movement highlights the different status of various parts of the movement and the extent to which it operates within a more formalised political landscape. In general, funding cannot be transferred directly to activist groups and networks but must flow through registered Vietnamese associations or mass organisations. This may create tensions within the LGBT movement because the registered associations or mass organisations would not only control the account to which the sponsor had transferred funds but could also request a certain percentage as an overhead cost for providing administrative services (Lê et al. 2016).

Funding is received and administered under Decree No. 93/2009/NĐ-CP, which addresses the management and use of foreign non-governmental aid sources. The Decree commonly challenges the space for manoeuvre for non-registered LGBT activist groups and networks. As the founder of a Hồ Chí Minh City-based LGBT activist group, Văn, a transgender person, explained, 'We lose approximately 10–15 percent of the funding to them [fiscal partners/registered associations or mass organisations], but it depends on their financial regulations. Because we receive money through them, we are under them'. Nga, a bisexual woman from a Hà Nội-based LGBT activist group, elaborated on Văn's points by explaining:

If we had legal status [i.e., were formally registered], we could be more independent. It would open for more funding opportunities compared to now. We must wait until we are notified by local associations about potential funding [opportunities] or calls for proposal. But that also depends on the relationship with the [Vietnamese] associations; the closer we are to these, the more accessible are the funding opportunities.

This is the light in which obtaining status as a registered association has become a goal for many of the groups that are part of the LGBT movement. Minh, a gay man and the founder of a Hà Nội-based LGBT network, for instance, explained:

For a long time, I have planned to register my network as an association. I know that there are resources supporting networks transforming into official associations with legal status. I have applied for that funding. No matter what the result is, our long-term plan is to get legal status, an office, and a financial and human resource system. After five years, ten years of operation, this [group] cannot just be a network.

Obtaining legal status as a registered association demands human and financial resources in and of itself, however much their status hampers informal activist groups from accessing the substantial funding available (for a detailed discussion of funding for CSOs, see Sciortino, this volume). Registered associations in the LGBT movement may receive funds for their own campaigns sufficient even to allow them to announce calls for various projects, for which activist groups and networks then might apply. As LGBT activist Lan explained:

Usually, the [registered national] associations would be more able to attract the funding sources. When granted, they would call out for participants including a number of local organisations and groups interested. They would then run one or two program activities or launch an online advocacy campaign. When the money is spent, there is no more [...]. Everything would be on hold until there is a new financial source. Things go on and off just like that repeatedly. There are hardly any strategies in activism, or any clear-cut mechanisms for collaboration in place.

Even though the LGBT movement in Vietnam has been successful in generating funding through its formal associations and informal activist groups and networks, more is needed for a movement that is expanding and engaging in an array of activities across the country. A recent report by Mama Cash and the Astraea Lesbian Foundation for Justice speaks of a shortfall in funding for LGBT activities and communities (Saleh and Sood 2020). On a global scale, the Asia and Pacific region experiences the lowest median external funding (Saleh and Sood 2020, 13). Furthermore, international donors reportedly still tend to give projects focusing on HIV/AIDS prevention and health issues priority (cf. Horton, Rydstrom, and Tonini 2015; Nguyễn 2016).

### **Transnationalism and ‘Pinkwashing’**

Western-based scholars have engaged in debates over what has been labelled ‘pinkwashing’ in regard both to governments and the corporate business world (Duggan 2002; Schulman 2011). Pinkwashing can be seen as a strategic political move to obtain public or international support by capitalising on LGBT rights to distract from human rights violations in other domains (cf. Langlois 2019).<sup>11</sup>

In the Vietnamese context, pinkwashing is reflected in the movement’s strategic framing in terms of using nonspecific terms to avoid provoking opposition in public discourse, at cost of pursuing more specific and controversial targets, but exemplified

by ulterior governmental motives in accepting categories promoted by transnational alliances. The pinkwashing debate hence is echoed in activist critiques of slogans like ‘Normalcy’ and ‘Love’, introduced by the established associations to generate public support for the LGBT rights agenda. Phuong from Hồ Chí Minh City, for instance, commented:

Truth to be told, I used to be brainwashed with ideas on the value of love, equality and tolerance while advocating [for LGBT rights]. I had learned [from senior peers] that an effective strategy was to talk about something universal such as love, making it easier to win your audience’s heart.

I also heard that there was about one or two consultation meetings held between the representatives of LGBT communities and the National Assembly deputies during the 2013 ‘I Agree’ campaign. At such meetings, the advocates did not address, for instance, that our rights are a, b, c [and that] we should be able to exercise our rights a, b, c [...]. They rather focused on talking about we love a, b, c [...]. The LGBT representatives were instead inclined towards a sort of storytelling, aiming to stir up empathy from the deputies.

In this vein, some in the LGBT movement saw the way Vietnam’s National Assembly balanced between legal prohibition and legalisation of same-sex marriage in 2014 as a crucial milestone. At the same time, the revision meant that Vietnam gained political capital on the global stage (Hoàng 2014; Nguyễn 2018). Hence, the Vietnamese LGBT movement reached some important goals through vertical and horizontal negotiations and collaborations with a range of stakeholders. The Vietnamese government, on the other hand, projected an image to the world as a LGBT-supportive country. While the Vietnamese government’s willingness to negotiate with the LGBT movement appears progressive in the context of Southeast Asia, it may also distract from other rights issues in Vietnam.

Collaboration with international donors, moreover, may result in transnational storytelling and construction of a global LGBT identity that may be oblivious to a range of existing gender and sexual identities in Vietnam. This problem reflects on LGBT strategies more generally in Southeast Asia (Faludi 2016; Nguyễn 2016). Nonetheless, strategies to promote LGBT rights and to fight for full recognition of LGBT people have been shaped differently in countries such as Vietnam and the Philippines (Langlois 2019).

The LGBT movement in the Philippines has focused more on indigenising transnational values to further their community work and advocacy campaigns and thus has followed a different route from Vietnam’s (Alavado 2012, 41–43). Recognising that transnational tools might be good for analysis but not necessarily well-suited for establishing connections with those for whom they advocate, Philippine LGBT activists have, to a larger degree than their Vietnamese counterparts, adapted to and translated transnational terminology and concepts into language that resonates with local experiences and expressions (Alavado 2012, 45).

Moreover, while in Vietnam, local advocates and NGO circles now use the term ‘LGBT’, some civil society organisations tend to deal with issues related to the lives of gender and sexual minorities through a narrower ‘HIV and MSM’ lens as a pathway to secure funding from foreign donors (Nguyễn 2016). Such donor dependency among these organisations is more predominant in the Vietnamese context than it appears to be in the LGBT movement in the Philippines and elsewhere in Southeast Asia (Lê et al. 2016, 66).

### **Socio-economic conditions**

Building on UN Sustainable Development Goals, the Vietnamese government reaches out to groups considered to be ‘vulnerable’ to reduce poverty. ‘Vulnerable groups’ refers to a broad category that includes people with disabilities, women who have been subjected to human trafficking, drug users, and people living with HIV as well as households classified as ‘poor’ (Nguyễn 2022).<sup>12</sup> The National Target Program on Sustainable Poverty Reduction prioritises officially recognised vulnerable groups in various programs and strategies (CARE, Oxfam, and SNV 2019). LGBT socio-economic poverty has not been integrated into the poverty reduction strategy, though. Hoàng, a Vietnamese expert involved in developing the poverty reduction strategy in Vietnam, explained:

There is a general tendency in current policy making mechanisms that consider these disadvantaged populations as target groups of thematic policies [*chính sách chuyên ngành*] so that they exclude them in the target groups of the poverty reduction schemes. There are pros and cons in this regard. If these groups would have been included, the poverty reduction provisions would have been assessed as inclusive. But if these groups would have been targeted in the programming there should have specific principles tailored to their needs. It is not possible to apply a one-policy-fit-all approach in this case. ... Apparently, there is a dilemma for our policy makers.

LGBT people may only be eligible for government-led development support if either their family falls under the ‘poor’ household category, which allows them to access livelihood support and other social services, and/or they belong to groups that have been categorised as ‘vulnerable’, which qualifies them for support from social protection schemes.<sup>13</sup> As there might be parental hostility towards homosexuality coupled with discrimination and maybe even abuse within the home, the specific socio-economic challenges LGBT people encounter are likely to be rendered invisible (iSEE 2011). The continued prevalence of insecure living conditions for LGBT people in Vietnam makes clear that there are further goals for the movement to fight for that go beyond the right to same-sex marriage (cf. Human Rights Watch 2020).

### **Conclusion**

In this chapter, we have explored LGBT activism in Vietnam. Consisting of formally registered associations and informally organised activist groups and networks, the Vietnamese LGBT movement has managed not only to generate public awareness about LGBT rights but also to secure recognition of LGBT people and communities by successfully collaborating with one another and, moreover, with international NGOs and aid agencies. In building national and transnational solidaristic networks, the LGBT movement in Vietnam has achieved some milestones by taking an active part in the revision of Vietnamese legislation, above all concerning same-sex marriage and transgender inclusion.

In simultaneously navigating horizontally by collaborating with Vietnamese and international organisations and agencies, and vertically by engaging with parts of the state apparatus such as the Ministry of Justice, Ministry of Health, and specific mass

organisations, the Vietnamese LGBT movement has carved out space in civil society. Carefully navigating the topographies of the socio-political landscape, the Vietnamese LGBT movement walks a fine line between raising awareness about LGBT misrecognition while at the same time dodging issues that might be deemed politically sensitive by the government. This is the light in which the Vietnamese LGBT movement has come to stand as a torchbearer of Southeast Asian civil society's fights for recognition of LGBT people. While its goals have not yet been fully achieved, the Vietnamese LGBT movement in Vietnam is growing stronger and continues to enjoy broad national, regional, and transnational support, albeit while also encountering challenges.

## Notes

- 1 This chapter is informed by our previous projects on LGBT recognition in Vietnam as well as other countries in Asia, in tandem with more recent LGBT-movement information activists shared with An Ngọc Hoàng. All names referred to in the chapter are pseudonyms to protect the anonymity of participants even when providing more official statements on behalf of their organisation.
- 2 Vietnam's 15th National Assembly election was held on 23 May 2021. Out of 76 candidates, only Lương Thế Huy made it to the last round. He did so together with eight other candidates, after they had passed a five-step vetting process.
- 3 Vietnam has garnered high scores on the 5-year average LGBT Global Acceptance Index (2009–2013); the country has been ranked third in Southeast Asia after the Philippines and Singapore (Flores and Park 2018, 28).
- 4 A 'Decentering Heteronormative Historiography in the (Post)Colonial Philippines' lecture series by Kiel Ramos Suarez organised during the COVID-19 pandemic to provide a forum for activists and researchers, for example, scrutinised colonial history writing about sexualities in the Philippines to unravel stigmatisation, agency, and resistance (Suarez, forthcoming).
- 5 At the Sixth Congress of the Vietnam Communist Party in 1986, the *Đổi Mới* (Renovation) policy was launched to maintain socialism in an economically prosperous way and transform a central-planning subsidy economy into a socialist market economy.
- 6 The emancipation impetus of the 20th century in the Western context revolved around social rights and transformed into a critique of the rise, responsibilities, and interference of the state in tandem with concern for an ideally independent realm of civil society (Kaldor 2003).
- 7 The National Constitution of the Socialist Republic of Vietnam (amended in 2013) identifies six socio-political mass organisations. The Vietnam Fatherland Front (*Mặt trận Tổ quốc Việt Nam*) is an umbrella organisation embracing about 30 registered mass organisations: Vietnam Women's Union (*Hội liên hiệp phụ nữ Việt Nam*), Vietnam Farmers' Union (*Hội Nông dân Việt Nam*), Vietnam Confederation of Labor (*Tổng liên đoàn lao động Việt Nam*), Hồ Chí Minh Communist Youth Union (*Đoàn thanh niên cộng sản Hồ Chí Minh*), and the Vietnam War Veterans' Association (*Hội cựu chiến binh Việt Nam*) (Kerkvliet and Porter 1995).
- 8 According to the Vietnamese Constitution (Art. 25). In addition, the 1957 Law on Associations (later replaced by Decree 45/2010/NĐ-CP, 21 April 2010) acknowledged a general right to form associations.
- 9 Registration takes place under the Vietnam Union of Science and Technology Association (Wischermann and 2003, 186).
- 10 The ICS group was launched in 2008 as a project working towards a positive image for LGBT people in Vietnam under the Institute for Studies of Society, Economy and Environment (iSEE). Accessed April 2022. <http://ics.org.vn/mission>.
- 11 In the United States in particular, these debates have been heated due to the ways in which Israel has been held out as a tolerant and gay-friendly country despite the country's ongoing conflict with Palestine (Puar and Mikdashi 2012; Ritchie 2015).
- 12 Vietnam institutionalised the Multidimensional Poverty Index in 2015. Accordingly, a rural household is classified to be 'poor' if the household has either income per capita of less than VND 700,000 per month, or income per capita of VND 700,000–1,000,000 per month and lack of access to at least three of ten indicators that reflect access to basic public services.

- 13 Circular No. 10/2021/TT-BKHDT (issued 22 December 2021) on the integration of natural disaster prevention into sector development and socio-economic development planning; and Decree No. 20/2021/NĐ-CP (dated 15 March 2021) on social-assistance policies for social-protection beneficiaries.

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# 14

## INDIGENOUS GROUPS AND ETHNIC MINORITIES

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Identity claim-making is prevalent across Southeast Asia but its character and ways in which it is mobilised differ markedly across the region. In many cases, identity claims form the basis of grassroots organisations that divide civil society and reduce possibilities for larger solidarity movements. In rare cases, common agendas create opportunities for broad alliances against the state. More frequently, the multitudes of ethnic and indigenous groups form fractured and disparate civil society organisations, as they often have competing interests, while attempting to gain access to state power and resources. Furthermore, Southeast Asian states commonly manipulate ethnic fault-lines to maintain clientelist resource-distribution patterns in support of their ruling coalitions. In response, ethnic minorities and indigenous communities in Southeast Asia have explored a wide range of strategies of contention, from protest to civil war.

In this chapter, we examine indigenous and ethnic claim-making as distinct but closely related phenomena: how groups based along these lines are organised, and the fluidity of alliance-building and modes of contention among them. We conceive of indigenous claim-making as a subset of, rather than distinct from, ethnic claim-making, as indigenous groups usually claim ethnic particularity but emphasise a status of indigeneity – namely that they occupied the territory prior to the arrival of other groups. We examine indigenous and ethnic claim-making separately because claims to indigeneity have unique and specific political agendas that broader ethnic claims lack. Claims can sometimes be divergent, with indigenous claims as a kind of ‘defensive localism’, while ethnic claims can be either state-oriented or more locally based. Despite the fact that indigenous and ethnic identities can be fluid and overlapping, they are also often granted special designation and status in Southeast Asia.

What characterises indigenous and ethnic movements in Southeast Asia as part of civil society? We approach indigenous and ethnic claim-making thematically, examining general patterns of mobilisation across the region, while fleshing out some of the forms they take in specific countries, namely Myanmar,<sup>1</sup> Indonesia, and the Philippines. On the whole, indigenous and ethnic-based movements tend to divide possibilities for solidarity movements in civil society. While they make claims against the state, they do so by affirming their rights and difference from other groups. We posit that indigenous claims are partially shaped by a global normative and legal environment that has

enabled 'indigeneity', while state institutions shape the nature of contention in the case of ethnic claims. We conclude that while alliance-building along indigenous and ethnic lines occasionally occurs, it is fraught with difficulties inherent in oftentimes zero-sum demands made against others.

### **Conceptualising indigenous and ethnic claim-making in civil society**

The literature on civil society is concerned with several aspects of group mobilisation. As a general concept, civil society is thought to be a space autonomous from the state and can be defined in broad terms to include a whole range of groups with varied objectives and values (Diamond 1994). While the scholarship on civil society has generally treated it as a vanguard for democracy, strong empirical evidence has demonstrated that while some civil society movements form broad coalitions that advance the public interest, others focus on narrow claims that come at the expense of other groups and erode the democratic agenda (Calhoun 1993; White 1994; Lewis 2013). Ethnic and indigenous claim-making fall within these ambiguous categories, where agendas pursued might be highly progressive and entail the recognition of rights and redress for grievances, but they might also be exclusionary. Their methods of claim-making might also vary, from peaceful protests to violent insurgency.

The literature on claim-making in civil society has often noted the importance of the state. It sets institutional constraints and selectively deploys repression or other mechanisms of control. Regime types, which can vary from liberal and democratic to tightly closed and autocratic, shape the range of permissible activities (Lewis 2013). States set limits, which partially explains the varying degrees of group manoeuvrability in civil society (Bratton 1989; Foley and Edwards 1996). They might also deploy repressive tools or resist claims particularly if these threaten its basis of legitimacy, such as sovereignty and territorial integrity (Walker 1991). In this respect, both ethnic and indigenous claim-making are de facto demands on the state's institutional powers (Toft 2002), while also sometimes broader claims for societal recognition and against other groups. This is particularly true in the case of ethnic claims, some of which express themselves through mobilisation against the state in order to gain power over territory deemed to be a particular homeland. Furthermore, civil society actors can exploit moments of weakness and change to make new claims or push for further recognition of existing ones (Meyer and Staggenborg 1996). Variance in the form of changes in opportunity structures, such as economic crisis, also impacts the outcome of mobilisation. As Chabanet and Giugni (2008) note, these changes can sometimes be issue-specific, as is the case for ethnic and indigenous claim-making.

Discursive elements can also offer a range of possibilities for claim-making by encouraging collective action through coalition building, cultural salience, and issue visibility (Cinalli and Giugni 2013). But the state also shapes discursive space through codification or recognition of ethnic and indigenous identities, which in turn impacts the resonance and legitimacy of their claims both within and among various groups in civil society (Chandler 2003). States have histories of selective recognition or denial of particular identities and may extend indigenous status to some ethnic groups but not others. In many cases, both ethnic and indigenous claim-making must first overcome barriers to entry into civil society space, which can be especially challenging given institutionalised resistance to particularistic identity claims where states have sought to affirm unity through an encompassing notion of nationhood (Kymlicka 1996).

Second, discourses of accommodation or denial of ethnic diversity, and how diversity is framed, is oftentimes codified in the constitution and other legal instruments (Thio 2010). While claim-making may seek to modify or replace such laws, and legal reform can become the main objective of ethnic or indigenous claims in civil society, advocacy operates in the context of that pre-existing set of legal instruments. As such, groups must consider the compatibility and resonance of their claims against the multitude of others that have been accommodated or rejected. Third, while state framing of ethnic issues and institutional structures can constrain claim-making, opportunities might arise to tap into international frames favourable to ethnic and indigenous claims. As Tsutsui (2004) notes, linkage to global civil society raises the potential for ethnic social movements. This can happen through alliances with sympathetic civil society organisations that advocate for rights or that denounce regime abuses, by working with groups that mobilise along ethnic lines and that share the same or similar identities (such as ethnic or religious groups divided by state boundaries), and, finally, by tapping into codified recognition of rights or associated recognition in international law, such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

Ultimately, both political opportunity structures and discursive contexts mutually shape and inform variations in mobilisation outcomes of ethnic and indigenous claim-making in Southeast Asia. The state can determine the degree of legitimacy of the claim, and the likelihood that groups are able to form coalitions against it. On the other hand, the state can also prevent the formation of broader coalitions as it places constraints on the types of claims that can be made, which may be particularistic and parochial to specific interests with little resonance across the remainder of civil society. Moreover, the ways in which groups manoeuvre within opportunity structures as well as discursive space can determine the likelihood of accommodation. Whether or not groups frame their claims as zero-sum or indivisible, they may find themselves confronting a fractured and disparate civil society of competing claims, as well as an intractable, and sometimes hostile, state.

Despite similar structural and discursive mobilisational constraints, ethnic and indigenous claim-making can be quite different, given the varying nature of claims involved as well as how they have emerged and been shaped in the specific context of Southeast Asia. Claims to indigeneity have arisen relatively recently in Southeast Asia, relative to ethnic claim-making that was often part of the state-building process at the time of independence. If state formation and negotiating institutional frameworks in late colonial and early independence periods often created the basic context for claiming recognition of ethnic identities, alongside their representation and further claim to resources, claims to indigeneity featured or were worth leveraging politically in comparatively few instances then. Such distinctions would emerge much later, largely in response to evolving norms that enabled groups to tap into international discourses surrounding the rights and protection of indigenous groups, particularly in the Americas.

Much of the existing research on indigenous claim-making and mobilisation derives from the experience of groups in Latin America. This research found that indigenous claim-making is most effective when able to build alliances across civil society with non-indigenous groups. Korovkin (2001), for instance, showed that indigenous claims in Andean Ecuador experienced the highest degree of legitimacy when they aligned with other major sectors of the national population (44); similarly, the Zapatista movement in Mexico adopted the critical strategy of 'engag[ing] civil-society organizations and other constituencies' in order to facilitate indigenous representation in Mexican electoral

democracy (Otero 2004, 338); finally, Eaton (2007) showed that indigenous mobilisation in Bolivia was able to successfully capture the state by forming cross-cutting regional and class coalitions. Thus, in Latin America, indigenous claim-making made significant gains when and because of the ability in several cases to build bridges to other groups making broader claims.

However, indigenous claim-making in Southeast Asia bears little resemblance to patterns in Latin America. This is the result of a combination of groups' geographic dispersion and divergent processes of colonisation and post-colonial state expansion, which oftentimes blurred boundaries with non-indigenous groups, as well as the number of unique identity groups that co-habit common ancestral domains (Junker 1999). As such, indigenous claim-making in Southeast Asia rarely seeks to create broad, national-level coalitions across civil society, but, instead, often remains focused on groups' parochial interests. Ironically, indigenous claim-making in Southeast Asia is more likely to build transnational coalitions than national ones, with the emergence of new opportunity structures. Similar to in the Latin American context, indigeneity claims in Southeast Asia sometimes tap into recent articulation of rights in international forums, thereby providing new channels to voice grievances and make claims alongside other self-identified indigenous groups globally, but with varied outcomes (Kymlicka 2007).

Compared to some broader ethnic claim-making and mobilisation, the objective of indigenous claim-making in Southeast Asia is very rarely state capture or secession. Instead, indigenous mobilisation focuses primarily on issues of self-determination and autonomy at the local level rather than making claims to state power (Hauser-Schäublin 2013). As such, the recognition of indigenous status can be compatible with and even complementary to existing legal frameworks of Southeast Asian states. As Bertrand (2011) demonstrates, claims to indigenous rights in Southeast Asia, whether effective or not, are ultimately contingent on the propensity and willingness of the state to accommodate these claims (852). As indigenous claim-making does not present so large a threat to state sovereignty as ethnic claims for territorial autonomy, this difference therefore informs the strategies that indigenous groups make against the state.

Ethnic claims, more generally, link a group's demand for self-determination with independence or some form of territorial autonomy. These claims directly challenge state sovereignty and cannot easily be accommodated within existing constitutional and legal frameworks. Southeast Asia has had an unusually high number of such groups, forming both armed groups and non-governmental organisations to obtain recognition. They have used both violent and non-violent mobilisation strategies against the state (Bertrand 2021). Yet, as part of their strategies, groups sometimes alter the markers of ethnic identity, variously tapping into religious, ethnic, racial, and national identities. The boundaries among these identities are permeable, allowing some groups to cross over from one political category to the other. Indigenous and ethnic categories therefore can take on unique forms or see different activation in particular contexts, as their expression in Southeast Asia shows.

In general, the forms and goals of their mobilisation render indigenous claim-making a distinct form of ethnic claim-making. The construction and politicisation of indigeneity and ethnicity not only render them adaptable to changing institutional and structural circumstances but also create opportunities for groups to channel and shape their identities to maximise their chances of reaching their political goals (Chandra 2006). While civil society in Southeast Asia can provide groups, whether indigenous or ethnic, with some space for interest articulation and mobilisation, many times groups fail to mobilise

and organise. When they do, some choose violent options, depending on whether they can find accommodation with the state. In the sections to follow, we examine several cases in Southeast Asia to show that the competing nature of ethnic claims and the peripheral nature of indigenous claims create challenges for civil society organisations to form broad alliances, which can escalate the modes of contention to the level of violence, or which result in groups' seeking alternative avenues of claim-making.

### **Mobilising ethnicity and violent uprising: vertical claim-making and uneasy alliance-building**

There are no *a priori* reasons why groups in Southeast Asia organise politically around ethnic claims nor should there be any assumption that ethnic identity necessarily supersedes or trumps other interests. Yet, once mobilised, ethnic groups often become rigidly aligned around these claims, over and above common interests that they might share with other groups, such as labour or women's rights, environmental protection, or reducing poverty. State institutions have shaped, historically, what markers of identity they recognise and enshrine and have defined rights, powers, and resource allocations according to their recognition or denial of particular ethnic groups. Groups have organised in a variety of forms in response to these historical patterns, whether to make claims targeted at preserving local livelihoods and securing resources, or, at the national level, to obtain recognition, representation, and a share of state power and resources (Bertrand 2021).

The historical recognition and enshrinement of ethnicity differs markedly in Indonesia, Myanmar, and the Philippines and has shaped how groups have mobilised. At the outset, Myanmar's first constitution reified a colonial vision that made distinctions between ethnic groups, thereby making 'ethnicity' a major source of cleavage, political mobilisation, and claim-making (Taylor 1982). Conversely, the Indonesian state downplayed ethnicity to emphasise politically the unified notion of the Indonesian 'nation' (*Bangsa Indonesia*). It built on the common revolutionary independence movement to create state institutions that reinforced the unity of the 'nation', while denying political recognition, rights, and representation along ethnic lines (Kahin 1955). While the Indonesian state adopted centralising policies and 'nationalist' policies to strengthen common bonds through the adoption of *Bahasa Indonesia* as the official language and state policies to tease out a national culture, it recognised and even celebrated its cultural diversity through accommodating policies towards allowing local languages in primary-school education, recognising five major religions, and building museums that showcased the diversity of the archipelago (Pemberton 1994).

From a weaker historical position, the Philippines mostly enshrined individual rights and created levels of government that denied any recognition of ethnic distinctions, but it lacked the revolutionary rhetoric and strong nationalist movement that had unified Indonesians. Yet, it de facto reified the hispanized and Christianised majority's cultural and political control, while state institutions denied recognition and collective rights to ethnic minority groups. In the 1930s, in the name of national unity, the state implemented what resembled an internal colonisation programme particularly in Mindanao, where massive population movements from the North to the South reduced Muslim groups to minorities in a region where they once were a large majority (Rupprecht 2014, 26). These trends continued into the 1950s as the state redistributed land in Mindanao at the expense of the Muslim Moros in an effort to appease the communist peasant rebellion of

the Hukbalahap movement (Kerkvliet 2002, 239), which further marginalised the Moros in their historical territory. As such, a Moro ethnic consciousness was born from these trends of post-colonial state formation, whereby state-led social engineering efforts and demographic shifts led to a nascent collective identification of Moro-ness and claims of autonomy, defined solely in resistance against assimilation into the Christian majority (Rubin 2010, 150).

Across the region, therefore, state institutions and policies shaped ethnic claims and the forms of mobilisation. In this section, we examine Myanmar, Indonesia, and the Philippines and how their trajectories shaped often violent ethnic claims.

In Myanmar, the early recognition of, and extension of rights to a state, for some minority ethnic groups, such as the Kachin and Shan, soon backfired. British colonial policies had divided Burma proper (where the majority of Bamar were an overwhelming majority) from the Scheduled Areas or Frontier Areas, where most ethnic minority groups resided. Early steps towards decolonisation forced discussions between ethnic minority groups and the Bamar majority, which had been administered mostly separately. At the eve of independence, in 1947, the nationalist leader Aung San had attempted to foster unity by convening a meeting in Panglong. Karen representatives had refused to participate in the meeting that led to a landmark agreement preceding the adoption of Burma's first constitution in 1948. The Karen National Union launched its insurgency in 1949, followed by a large number of other armed groups organised along ethnic lines. Some groups sought their own state, while others considered the Myanmar state to be increasingly centralised and focused on serving the interests of the Bamar majority. By the late 1950s, Myanmar was already deeply into civil war, with claim-making solidifying around calls for independence or federalism (Smith 1991). The state reified and reinvented 'federalism' as a so-called promise to the various groups represented at Panglong at the eve of independence (Walton 2008). The war only intensified during subsequent decades of military-authoritarian rule.

The combination of the enshrinement of ethnicity in Myanmar state institutions and a highly militarised environment placed ethnicity at the forefront of struggles against the state, while eliminating almost all non-violent forms of mobilisation and opposition. Ethnic claim-making was therefore equated with armed insurgency. Briefly during the late 1980s, when a broad civil society movement mobilised against Ne Win's military-dominated regime, student groups that supported Aung San Suu Kyi and her National League for Democracy (NLD) allied with ethnic minorities to mobilise in favour of democracy. When the movement was crushed and a new military regime reimposed, student dissidents fled to the jungle, formed insurgent groups, and joined ethnic armed organisations in their fight against the Myanmar state (Smith 2007, 39; see also Stokke, this volume). This broader solidarity was, however, short-lived, soon replaced by an underground democratic movement that resisted in parallel to ethnic insurgent groups that more or less fought their own wars. The NLD maintained few alliances within the broader civil society, except for vague assertions that they understood and supported ethnic minority claims.

The Burmese military regime's transition to a civilian government and partial democracy in 2011 raised hopes that long-standing ethnic minority demands would be met. Yet, in spite of new negotiations for a nationwide cease-fire, followed by a political dialogue between ethnic minorities and the state, few gains were made, in part because of ethnic minorities' difficulties in sustaining an alliance among themselves or creating bridges to other civil society groups. After 2011, several attempts were made to create



broad alliances for negotiations such as United Nationalities Federal Council (UNFC), the Working Group on Ethnic Coordination (WGEC), and the Nationwide Ceasefire Coordinating Team (NCCT) (EBO 2013a, 2013b). Although these alliances were able to develop some common positions, solidarity was difficult to maintain as some component groups remained at war while others struck bilateral deals with the state. They also failed to agree on leadership and disintegrated when competition arose between groups or divergent interests could not be reconciled (such as on issues regarding timing of and preconditions for ceasefires). Some international non-governmental organisations (NGOs) attempted to support ethnic armed groups and help them foster strategic alliances with each other, to position themselves better in negotiations with the state. But even these NGOs sometimes became sources of division. Such is the case of EuroBurma, which was largely seen as aligned with the Shan group, Restoration Council of Shan State (Bertrand, Pelletier, and Thawngmung, 2020).

It was not until the Burmese regime opened up that ethnic armed groups lost their monopoly over the representation of ethnic minority interests. Ethnic political parties began to emerge and a number of new and established ethnic civil society organisations took up greater space. The more prominent ones were often churches. Organisations such as the Karen Baptist Convention and Kachin Baptist Convention emerged as strong leaders of Karen and Kachin Christian communities, respectively, with important influence over the course of negotiations and claim-making. More development-based NGOs also emerged, but those that worked in ethnic minority areas tended to be largely associated with their respective ethnic minority groups (Jagger 2018). As such, even the emergence of non-armed and peaceful civil society organisations, rather than fostering potential for inter-ethnic mobilisation and solidarity, recreated some of the barriers both between ethnic minority groups and the state, and among ethnic minority groups. As Stokke notes (this volume), they often aligned with ethnic insurgent groups rather than with ethnic political parties and had few links beyond their respective ethnic groups.

In Indonesia and the Philippines, ethnic claim-making similarly led to insurgencies as well as protests and demonstrations, with comparatively few alliances across groups. By contrast with Myanmar, against the backdrop of constitutional provisions and histories of nation-building at the centre, few groups made strong claims along ethnic lines, even in the ethnically diverse case of Indonesia. Insurgency arose in East Timor, after it was forcibly integrated into Indonesia in 1975, during the authoritarian regime of President Suharto. The Armed Forces for the National Liberation of East Timor (Falintil) and its political wing, Revolutionary Front for an Independent East Timor (Fretilin), organised a resistance movement against the Indonesian state, which lasted until the late 1990s. In Aceh, the Indonesian state's denial of recognition as a region in the early days after independence led to the rise of an insurgency that took the form of a broadly Islamist movement, the Darul Islam, that sought to establish an Islamic state. Its objective was to replace the Republic, which, ironically, in the first decade after independence, was built on broad principles of 'Pancasila', a state ideology that effectively recognised the importance of religion in the state without defining Indonesia as Islamic, notwithstanding its majority-Muslim population (Morris 1984; Sjamsuddin 1985). Yet, this pan-Indonesian movement gave way, in Aceh, to regionalist rebellion and later armed mobilisation under the Free Aceh Movement (*Gerakan Aceh Merdeka*, GAM) that began in 1976 to demand independence and continued its resistance in different waves that ended with a peace agreement in 2005. On the other side of Indonesia, Papuans, who were integrated first through the Netherlands' temporary cession of the territory to Indonesia, and then

formally through a rigged referendum in 1969, also resisted their forced inclusion. Yet, in Papua, mobilisation mainly revolved around occasional demonstrations or protests against the Indonesian state, through mostly symbolic forms of resistance such as raising their flag of independence.

All three groups, therefore, developed strong, ethnically based nationalist movements in opposition to the Indonesian state, mostly because of forceful integration, denial of regionalist recognition, and state repression. They failed to develop loyalty and bonds similar to those that other ethnic groups maintained towards the Indonesian nation and state. While East Timorese and Acehnese most successfully built significant insurgencies, Papuans remained comparatively less effective at building a sufficiently well-armed and well-organised insurgent group. None built alliances across ethnic groups, as they viewed their own historical experience as uniquely determined by the history of their integration and subsequent repression at the hands of the Indonesian state. Geographically, they were also widely dispersed across the archipelago and saw themselves as culturally, ethnically, and even religiously distinct from Indonesians broadly as well as from resisters from other communities.

When Indonesia began to democratise in 1998, space expanded for other parts of civil society to rise and develop alongside insurgent groups. While civil society organisations played key roles in the protests that contributed to the democratic opening, East Timor, Aceh, and Papua had been quiescent and repressed as Military Operations Zones. Democratisation allowed new groups to arise, both armed groups and ethnically based civil society organisations, but, again, few managed to build alliances across ethnic lines, with the broader democratic movement, or even with international solidary movements. East Timorese were the only ones who, after being harshly repressed for a decade, built alliances with international NGOs, with some of their prominent leaders intensifying lobbying efforts and obtaining support from such groups as the East Timor Action Network (ETAN), as well as Church-based organisations (Webster, Leal, and Ferreira 2019). This network abroad successfully created pressure on Western donors and governments, in large part because of the lack of international recognition of East Timor's integration into Indonesia. Acehnese and Papuan organisations attempted to recreate such international civil society alliances after 1998 but failed to garner much momentum to put pressure on the Indonesian government to find alternative political solutions to existing ethnic claims. Lawyer and activist Jafar Siddiq Hamzah created the International Forum for Aceh and attempted to lobby in the United States for support, until he was murdered in Indonesia in 2001, while the forum failed to find significant allies abroad. Papuans attempted to piggy-back on the former ETAN and church-based networks that had helped East Timorese gain visibility and remain on the agenda of international human rights networks and organisations but found little success. They similarly joined the UN Working Group on Indigenous Peoples and attempted strategically to use the forum for awareness-raising, but Papuans were prevented from leveraging a uniquely indigenous status by the Indonesian state, which considered all groups to be indigenous (Bertrand, 2011). They therefore continued to press their claims as an ethnic group seeking independence.

Nevertheless, domestically based civil society organisations and movements arose alongside insurgents in both Aceh and Papua, but without linkages across ethnic boundaries. The Centre for Information on an Aceh Referendum (SIRA) was the most effective at bridging groups after 1998 to call for a referendum, as in East Timor.<sup>2</sup> They managed to organise at least two large-scale demonstrations in 1999 and 2000 that, although

significant for raising awareness, made few inroads with the state. Nascent civil society organisations disappeared as GAM re-escalated its insurgency and crowded out the space they previously occupied. A large-scale movement arose more successfully in Papua, as civil society actors organised two large congresses to consult and mobilise Papuans across different sectors of society. These large-scale gatherings culminated in the selection of the Papua Presidium Council (Presidium Dewan Papua, PDP), which became a non-state, civil society-based representative of the Papuan people. In parallel to the PDP, the Indonesian state had facilitated the creation of the Papuan Customary Council (Dewan Adat Papua, DAP) to represent Papuan traditional leaders and groups, which became a competing source of Papuan leadership. Some Papuan activists created new development-based and advocacy NGOs that defended Papuan rights (Bertrand 2004). Other organisations competed with the PDP for the leadership of Papua, such as the National Committee for West Papua (KNPB), led by Benny Wenda and eventually the DAP. Finally, churches of various Christian denominations continued to play very active roles in representation, lobbying, and advocacy on behalf of the Papuan movement. They succeeded in supplanting and minimising the activities of the Free Papua Organisation (OPM), which took a back-seat. For a brief few years, this groundswell of activity appeared to crystallise into a broad solidarity movement under the PDP's leadership, but it crumbled under the Indonesian state's repressive measures, arrests of local leaders, and long-standing divisions among Papuans themselves, which prevented the recreation afterwards of such broad strategic movements. In subsequent years, and under increasing scrutiny and repression from the state, Papuan organisations continued to hold occasional demonstrations and sometimes violent protests to advance their claims (Bertrand 2021).

In the Philippines, ethnic claim-making straddles the middle ground between the prolific insurgencies seen in Myanmar, and the decreasing levels of violent mobilisation in Indonesia. Ethnic claim-making, particularly in the region of Mindanao, occurs simultaneously through civil society organisations as well as insurgencies, as both groups, as well as factions within the groups with competing interests, employ different modes of contention. While the Philippines is ostensibly a representative democracy, its political process has not historically provided ethnic minorities codified and institutionalised protection against the majority. In many cases, the state actively engages in the suppression and exploitation of ethnic minorities as well as in land-grab activities in the Moro homeland. As a result, calls for Moro nationalism arose along ethno-religious lines, with movements calling for the creation of an Islamic state for the Moros of Mindanao. However, unlike in Indonesia, this movement did not spur from a budding civil society space but rather was driven by existing Moro political elites whose own support bases population displacement and demographic change in the region eroded (Ferrer 2020, 20). The nascent Moro nationalist movement sought to elevate the movement beyond the ethnic realm by forming strategic alliances and coalitions throughout Mindanao and appealing to non-Moro inhabitants in the early 1960s. In this way, ethnic mobilisation of Moros involved the engagement of various civil society actors such as from universities, youth groups, and religious organisations in Mindanao.

Ethnic mobilisation in Mindanao took a violent turn in 1968 with the massacre of Muslim soldiers by the military's own officers. This event sparked a secessionist Moro insurgency formed by a coalition of students, intellectuals, and elites known as the Moro National Liberation Front (MNLF). While the MNLF saw initial successes in mobilising Moros of all clans across Mindanao, the broad coalition of actors in

Moroland quickly fell into disarray and fragmented by 1977. The Moros were never a historically monolithic group, and the insurgency movement itself became increasingly balkanised along clan and tribal lines (Xu 2020). Each group had a distinctly regional agenda, such that their bases of support became increasingly regionalised. This was made especially apparent when different Moro insurgencies began to splinter from the MNLF into various factions, such as the Moro Islamic Liberation Front (MILF), the Bangsa Moro Liberation Organization (BMLO), and the Abu Sanyaf Group (ASG). Each of these groups has a distinct clan- and region-based affiliation, and each group has a different conception of an autonomous Moro state (Özerdem and Podder 2015, 143).

While the state has attempted to grant the Moro groups some measures of autonomy in order to defuse the conflict in Mindanao, the bargaining process has only served to divide the region even more along regional and clan-based lines. The Autonomous Region of Muslim Mindanao (ARMM) was the first attempt at recognising a concept of a common Moro nationhood but found little support as the state failed to deliver the necessary resources for effective administration or a definition of the homeland that responded to Moro claims, and amid criticism from non-Moros that their perspectives were not considered. It therefore expanded the power of local Moro elites but contributed to greater fragmentation of the civil society space. A majority of provinces in Mindanao opted out of the agreement. Not only did this settlement fail to create cross-cutting alliances and coalitions, but it further divided the Moro population and intensified the insurgencies. Further attempts to expand the scope of ARMM similarly failed to appease ethnic claim-making in Mindanao. Only in recent years, after decades of contention, both violent and non-violent, against the state, has an agreement been reached with the various Moro organisations to create an autonomous entity within the Philippines for the *Bangsa Moro* (Moro nation) that recognises both the common Islamic identity of the Moros and the uniqueness of the different groups under this umbrella term (Cook 2018; Kapahi and Tañada 2018). As different factions share no common vision of a Moro state, a decentralised and autonomous political entity represents a compromise after several iterations of failed settlement attempts among the various Moro groups as well as with the Philippine state. As such, ethnic mobilisation in the Philippines followed the pattern of alliance- and coalition-building across Moro civil society by rallying around a tenuous understanding of a common ethnic identity, while often resorting to violent mobilisation in the form of insurgencies. These coalitions and alliances also quickly fell apart as a result of particularistic and fragmented interests within groups.

### **Indigenous alliance-building and defensive localism**

What distinguishes indigenous mobilisation in Southeast Asia is the specific nature of the claims made: they follow a general pattern of defensive localism. That is to say, they first claim recognition of their indigeneity and then usually seek autonomy from the state and other groups' interference in order to secure land and access rights to local resources. These claims imply a less threatening form of demand for autonomy than ethnic claims against the state or self-determination designed to preserve and defend local communities. Examples include the Cordilleran resistance to state extractive development projects in the Abra and Kalinga provinces of the Philippines (Ferrer 2020, 67–8), and the Ammatoa Kajang people's claims to forestry rights in Sulawesi, Indonesia (van der Muur 2018, 166). In most cases, autonomy is gained when the state recognises

indigenous status of a particular ethnic group. For groups to be successful, the state must agree to codify indigeneity as a separate legal category worthy of protection.

However, even if states codify indigenous status, it remains highly contentious across the region, as questions of who gets to define indigeneity and who is included under this category are often hotly contested. Furthermore, many self-identified indigenous groups in Southeast Asia do not reside in discretely defined and officially recognised territories. As a result, claims to ancestral domain, associated with the recognition as indigenous, can become exclusivist and zero-sum between groups with overlapping territories and competing interests. What often makes horizontal bridging between groups challenging is this feature of defensive localism: groups' interests and claims are so parochial and unique to them that they are unable to mobilise a broader coalition to support their objectives beyond the local or regional level. Generally speaking, when groups are able to compromise and aggregate their local interests with each other's and assert a common indigenous framework, they tend to see the highest degree of mobilisation and success in contention.

The processes and outcomes of indigenous claim-making are highly contingent on the interaction of three factors. The first is the structure of state institutions that codify, define, and shape indigeneity, as they also define or deny recognition of ethnicity. Variance in land tenure systems provides certain groups with incentives to make claims under the category of 'indigenous' because they can articulate claims to land based on collective ownership and ancestry of occupation. Second, and closely related, is the degree to which the legitimacy of claims of indigeneity resonates among other groups in civil society, which can also be informed by these groups' methods of contention and claim-making. When the state or other groups perceive one group's claims of indigeneity as zero-sum or threatening, this not only prevents the creation of broad coalitions and collective action but also foments antagonism between groups in civil society. Third, openings in political opportunity structures can give indigenous groups the momentum required for effective claim-making. In Indonesia and the Philippines, periods of regime change and democratisation provided opportunities for groups to seek broader democratic representation, whereas the relatively closed nature of the Myanmar regime limited such openings.

While the Myanmar state was crafted on the basis of recognising particular ethnic identities and attributed political rights initially to several large ethnic groups, it later recognised a new set of 135 identities as *taingyintha* ('national races'). The state not only used its own ethnic markers to count ethnic groups and include them in this category but also granted indigenous status to these groups, in order simultaneously to define which groups are *not* indigenous. The state has associated the label *taingyintha* with the notion of indigeneity and has strategically deployed that concept to prevent some groups from making citizenship claims. *Taingyintha* is different from conventional understandings of indigeneity, such as those outlined in the UN Declaration of the Rights of Indigenous Peoples, particularly since the term is often used interchangeably with race or ethnicity. Claims of indigeneity in Myanmar usually entail a group's demand for access to resources within its recognised territory and inclusion within the state. The Panglong Conference of 1947 set out to outline these exact terms for the major ethnic groups within Myanmar. Although *taingyintha* was not prominently featured during the Conference, it nevertheless became an important tool with which the state later asserted its hegemony to define as well as officially account for groups that can lay claims in Myanmar (Thawngmung 2016). More importantly, *taingyintha*

institutionalised which groups deserve recognition and autonomy that the Burmese state-building process can accommodate.

The Burmese state tied *taingyintha* to citizenship, in order to exclude groups it perceived as migrants from indigeneity. The result was the exclusion, for instance, of groups such as the Rohingya, who have claimed ancestry in Rakhine for centuries before state-formation and therefore seek recognition as *taingyintha*. The state stripped them of not only citizenship rights, but also of any future avenue to claim recognition as a group indigenous to Myanmar. While groups like the Karen, Kachin, and Shan had the possibility of mobilising and making claims on the state on the grounds of indigeneity, the state precluded this possibility entirely for the Rohingya. Instead, the anti-Muslim sentiments Bamar nationalism generated led to their ‘de-indigenisation’ (Dunford 2019). The state refused to refer to them as ‘Rohingya’, and recognising only the term in ‘Bengali’, to emphasise their foreign origins and deny any claims to indigeneity within Myanmar. Compounding this problem is the fact that when groups like the Rohingya attempt to canvass for their inclusion under *taingyintha*, they meet with open hostility not only from the state, but also from other groups, as well, further precluding their ability to form alliances for claim-making against the state under a common indigenous frame.

The status of indigeneity as categorised by *taingyintha* is contentious at other levels, too, as many of these groups are themselves composed of numerous subgroups. The Naga, for instance, are officially classified as a subgroup of the Chin ethnicity, even though Naga nationalists view themselves as indigenous peoples living on the fringes of the Myanmar and Indian states (Luithui and Haksar 1984, 15). The state’s institutionalisation of a simultaneously stringent but fluid definition of indigeneity created the potential for disputing inclusion and exclusion criteria for indigenous group recognition, which further limits possibilities for alliance-building and claim-making.

While Myanmar shows how the state can manipulate and define the terms of indigeneity in order to suppress civil society mobilisation and claim-making, alternative institutional arrangements can be created for groups to form alliances and make indigenous claims both visible and resonant. However, this claim-making requires a combination of both opportunity and strategy. This was the case in Indonesia, where indigenous groups from 26 provinces of Indonesia formed the Indigenous Peoples’ Alliance of the Archipelago (*Aliansi Masyarakat Adat Nusantara*, AMAN) as an umbrella movement to advocate for the collective and specific interests of indigenous peoples (Afiff and Lowe 2007, 84). Indonesia’s changing political opportunity structure in the late 1990s and emerging global norms for indigenous peoples made this alliance possible. Seizing the moment of opening following the fall of Suharto’s New Order regime, AMAN strategically asserted both the diversity and the autonomy of indigenous communities (Li 2001, 655).

This framing of indigenous claim-making allowed AMAN to overcome zero-sum and defensively local claims, whereas groups in Myanmar could not. First, AMAN claimed that the communities it represents were all sovereign prior to the existence of the Indonesian state, and, as such, the state is obligated to recognise the uniqueness of these groups. Second, AMAN made it a point to prioritise the formation of alliances in order to pursue the common cause of recognition as opposed to focusing on the particularist interests of individual groups. Doing so allowed AMAN to make collective claims against state encroachment on land access and rights. Finally, AMAN was able to seize the political opportunity space of the *Reformasi* period by emphasising the capacity of local communities to be stewards of their own land without the heavy-handed approach

of state developmentalism and capitalised on the momentum of agrarian protests and demonstrations that erupted during this time in order to press their claims of indigeneity (Li 2001, 655). Where the New Order regime had denied local communities' rights and access by appropriating customary land for mining and timber concessions, AMAN accused the state of 'systematic destruction of adat communities' and pressured the post-New Order state for land reform and recognition (Lucas and Warren 2003, 100).

In the post-Reformasi period, the formalisation of adat customary rights became a form of distributive justice and rights for local communities. Under the Jokowi presidency, this trend has accelerated rural communities' claims for customary rights and land titles, in order to protect livelihoods and prevent dispossession. However, this is not to say that AMAN's experience represents victorious claim-making for all marginalised groups in Indonesia, as the assertion of adat rights encourages specific types of claims at the expense of others (Robinson 2019, 483). Furthermore, the gains AMAN made to establish a right to indigenous claim-making came as a result of working from within an acceptable repertoire of contention that did not fundamentally challenge the sovereignty and integrity of the Indonesian state. In fact, Papuans actively opted out of the AMAN process precisely because their claims centred around the issue of independence, as opposed to recognition (Li 2001, 653).

The indigenous Cordillerans of the Philippines present perhaps the most successful case in Southeast Asia of indigenous groups' being able to overcome defensive localism and form a broad umbrella movement to make collective claims. They succeeded in obtaining formal recognition and protection under relevant legislation – in this case, the Philippines' Indigenous People's Rights Act (IPRA). Similar to in both Myanmar and Indonesia, what groups are 'indigenous' in the Philippines is contested. Generally speaking, where the Cordillera is concerned, communities claim to have been less colonised and hispanized during periods of the Philippine state formation and therefore see themselves as 'indigenous' relative to the majority 'Filipino' community. The state recognises the disparate and diverse communities that live in the Cordillera within six major ethnolinguistic groups, all under the umbrella term 'Igorot' (Finin 2005), whose indigenous status was shaped by their exclusion from the mainstream state-building project in Manila. At the same time, a cohort of educated Cordilleran elites made a concerted push for indigenous status as they saw the potential for concessions from the state under this framework, rather than pursuing zero-sum demands for independence as an ethnic minority.

The indigenous movement in the Cordillera formed in the 1970s to resist against the Marcos dictatorship's encroachment on ancestral domains and attempts at dispossession of local communities. Despite separate challenges the Kalinga faced regarding the Chico River Basin Dam Project, and the Tingguian regarding the Cellophil forestry project, they were nonetheless able to cohere as the Cordilleran People's Alliance to mobilise against the Marcos regime. As they did so, no serious attempts at a secessionist movement ever took hold among the indigenous populations. Even more importantly, the indigenous movements distanced themselves from other groups that did actively challenge state sovereignty, such as the communist New People's Army, which sought to topple the state through armed revolution. Instead, the multitude of communities in the region banded together under a common claim of indigeneity with the specific mandate of gaining autonomous status and indigenous rights for the region (May 1997, 336).

Furthermore, the resistance of indigenous Cordillerans contributed to the fall of the Marcos regime in 1986. In this way, the Cordilleran agenda of protecting indigenous

autonomy from state encroachment aligned with the broader People's Power movement in mainstream Philippine society, which demanded for an end to martial law and return to democracy. As such, Cordillerans' indigenous claims enjoyed a combination of structural and discursive advantages over those of counterpart groups in both Myanmar and Indonesia: not only did the fall of dictatorship and democratisation present the political opportunity space for the groups to demand recognition of their land rights and autonomy, but additionally, broad recognition of their contributions to the fight against dictatorship further enhanced the legitimacy, visibility, and resonance of their claims across Philippine civil society. The newly formed Aquino government was more than willing to acquiesce to the Igorot in order to stabilise the region. Not only that, but also the rapid disarmament and demobilisation of the Igorot insurgency in favour of peaceful agitation as soon as the state conceded their land claims further strengthened the propensity for alliance-building and accommodation (Butenschön, Stiansen, and Vollan 2016, 250). The fact that indigenous claim-making did not trigger a constitutional crisis, nor did the movements align themselves with groups' intent on state capture, allowed for the movement to build coalitions with non-indigenous civil society, as well as successfully settle with the state.

Because indigenous groups often do not seek claims of sovereignty, they pose little perceived threat to the state itself. Hence, the possibility for indigenous claim-making to work through existing institutional mechanisms and civil society is much higher than in cases of ethnic claim-making. Whether or not groups choose to adopt an indigenous frame may well be contingent on their capacity and historical relations with the state. Smaller, parochial, and more peripheral groups may be more prone to making indigenous claims than ethnic ones. AMAN in Indonesia and the Cordillera Bodong Administration in the Philippines are examples of prominent non-governmental indigenous organisations that act as both advocates and watchdogs for indigenous people's rights and claims. The creation of both organisations came during grassroots movements that brought down authoritarian regimes: Suharto's New Order regime in Indonesia and the Marcos dictatorship in the Philippines, respectively (Rood 1991; Li 2000). Hence, grassroots social movements, protests, and even low-level violence can provide supporting environments for indigenous mobilisation.

Indigenous groups also enjoy one distinct advantage in their claim-making over ethnic groups in Southeast Asia: their ability to mobilise resources at the international level in order to place additional pressures on national governments towards the objectives of indigenous peoples. Despite being fragmented within domestic civil society, they can mobilise resources at the international level by tapping into a global sense of solidarity and shared hardship among all indigenous groups. This critical factor is what explains the relative success of the ratification of IPRA in the Philippines as opposed to the Papuans' claims in Indonesia (Bertrand 2011). Existing international frameworks for the rights of indigenous peoples allowed groups to seek alliances through international organisations, other national governments, and transnational activist networks. Therefore, indigenous mobilisation achieved a higher propensity for diffusion effects by tapping into these international resources.

Although the passage of UNDRIP in 2007 marked a monumental victory for indigenous claim-making worldwide, attempts to bring international attention to indigenous claims began in the 1980s, as a result of grassroots-level mobilisation by various communities worldwide to build alliances and voice commonly perceived grievances as indigenous peoples (Errico 2007). Groups subsume their particularistic claims under a



general and more universal term of ‘indigenous people’, but the erasure of idiosyncratic parochial demands is the price they pay for legitimacy, resonance, and visibility even beyond the national level.

This potential is especially salient given the increased attention paid globally to the protection of indigenous rights from North to South America, and Africa to the Asia-Pacific. UNDRIP provided indigenous peoples with a common legal framework from which they can assert their claims towards their national governments. However, the groups’ ability to leverage this framework is still highly contingent on their own relationships with the state. With indigenous issues at the forefront for both national and international organisations and NGOs, indigenous claim-making has a higher degree of legitimacy, and groups can tap into this valuable international network and diffuse their issues. This makes indigenous mobilisation a unique subset of ethnic mobilisation and claim-making, as other forms of ethnic claims, particularly nationalist and secessionist ones in Southeast Asia, have not benefitted from similar international legal resources. The international environment does not provide similar protections or rights to claim-making that aims at state capture or secession, including such ethnic claims.

### **Identity claim-making in Southeast Asia: fragmented and controversial**

Identity claim-making in Southeast Asia has taken two somewhat overlapping forms along ethnic and indigenous dimensions. Ethnic claims, at minimum, entail recognition of a unique identity that differentiates the group from others in a state. Maximally, they frequently involve demands for governance over territory and division of power with the state, with demands for independence being sometimes the ultimate goal. While indigenous claims have their roots first in identifying ethnic group difference, the recognition of indigeneity is then associated with claims to recognition of territory as ancestral domain and localised rights to group protection, in a political process of defensive localism that does not directly challenge state sovereignty.

Broadly speaking, when ethnic claim-making challenges the unity of the state, it experiences a higher degree of violent mobilisation. Ethnic claim-making often includes direct and exclusivist claims on state sovereignty, which raises the stakes of contention and decreases the likelihood for accommodation through merely peaceful activism. For the same reason that ethnic claim-making targets the state and its geographic boundaries, it is very rare for ethnic mobilisation to build alliances across national boundaries in Southeast Asia; there have been only a few such cases.

As a unique subset of ethnic claim-making, indigenous claim-making follows a pattern of defensive localism that works from within existing institutional and legal frameworks of the state, and, thus, is perceived as less threatening to state sovereignty. Indigenous claim-making also has the distinct advantage of being able to access national and international networks of indigenous peoples in order to assert a common claim of indigenous rights to place pressure on the state for accommodation, as the indigenous Cordillerans have done in the Philippines. As such, it is rare to see indigenous contention and claim-making venture into the realm of insurgency and violent mobilisation. Nevertheless, indigenous groups sometimes face challenges to their ability to make broad alliances in the pursuit of political gains, as is the case in Myanmar, because successful alliance-making requires that they overcome challenges that derive from their marginalised status, peripheral and disparate locations, and sometimes competitive claims with other, similar groups.

Identity claim-making therefore is fractionalised, alliances are often difficult, and violence can occur. Some of these differences differentiate ethnic and indigenous claim-making. Overall, in comparison to for other sectors of civil society, peaceful claim-making, alliance-building, and unity are more difficult to achieve because identity claims are tied to issues of recognition and distinction from other groups, and sometimes in opposition to the state. Groups are not necessarily progressive, like-minded, nor logical partners of other civil society organisations seeking to protect or enhance democracy. Divergent historical experiences produce important variations and are intrinsically linked to the institutional legacies that define and enshrine identity within existing states.

## Notes

- 1 After 1988, the regime changed the English-language name from Burma to Myanmar. Nevertheless civil society organisations and academics commonly continued to use 'Burma' as a protest against the regime's lack of legitimacy after it refused to recognise the results of elections the National League for Democracy won. After the opening up of the regime in 2010, however, it became usual practice for academics and CSOs to use 'Myanmar'.
- 2 East Timor was the common name for the province in English-language publications on Indonesia. After independence, it became more common to use its official name, Timor-Leste. We use East Timor here to refer to the province of Indonesia prior to its independence.

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# RELIGION AND CIVIL SOCIETY IN SOUTHEAST ASIA

*Carlo Bonura*

Over the last 50 years, religion has played a central role in some of Southeast Asia's most important mass mobilisations and political transitions. Cardinal Jaime Sin, the Catholic Bishops' Conference of the Philippines, and the Church-supported National Movement for Free Elections played pivotal roles in the culmination of the People Power movement and collapse of the dictatorship of President Ferdinand Marcos in 1986. In the following decades, Buddhist monks and associations led anti-military demonstrations in Thailand and Myanmar. In Thailand, a year after a successful 1991 coup, the military was forced out of power under pressure from 'black May' demonstrations led by Chamlong Srimuang, a key figure in the controversial Asoke Buddhist movement, while in Myanmar, public protests organised around the marches of Buddhist monks were a key part of the 2007 Saffron Revolution.

These examples of the powerful potential of religious civil society to oppose authoritarian rule, however, are not exhaustive of the relationship among religion, civil society, and the state. In fact, even within the recent histories of these three countries, examples of more complex relations between religion and politics can be found. In the Philippines, since 1986, Church leadership has been unable to 'create countervailing social institutions or structures that would effectively shield the nation-state and its bureaucracy from vicious inter-elite struggle' (Cartagenas 2010, 857). In Thailand, 15 years after bringing an end to military rule, Chamlong's new Asoke political force, the so-called Dharma Army, turned against the democratically elected Prime Minister Thaksin Shinawatra. They joined instead the anti-Thaksin People's Alliance for Democracy mass demonstrations that led to Thaksin's being deposed in 2006 (Heikkilä-Horn 2010). Finally, in Myanmar, less than a decade after the 2007 Saffron Revolution, the Buddhist monk-led Organisation for the Protection of Race and Religion (*Ma Ba Tha*) became a powerful movement for Buddhist nationalism and participated in creating a set of four laws on religion and race that restricted religious freedom in Myanmar (Walton 2015).

From these examples, it is clear that the relationship among religion, civil society, and the state is in constant flux in Southeast Asia. As with all other kinds of civil society, some religious actors and organisations, even if they are autonomous from the state, may openly support aspects of autocratic rule and existing elite networks. Moreover, religious associations within civil society are just as capable as any other

kind of associations within civil society of reaffirming ‘a dominant bloc of social forces and its political, economic, moral, and cultural hegemonic aspirations’ (Hedman 2005, 10).

The aim of this chapter is to introduce and examine the complexities of what I will refer to as ‘religious civil society’ in Southeast Asia. In the process, I will focus on the normative resources provided by organised religion. Regardless of political orientation or outcome, formations of civil society in Southeast Asia often draw on aspects of religious life and thought. The concept of religious civil society presumes that religious associations are part of civil society more generally. Associational aspects of religious civil society span a range of activities from the communal enactment of religious practice to the provision of local services, or the organisation of humanitarian assistance in times of crisis. What differentiates religious civil society from other forms of civil society is the normative valence of religious associational life. These normative dimensions in this case reflect what José Casanova refers to as normative aspects of the development of ‘public religion ... when religion enters the public sphere of civil society to raise normative issues, participating in ongoing processes of normative contestation’ (2001, 1048).

Exploring this normative dimension further, this chapter first addresses the domain of religion in Southeast Asian states more generally, focusing on the effects of state interventions in religion. The lack of autonomy of religion in the region has important effects not only on the possibilities for religious associational life, but also on the kinds of normative resources that enter into public circulation and the contestation that shapes public religious discourse. Next, this chapter will examine the varied normative resources that shape religious civil society, with an emphasis on the conceptual transformations that they make possible. Finally, this chapter will examine the subjectivities and social and legal exclusions that shape religious civil society in Southeast Asia today.

With the aim of examining the relationship between religion and civil society in as broad a manner as possible, I will not provide an exclusive definition of the concept of religious civil society, for several reasons. Established and formally recognised religious associations in Southeast Asia do not account for the entirety of religious experience in the region. In addition, in Southeast Asia, religious associational life falls along a spectrum regarding its proximity to the state. Perhaps most important is the distinction that has emerged between civil and uncivil forms of civil society to explain the growing ‘anti-democracy turn in civil society’ in the region (Thorn 2016, 521; Beittinger-Lee 2009). It is likely that within some religious groups, a number of competing political or religious orientations will be active. Relying on the binary categorisation of civil and uncivil to describe these orientations, therefore, may be insufficient. Conservative and nationalist religious associations have been included in this chapter and in the definition of religious civil society even though their stated beliefs and activism may result in the limitation of space for civil society. It will be argued that their inclusion is important in order to examine the normative contestations that shape civil society.

### **The space of religious civil society**

The approach developed above builds upon the characterisation of civil society Weiss and Hansson provide in the introduction to this volume, as a ‘*space* open to the full range of ideas and organisations’ that emerges from the complexities of politics and civil society on the ground across the region. The benefit of conceptualising civil society as a space is that it avoids insisting upon strict divides between civil and political society and

civil and uncivil associational life. However, the spatial nature of religion is a unique quality that requires a brief consideration.

There is a spatial aspect to religious practice both in the physical structures of communal practice as well as in the embodied nature of piety. All aspects of civil society have some spatial presence, whether we consider the meeting spaces of civil society organisations or the public mobilisation of civil society groups for some purpose. However, the sites of religious gathering or practice – for instance mosques, churches, temples, hospitals, or religious schools – are all usually permanent structures and communal enactments of religious identity. These religious sites are also, in some ways, versatile, providing the spaces for either religious or secular activities (in the case of humanitarian assistance, or even in the renting out of churches for other associational activities not affiliated with a congregation).

It must be noted that the continuous ‘publicness’ of religious architecture, the plurality that religious buildings present, does not automatically translate into civility. These spaces of civil society do not necessarily produce the ‘neighbourliness’ that Valerie Lewis, Carol Ann MacGregor, and Robert Putnam have suggested is one key outcome of religious social networks (Lewis et al. 2013). Inversely, in closed political systems, such as Vietnam, some religious civility may occur through underground religious gatherings that may take place in secluded spaces and purposely avoid public exposure. In any case, examining the ‘composition of the space’ of civil society, to return to Weiss and Hansson’s approach, draws attention to the spatial quality of religious associational life.

### **Religion’s autonomy from the state**

In Southeast Asia, both the space of civil society and the spaces of religion(s) have been shaped by relentless incursions by colonial and postcolonial states. Interventions in religion, whether focused on religious institutions, practice, or identity, will shape how religious associations form as well as the parameters of public religious discourse in which religious associations function. As Hedman has concluded, ‘the relative autonomy of religious institutions from the apparatuses of the state shapes the potential for opposing incumbent regimes in the spirit of “civil religion”’ (2001, 924). States can sanction some forms of public religiosity and ban other forms; the same is true for religious organisations.

State bureaucracies actively intervene in the domain of religion, potentially shaping everything from the institutional organisation of religions to the practice of family law and the content of religious education (Azmil 2019; Larsson 2018; Peletz 2002). At the same time, however, normative claims made in the name of religion, whether by civil or uncivil society actors, can pressure these bureaucracies. Religion, defined as broadly as possible, becomes both the object of politics and the object of the state’s authority as well as potentially a source for political change or contestation. This is especially the case in countries where struggles for religious freedom are tied to broader struggles for democracy. Comparing the relations between religion and politics across Southeast Asia’s Muslim- and Buddhist-majority countries demonstrates the importance of state interventions in religion.

According to Andreas Ufen, in order to understand the trajectory of Islamisation and religious mobilisation in Indonesia and Malaysia, it is necessary to recognise the vacillating relations among the state, political parties, and civil society (2009, 309).

These relations are discussed in detail in Ufen's chapter in this volume. In Indonesia, Islamic civil society has been important in limiting the state's role in Islamisation. However, conservative Islamist associations have also been active in driving recent Islamist mobilisations, such as the protests against former Jakarta governor Basuki Tjahaja Purnama in 2017. In contrast, in Malaysia, federal and state Islamic administrations and the political competition between two of the country's largest Malay-Muslim parties (United Malays National Organisation, UMNO, and Parti Islam Se-Malaysia, PAS) are responsible for active state interventions into Islamic practice (Ufen 2009). The government has also relied on government-sponsored Islamist/*dakwah* organisations for political ends. For instance, under Prime Minister Najib Razak's government, UMNO cultivated ties to the ultranationalist Organisation for the Empowerment of the Indigenous Peoples of Malaysia (PERKASA), a group which publicly supported UMNO's calls for increased Islamisation (Ahmad Fauzi and Muhamad 2014, 67). In Brunei, by contrast, the absolute monarchy has drastically limited the space for associational life and has prevented public discussion of religion.

Similar relations can be found among the region's Buddhist-majority states of Myanmar, Thailand, Laos, and Cambodia. Although in all these cases, states have sought to manage and shape the Buddhist *sangha*, the activism of monks in each country, and the relationship between the *sangha* and the state. According to Duncan McCargo, in Myanmar and in Vietnam, which has a substantial Buddhist minority, 'monks have played an active role both in anti-colonialist movements and in postcolonial anti-government protests', whereas, 'in Thailand, as in Laos and Cambodia, the *sangha* has regularly been enlisted by the state to mobilize Buddhism as a legitimating force for the task of nation building' (2004, 156). In Thailand, the relationship of Theravada Buddhism to the contemporary state is a product of both royal policies centralising authority over the *sangha* in the late 19th century under the absolute monarchy and 20th-century efforts (both royal and authoritarian) to craft a national ideology in which Buddhism is essential (Somchai 2011, 32–36). This is in stark contrast to the activist, Mahayana Buddhist notion of 'socially engaged Buddhism' that emerged as part of the anti-war movement in Vietnam in the 1960s (Sulak 2015).

The role of religion within national ideologies in Southeast Asia is one instance in which the proximity of religion to the state has direct effects on the social and political possibilities for religious associations. Many of the region's national ideologies have important religious components, such as the belief in a monotheistic god found in Malaysia's *Rukun Negara* (National Principles) or Indonesia's *Pancasila* (Five Principles); the centrality of Islam to Brunei's sovereign philosophy, defined as *Melayu Islam Beraja* (Malay Islamic Monarchy); or in the configuration of monarchy, nation, and religion in Thailand. National ideologies can also limit the public positions that religious civil society can take – or, to the contrary, they may provide a broad basis from which religious leaders or groups can have substantial influence in national politics.

The example of Pancasila in Indonesia demonstrates how religious civil society's relation to a national ideology can change over time. Pancasila, Indonesia's national ideology, was created in 1945 to preserve the unity of the new postcolonial state. Under the Suharto regime from 1965 to 1998, Pancasila served as the ideological justification for 'systematically disorganizing civil society' as political parties and labour unions were forcibly consolidated and the formation of new parties and civil society organisations was banned (Hadiz 2004, 156). Over the last decade, and especially under the government of President Joko Widodo, Pancasila has been revived as a nationalist ideology.



Despite being used to limit the potential of Islamist political groups and parties under Suharto's authoritarian rule, Islamic mass organisations Muhammadiyah and Nahdlatul Ulama have increasingly defended Pancasila, in part as a means of countering growing Islamist challenges that threaten the established religious authority of these two groups (Iskandar 2016, 726). In fact, increasingly, the government has turned to Pancasila to remove potentially threatening Islamist groups. The government banned the 'uncivil' Hizbut Tahrir Indonesia group in July 2017 under a new government regulation on mass organisations. Formally, the move to ban Hizbut Tahrir was based on the group's rejection of Pancasila (Hilmy 2020).

Beyond formal national ideologies, religious organisations may be subject to state or elite capture, including forms of state corporatism (Lorch 2021). Actors within religious civil society may face important political decisions of whether to directly engage with or oppose state policies. In certain instances, religious groups may seek out connections to the state or political elites. Under other circumstances, these same civil society groups could actively choose to avoid appearing to oppose a government's policies or campaigns. For instance, in the Philippines, Rodrigo Duterte's drug war posed significant challenges for both Catholic and non-Catholic Christian churches that were often constrained in their ability to organise or speak out against ongoing violence.<sup>1</sup>

Church reactions to the drug war provide an example of the varying orientations towards the state found within religious civil society. In framing their analysis of local non-Catholic Christian organisations' responses to Duterte's drug war, Cornelio and Medina argue that local church leadership, or Christian groups, define their relation to state authority in ways that are 'largely informed by how Christian groups see themselves as formidable institutions in their respective communities' (2019, 156). In instances in which there is limited space for religious activism, Christian groups' 'public engagements are theologically driven' in order to avoid political or legal challenges. Thus, the nature of the space of civil society, especially at the local level, can lead to groups' calibrating the religiosity of their public claims.

Formal national church leaderships, even of non-Catholic churches, will face similar challenges when grappling with pressures from the state and elite networks while also facing the expectation that religious civil society act as a moral force. This is exemplified by the Catholic Church's political relations with the state at the onset of the drug war. Jasmin Lorch suggests that the Catholic Church's initial delay in criticising the drug war was in part due to the fact that 'the president of the Catholic Bishops' Conference of the Philippines (CBCP) had been a friend of Duterte from the diocese of Davao' (2021, 90). Although this did not shield Church leaders from significant threats by Duterte, these kinds of personal relationships between political elites and religious leadership may, over the long term, add to the survivability of religious organisations. Religious organisations may benefit from political patronage. However, as in this case, such connections may pose challenges to their autonomy.

Those religious civil society groups without sufficient political sponsorship, on the contrary, may find it difficult to survive, despite achieving a considerable amount of autonomy. Kikue Hamayotsu has explained the dwindling influence of Islamic liberalism in Indonesia after only a decade by pointing out that civil society activists advancing Islamic liberalism in the early post-Suharto period had few connections to influential political actors or parties in contrast to their conservative civil society rivals, who were able to survive and grow during the same time (2013, 667). By contrast, the well-established success of women's rights and legal-activist group Sisters in

Islam in Malaysia demonstrates that, even within more autocratic conditions, religious civil society can find successful strategies to carry out oppositional activities related to highly controversial issues, for instance, related to the reform of Islamic family law, without the direct protection of political parties or state elites (Saliha 2003, 109). In a limited number of instances, such as in opposition to the now repealed Internal Security Act, Muslim NGOs have been able to work with non-Malay-Muslim NGOs, despite the power of social divides and political polarisation in Malaysia (Weiss 2006, 184).

In addition to these ideological and political constraints on the autonomy of religion, in some cases, the very conceptualisation of civil society in religious terms can reflect the lack of autonomy of both religion and civil society. For instance, from the 1990s to the 2000s, Malay-Muslim UMNO elites actively influenced new Islamic conceptualisations of civil society, in particular '*masyarakat madani*' ('civil society'), and, under former Prime Minister Abdullah Badawi, created the concept of 'civilisational Islam', or '*Islam hadhari*'. Norani Othman has suggested that in Malaysia, 'the working understanding of *masyarakat madani* among ethnic Malay leaders was that civil society supports the objectives of the democratically elected government rather than fostering political autonomy and social initiative as common practice' (2008, 127). Within this particular framing of *masyarakat madani*, the task of civil society is not to engender an autonomous politics, but rather to organise and manage consent for state initiatives.

### **Religion and normative resources for civil society**

Not all instances of religious conceptualisations of civil society are aligned with state initiatives. In fact, just as religious associations can have an array of orientations towards the state and other political actors, religions provide a variety of normative resources to sustain, or in some cases to limit, civil society, as described above (Sajoo 2004). The approach developed in the following section recognises that the normative claims made through religious discourse are an important aspect in the formation of civil society (Alagappa 2004, 32). Within this approach, there is a recognition that fundamental understandings of moral and political order can be found within religious discourse (Schober 2010, 2). Accompanying these understandings of order are ideas regarding individual and collective agency that may be critical to imagining the space of civil society.

For David Herbert, one of the reasons why debates over civil society are so contentious is because there is a clear gap between the ideals of liberal conceptualisations of civil society and how civil society actually manifests in real political contexts. Analytically, this poses a problem because 'normative ideas about what civil society ought to do and be have sometimes obscured and dominated empirical enquiry into what actually existing (empirical) civil society is and does' (2013, 24). This distinction between 'normative' and 'empirical' civil society is useful for the study of civil society not only because it allows for a more nuanced analysis of the empirical formation of civil society, as Herbert suggests, but also because it allows for a closer examination of the potential normative bases for contemporary civil society. Whereas Herbert views the definition of normative civil society as being grounded in liberal ideals, the aim of this section is to identify the various religious resources that may contribute to conceptualisations of civil society in Southeast Asia.

The development of normative resources by religious actors plays an important role in shaping formations of civil society. Rather than identifying whether the liberal ideal of civil society is present or absent across Southeast Asia, my use of the concept of 'normative' civil society in this chapter will emphasise religious conceptualisations and their

contestation when making arguments for civil society, democracy, pluralism, or the protection of religious freedoms. In the following sections, I will briefly discuss various ways in which religion provides forms of public reasoning, offers new possibilities for conceptual developments related to civil society, and contributes to the cultivation of new subjectivities and exclusions related to civil society.

Religion provides important resources for public reasoning, which can be defined generally as the application of religious principles or worldviews to mundane aspects of politics that inform how believers relate to politics or other diverse forms of community (Salvatore and Eickelman 2004; Bowen 2003). Although it is not possible to suggest that a religion determines absolutely an individual's or community's relation to politics and living together with others, it can play an important role in shaping the public sphere. Cornelio and Medina point out that, in the Philippines, theological reasoning can not only inform Christian arguments related to policy debates but also extend to understandings of the ideal mandate of the authority of the state (doing God's will) (Cornelio and Medina 2019, 155). As such, it can also become one basis from which Christian organisations decide how they will engage with the state on certain issues. In analysing the emergence of 'civil Islam' in Indonesia, Robert Hefner has similarly identified a self-reflexive public reasoning in which 'Muslims will look to their religion for principles of public order ... what they will take from their tradition, however, is not immutably fixed but reflects an ongoing interpretation informed by the changing circumstances of our world' (2000, 10). This 'new public ethic' is premised generally upon an Islamic recognition of pluralism and limited state authority.

As stated earlier, forces shaping religious practice and institutions may inform the role that religion can play in civil society and more broadly in politics at any given time. Political openings in which the space for civil society is expanded may result in transformations in religious discourse as the public sphere widens. In certain cases, especially after the end of long periods of authoritarian rule, conceptualisations of civil society may be emerging simultaneously with other reconceptualisations of politics. One example of these complex conceptual conditions can be found in Myanmar after the 2011 partial opening of politics. Matthew Walton reminds us that it is not only the concept of civil society that develops rapidly at this time, but also broader concepts that are fundamental for political participation. In this case, religious civil society can provide normative resources necessary for 'theorizing or promoting citizen participation in politics ... using Buddhist reasoning and arguments drawn from other traditions' (2016, 128). Although such reasoning and arguments have been openly contested, given the political conditions in Myanmar from 2011 to the 2021 coup, this example demonstrates the breath of the possible conceptual contributions of religious actors in critical moments in the formation of civil society during Myanmar's short-lived political transition.

Contestation over these normative resources, public ethics, or conceptual transformations, however, is to be expected. In fact, in societies in which mostly open discussions about religion can take place, such as in Indonesia and the Philippines, it is likely that religious civil society will reflect deep disagreements regarding religious practice, the role of the state in religion, and public claims to religious pluralism and freedom. Some of this disagreement may be shaped by what Saskia Schäfer has identified as battles over the 'interpretive authority' some groups claim. One example can be found in the claims to authority of the Indonesian Council of Ulama (MUI, Majelis Ulama Indonesia) and its ability to consolidate its moral authority during Indonesia's early democratic transition in the 2000s. MUI's highly influential fatwas not only demanded the reconfiguration

of the public role of Islam in potentially undemocratic ways, but they also ‘damaged the public standing of established civil society organizations, whose competition had ensured a low degree of centralization of religious interpretative authority for many decades’ (2019, 254).

Schäfer describes MUI’s claims to authority as ‘epistocratic’, or a form of authority that is legitimated by exclusive knowledge. In this case, MUI’s ‘epistocratic privilege’ is grounded solely in its claims to Islamic knowledge and its representation of Islamic scholars. Its ability to make demands on the Indonesian state has been entirely extra-constitutional. To varying degrees, these claims to authority are part of the normative dimensions of religious civil society. In fact, Ahmad Baso (1999) has identified a similar epistocratic dynamic in Islamic thought in Indonesia just prior to the fall of the Suharto regime in 1998. Islamic thinkers in Indonesia in the 1990s crafted a broad array of conceptualisations of Islamic civil society, such as the concept of *masyarakat madani*, M. Dawam Rahardjo’s notion of a ‘*masyarakat utama*’ (a perfect society), or Abdurrahman Wahid’s ‘transformative civil society’. What distinguished these concepts was how resources from a variety of Islamic and philosophical currents were brought together to develop new religious bases for civil society. Baso, however, describes this proliferation of concepts as a form of ‘normative speculation’ that in part reflects competition among Muslim religious elites over the authority to define Islamic civil society (1999, 161). As stated above, emphasising the normative dimensions of religious civil society must also take into account the reaction and contestation that results when normative claims are made.

### **Religious subjectivities and religious civil society**

This emphasis on conceptual transformations is, in fact, an emphasis on how individuals and groups actively rethink themselves in the face of new contingencies, whether political or economic. In this process, they develop new conceptual vocabularies not only to imagine new forms of agency, but also to cultivate new kinds of subjectivity. The creation or expansion of new spaces of civil society requires new forms of subjectivity to inhabit these civil spaces. With religious civil society in mind, this may include new characterisations of moral capacity or new justifications for independent thinking that challenge established means of religious authority.

These subjectivities form through the gradual introduction of new discourses and practices that accompany participation in associational life. Talal Asad has demonstrated this clearly in his treatment of the creation of modern forms of secularism: ‘as the site of the capitalist economy and as the arena of modern sociability, civil society is also the matrix within which diverse institutionalized powers are established and personal identities mobilized’ (1992, 9). For Asad, civil society cannot be reduced to voluntary association independent from the state. Instead, civil society is a field of power that enables the cultivation of new (and old) kinds of subjectivity. Religious associations can cultivate subjectivity through the practices and identities they promote.

New forms of subjectivity can also be found in novel configurations of religion with other secular ideologies, such as nationalism. One example of these new configurations appears in the mobilisation of religion in anti-colonial struggles in Burma (Myanmar) in the first half of the 20th century. The creation of the Young Men’s Buddhist Association in 1906 provided the associational conditions for the formation of a nascent nationalist elite and leadership of the anti-colonial struggle. It also marked the beginning of the process of creating new nationalist subjectivities in part driven by new nationalist print

media and moralistic arguments made through these media. The most basic expression of this new configuration of nationalism and religion is found in the expression, 'to be Burmese is to be Buddhist' (Schober 2010, 66).

This new modern expression of nation and religion had implications for the constitution of gendered subjectivities, as well – what it meant to be a 'Buddhist Burmese woman', for instance. Daw San, whom Chie Ikeya describes as an early 'feminist nationalist', served as the leader of the Burmese Women's Association and the editor of the *Independent Weekly* newspaper in the 1920s and 1930s (2013). Her activism and writings advocated for changes to family relations and the expansion of women's education, as well as making clear the potential of women's contributions to the emerging nationalist movement. Intellectuals such as Daw San were critical to articulating religion with new ideological formations and the organisation of their new subjects, namely the readership of Daw San's newspapers, commentaries, and novel.

In certain cases, religious civil society actively promotes new forms of religious subjectivity. A contemporary example can be found in the advocacy of the Liberal Islam Network (JIL, Jaringan Islam Liberal) in Indonesia. In the 2000s, JIL not only relied upon novel forms of activism, organised primarily online, but it also argued for new forms of religious subjectivity that encouraged individualistic exegesis of Islamic texts (Hooker 2004). Islamic liberalism entails a reorientation of Islamic beliefs that was primarily made possible by reimagining the individual believer's relation to Islamic knowledge. For JIL's founders, Ulil Abshar-Abdalla and Luthfi Assyauckanie, the liberal principle of freedom of conscience becomes manifest in a commitment to hermeneutics that requires new styles of reading and interpretation focused on non-literal, substantial, and contextual readings of Islamic texts (Rachman 2011, 65). Thus, at the heart of the project of liberal Islam for JIL is not merely an attempt to open new spaces of 'civil Islam' at a time of growth of new religious and political freedoms in the wake of the collapse of Suharto regime. Rather, JIL's aim was also to craft new practices and styles of interpretation necessary for imaging new liberal subjects.

Finally, an example of the 'institutionalized powers' Asad discusses can be found in the function of Islamic family law courts in Malaysia, as Peletz discusses in his book, *Islamic Modern*. Peletz provides an analysis of the state incursions into religion described earlier. He argues that 'courts help lay the groundwork for Malaysian-style modernity and civil society' (2002, 21). In addition to providing for a discrete forum to mitigate disagreements, rural family courts 'valorize contractual responsibilities' in their commitment to marriage contracts, provide for certain levels of agency (particularly for women) that might be absent within a household, and 'contribute to the further erosion of extended kinship as well as the democratization of family groups, household relations, and marriage in particular' (21). In this case, state-run religious institutions actively work to form new subjectivities among individuals and families in rural Malay areas, thereby, according to Peletz, providing precise conditions that in part make modern forms of civil society possible.

### **Religious exclusions and religious civil society**

Just as religious conceptualisations of civil society may rely upon or enable certain subjectivities, the state or other civil society actors may enact precise legal or social exclusions that prevent the public recognition of certain religious minorities. These exclusions result in the delimitation of civil society by either prohibiting by law or

preventing by intimidation the public expression of certain religious beliefs (Horstmann 2020). As suggested earlier, as Southeast Asia is a region in which religion is rarely autonomous from the state and in which civil society is subject to various political pressures, the practice and the public expression of religion is often not fully protected, especially for religious minorities.

The extent of exclusion and its effects vary in different states and even across a single state. In the Philippines, both the Catholic Church and mainstream evangelical Christian groups actively reject the Iglesia ni Cristo as a Christian sect. Often the church is referred to as a cult focused on the dynastic leadership of the Manalo family. However, given the constitutional protections of religious freedom in the Philippines, the church has not only been able to maintain its existence for over a century, but it has also successfully carried out a global expansion, substantially developed its humanitarian and philanthropic activities within the Philippines, and has gradually gained substantial political influence as well (Cornelio 2017).

In contrast, sectarian exclusions have affected Shia and Ahmadiyya communities in Indonesia and Malaysia, where both minority Muslim sects have been banned. In Indonesia, conditions for Shia and Ahmadiyya communities have gradually worsened since the end of the Suharto regime. Both communities have been subjected to intimidation and violence targeting public groups, boarding schools, and entire villages (Makin 2017). Most incidents have been instigated by anti-pluralist, Islamist civil society groups, such as the now banned Islamic Defenders Front (FPI, Front Pembela Islam). Anti-Shia sentiment is also prevalent even within Nahdlatul Ulama, an Islamic mass organisation that is typically understood to be committed to pluralist forms of religious civil society (Kayane 2020). Meanwhile in Malaysia, since a National Fatwa Council fatwa in 1996 against Shia teachings, both state and federal governments have increasingly moved to ban Shia activities and have organised mass arrests of Shia adherents (Mohd Faizal and Tan 2017). Ahmadis have also been charged with shariah-related offences in Malaysia, as Islamic religious departments in Malaysia do not recognise them as Muslims.

In Vietnam, by contrast, the state has gradually expanded the number of state-recognised religions, including Cao Đài and Hòa Hảo as well as Chinese-Vietnamese redemptive societies. This transformation has not only enabled the formation of new legal religious associations, but it has also changed the way that individuals can identify publicly (Hoskins and T. Ninh 2017, 4–5; Taylor 2007). In spite of these transformations, religious practice in Vietnam cannot be understood as autonomous from state authority, as Communist party-state-controlled religious organisations remain dominant. As such, changes to the religious public sphere have not been universal. Hmong Protestant communities, for instance, have been subject to substantial repression involving ‘strict censorship and prohibition of evangelical missions on the one hand, along with development, education, and political propaganda programs on the other’ (Ngo 2015, 276). The Vietnamese Communist Party’s efforts to limit Hmong conversions to Protestantism demonstrate the arbitrary limits of religious freedom in Vietnam.

These suspicions of the Vietnamese state towards missionary activity and especially of the work of groups associated with foreign religious organisations, however, result in decisions by such groups sometimes to shield their activities from authorities. The Law on Belief and Religion, which came into effect in 2018, was intended to create a framework that encourages foreign groups to register with the government, thus expanding the Vietnamese state’s authority over such religious NGOs. The definition of religious

civil society becomes complicated when religious organisations intentionally act in explicitly secular ways, either by hiding their religious orientations or by carrying out religious activities surreptitiously, despite their normative valence being limited in doing so. Wells-Dang has suggested that, in many cases, the decision to register or not, or to reveal the religious nature of the organisation, has more to do with practical considerations that shape organisations' ability to react to state pressure, such as the size or home country of the organisation, than with religious beliefs (2007, 412).

Similarly in Myanmar, in the 2000s and immediately after the beginning of the military's political transition in 2011, many religious organisations did not carry out missionary activities and limited religious aspects of their public presence to avoid state scrutiny (Desaine 2018). The religiosity of either Buddhist or Christian organisations was based primarily on their geographical location in Myanmar, their relations to local authorities, and whether the organisations had ties to religious international NGOs. These examples of what can be called 'underground' religious civil society would still to some degree result in trust and a sense of autonomy from the state. However, the fact that they were shielded from the broader public makes it difficult to fully consider these organisations in terms of civil society, while the hidden nature of their religious work obscured the presence of religious civil society.

### **Virtual religious civil society**

One realm in which new religious subjectivities and exclusions have proliferated rapidly is online religious activism and social media (Schäfer 2018). As Merlyna Lim discusses in her chapter in this volume, one of the most remarkable social transformations over the last two decades has been the explosion of Internet connectivity in Southeast Asia and the rapid development of web-based communities and social media. Commenting on the emergence of an array of web-based Buddhist resources and communities in Thailand in the early 2000s, Jim Taylor classified these new forms of religious community as part of a 'virtual civil society' in which 'virtual religious virtuosi have wide social networks, norms, and social trust, and are able to facilitate social and intellectual interactions among their members' (2004, 92). Less than a decade later, Myanmar also experienced the emergence of virtual forms of religious discourse and activism. However, the timing of this change was not related to the growing popularity of social media, but rather to Myanmar's military leadership and its political transition, which saw the expansion of political freedoms and the rapid widening of the space for civil society (Schober 2017, 159).

The loosening of authoritarian rule also had substantial implications for religious discourse in Myanmar. As Schober has suggested, 'Myanmar undertook comprehensive reforms that touch upon every aspect of life in which religious difference has increasingly been marked and social and political identity has been contested' (160). Thus, the resulting expansion of the 'new boundaries of civil discourse' prior to the 2021 coup that Schober describes in part involved dramatic changes to Buddhist religiosity. In a short time, new civil society formations would begin to reflect the intensification of Buddhist nationalism with the rise of the 969 Buy Buddhist movement and the Ma Ba Tha in the wake of violence in 2012 in Rakhine State. Between 2012 and 2014, the Ma Ba Tha successfully employed Facebook to circulate anti-Muslim hate speech and fundraise in support of a wide array of offline activism (Nyi Nyi Kyaw 2021, 95–97).

The growth of virtual civil society in Indonesia also facilitated conservative reaction after the emergence of the online-based Liberal Islam Network (JIL) in the early 2000s. JIL became the catalyst for the emergence of conservative online groups that effectively copied JIL's brand of online, intellectual, religious commentary. The most notable example of this was the formation of the Jakarta-based Institute for the Study of Islamic Thought and Civilizations (INSISTS) in 2003, just two years after JIL's Islamlib.com website began publishing commentaries (Van Bruinessen 2013, 45). INSISTS is organised generally around Adian Husaini, a former member of the Indonesian Council of Ulama and outspoken critic of liberalism and secularism.

INSISTS's use of JIL's model for online organisation demonstrates that, regardless of deep religious differences, the proliferation of virtual religious civil society has been premised upon virtual organisational structures that are mostly limited in their design and in some cases, remarkably similar. In other words, one critical lesson from virtual civil society is that, whereas contestation among civil society groups may reflect normative differences, associations may display key empirical similarities. In this case, the similarity is based in the presentation of INSISTS and JIL – namely in the structure of their web-presence and content.

## **Conclusion**

This chapter has focused on religion and civil society in Southeast Asia, with an emphasis on the normative resources organised religions can provide in the formation of civil society. In doing so, I have developed a concept of religious civil society that reflects the conditions of both civil society and religion in the region. Just as civil society in Southeast Asia has been shaped through the experiences of colonialism, the expansion of modern capitalism, and autocratic rule, these historical forces have transformed religion, too. These transformations have not resulted in a gradual secularisation, as religion has remained a critical part of societies across the region. What is of interest more broadly for the study of religious civil society is that Southeast Asian religion as a domain, more so than many other domains within civil society, is rarely autonomous from the state or governing elites.

The lack of autonomy of religion in the region determines both the nature of religious associational life and the normative resources that inform public religious discourse more generally. This chapter has mapped the contours of religious civil society by examining the dynamics that shape the production and circulation of these resources. Moreover, I have offered an approach to the composition of civil society that includes the subjectivities and exclusions that are important elements of religious discourse and contestation and civil society alike. Although there is no way to generalise the nature of religious civil society in a region with such religious and political diversity as Southeast Asia, an expansive concept of religious civil society can allow for a broader account of the dynamics that foster or constrain religious associational life in the region.

## **Note**

- 1 At the start of his presidency, Duterte launched a violent war on drugs that, by the end of 2021, had resulted in over 300,000 arrests and over 6,000 deaths, according to the Philippine Drug Enforcement Agency (Kishi and Buenaventura 2021). The number of extra-judicial detentions and killings is likely much higher.



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## **PART V**

# Advocacy



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# ORGANISED LABOUR AND AUTOCRATISATION IN SOUTHEAST ASIA

*Teri L. Caraway*

Organised labour was at the forefront of struggles for democracy in the 20th century (Rueschemeyer, Stephens, and Stephens 1992; Collier 1999). Working class organisations leveraged their mass base not only to win extensions of the franchise, but also to bolster broad-based movements that ousted dictators. With a reverse wave of autocratisation underway around the globe, including in Southeast Asia (Lührmann and Lindberg 2019; Croissant and Haynes 2021), the question arises: what, if anything, is organised labour doing to stop it? Given labour's history of supporting democratisation and the obvious perils of autocracy for organised labour's ability to advance working-class agendas, we might expect it to be a staunch defender of democracy.

Yet in Southeast Asia, where organised labour has had bitter experiences under authoritarian rule (Caraway 2021a), labour has not mobilised on a large scale to resist the rollback of democratic institutions. In countries where labour was not very contentious prior to autocratisation – the Philippines and Thailand – the weakness of labour pushback is not surprising. But in Cambodia and Indonesia, where the labour movement was arguably the most consistently contentious collective actor in the 21st century and was at its peak of strength in the years prior to autocratisation, the feeble response is more surprising (Caraway and Ford 2020; Ward and Ford 2021). Of the subset of countries in the region experiencing autocratisation, only Myanmar's comparatively small and young labour movement challenged autocratisation.

This chapter analyses organised labour's varying responses to autocratisation in Cambodia, Indonesia, and Myanmar, the three Southeast Asian countries where autocratisation occurred, and labour was in a comparatively strong position to resist it. I begin with a discussion of labour's distinctive features vis-à-vis other civil society organisations (CSOs) and an overview of the insights that scholarship on labour and democratisation offer for understanding labour's responses to autocratisation. The next section provides an overview of autocratisation pathways and a brief profile of organised labour for each case. The chapter then assesses the extent to which existing theories explain labour's varying responses, arguing that they provide insight into specific cases but cannot explain the variation across the cases. I suggest that the pace of autocratisation, through its effects on threat perception and pre-emptive divide-and-rule tactics that demobilise opposition, is an overlooked factor that illuminates labour's varied responses to autocratisation.

### **Labour, civil society, and democratisation**

Organised labour differs from other civil society actors in several important ways. Unlike most CSOs, unions have a mass base of dues-paying members. As organisations rooted in the workplace, unions also direct much of their energy to addressing their members' concerns, many of which fall within the private sphere of production. Unions, of course, do not focus exclusively on winning concessions from employers. Like other CSOs, they also engage in public advocacy. But in dedicating scarce organisational resources to activities outside the workplace, unions must convincingly justify this decision to workers. When members support these endeavours, unions are more likely to be able to mobilise large numbers of people. This disruptive potential in the streets and for capitalist production also distinguishes unions from other CSOs. Given this, unions are also subject to a different set of regulations than other CSOs. Labour-specific regulations determine not only the rules for forming legal unions, but also the requirements for workers to engage in joint actions such as collective bargaining and strikes.

Labour law is therefore a central means through which states contain the disruptive power of the working class. These regulations are usually more intrusive and constraining in autocracies and hybrid regimes than in democracies. In non-democratic regimes, the state often incorporates labour through corporatist institutions in which unions submit to constraints such as restrictions on the right to strike (Stepan 1978; Collier and Collier 1979). In exchange, unions also receive inducements such as a monopoly of representation and financial subsidies. These arrangements typically favour unions with close ties to the regime and discourage the formation of independent unions. In other autocracies, in lieu of corporatist controls, states may simply ban or harass independent unions and suppress worker protests when they erupt. Unions in these contexts have a more oppositional relationship to the regime than in corporatist systems that tie state-backed unions more closely to the state.

Differences in the relationship between labour and the state, in turn, have consequences for the role of organised labour in democratic transitions. In cases where corporatist unions were dependent on the state and aligned with the ruling party, organised labour was often hostile or indifferent to democratisation (Bellin 2000; Levitsky and Mainwaring 2006). However, when corporatist controls failed to fully co-opt labour, independent unions have emerged to challenge the dominance of state-backed unions. In many third-wave cases of democratisation in the 1980s – Brazil, the Philippines, South Africa, and South Korea – autonomous unions linked up with other community organisations to demand regime change (Seidman 1994; Scipes 1996; Koo 2001). In other autocracies, such as Argentina in the early 1980s, long-established unions that were not linked to the dictatorship mounted massive protests that destabilised authoritarian regimes and paved the way to democratic transitions (Collier 1999).

Existing scholarship on labour and democratisation connects organised labour's relationship to the incumbent authoritarian regime to this support for overthrowing authoritarian rulers. Those aligned with the regime were less likely to join pro-democracy movements than independent organisations that the regime suppressed. Scholarship on labour and regime change has not yet analysed the role of organised labour in democratic reversals, but the literature on labour and democratisation provides some insights into how organised labour might respond. Much as unions allied with authoritarian governments seldom mobilised in favour of democracy, unions with close ties to the autocratising agent should be less likely to resist autocratisation. Conversely, autonomous

unions without strong links to the autocratising agent should be more likely to contest autocratisation, as they have little to gain and much to lose from the contraction of spaces for protest and dissent that typically accompany autocratisation. The resistance should be fiercer from unions that are aligned with the opposition. Before evaluating the utility of existing theory in explaining labour's varying responses to autocratisation, the next section outlines the broad contours of each country's autocratisation pathway and trade union landscape.

### **Autocratisation pathways and the trade union landscape**

Autocratisation varies in terms of its starting and end points as well as in the pace it unfolds. Whereas democratisation describes the movement toward more democratic institutions, autocratisation represents the reverse, i.e., the movement away from democracy. As such, autocratisation occurs not only in democracies but also in autocracies that hold competitive elections and that provide some space for civil society organisations. Autocratisation encompasses both sudden democratic breakdowns (e.g., military coups) and incremental processes that chip away at democratic institutions (Lührmann and Lindberg 2019). In incremental cases, the autocratising agent is usually an elected leader who misuses their authority to dismantle institutions that place checks on their power, undermine the opposition, and close spaces of contention. In contrast to coups, which happen quickly and demolish democratic institutions in a matter of days, incremental autocratisation unfolds over a more extended period. Autocratisation may not culminate in a breakdown of democracy or a transition from a hybrid regime to a closed autocracy. But at the end of an episode of autocratisation, the country has fewer democratic characteristics.

The cases under analysis here followed distinct autocratisation paths. In 2013, Cambodia was an electoral authoritarian regime in which opposition parties vigorously competed against the ruling Cambodian People's Party in unfree and unfair elections (Un 2019). Autocratisation began in 2014 and proceeded incrementally over the course of several years. Over the course of about four years, the Hun Sen regime mounted an assault on its opponents, culminating in a transition to full-fledged autocracy. Myanmar was also a hybrid regime before the 2021 coup. Although the National League for Democracy (NLD), which had opposed military rule for more than two decades, resoundingly defeated the military's party in every election that it contested after 2011, it was not a democracy because the military encroached on their ability to govern (Bünte 2021). Among other things, the constitution granted the military a quarter of parliamentary seats, which allowed it to veto constitutional amendments and thwart policy initiatives of elected politicians. The military seized power in February 2021, after which Myanmar became a full-blown autocracy. Finally, Indonesia was a democracy at the onset of autocratisation in 2015 (Mietzner 2012; Davidson 2018). During his two terms in office (2014 to present), President Joko Widodo – better known as Jokowi – has selectively targeted government opponents and weakened institutions designed to check government impunity. Indonesia is still commonly classified as a democracy because elections are both regularly held and highly competitive.

In the cases under analysis, the relations of labour to the autocratising agent varied both across and within countries. All three have a diverse union landscape with many competing organisations. Only in Cambodia did a subset of unions have strong ties to the incumbent government (Nuon and Serrano 2010). Even there, however, many



independent unions were active, and some of these unions supported the opposition Cambodian National Rescue Party (CNRP) in the 2013 elections (Ward and Ford 2021). Whereas unions in Cambodia were split between regime and opposition prior to the onset of autocratisation, none of the many unions established in Myanmar after 2011 had close ties to the NLD or the military (Gillan and Thein 2016). Indonesia falls in the middle of the three cases. Although none of its dozens of union federations are organically tied to a major political party – unions have not established an enduring labour-based party – some unions have formed strategic alliances with political parties and individual candidates. In the last two presidential elections, unions were divided in their loyalties. Some backed Jokowi, others his rival, Prabowo Subianto, yet others remained neutral (Caraway and Ford 2020).

In the three countries, organised labour was among the most visible civil society actors prior to autocratisation. Unions frequently organised strikes and demonstrations on labour issues such as the minimum wage and routinely criticised government policies (Caraway 2021a). Yet only in Myanmar did labour respond vigorously against autocratisation. There, unions united across organisational divides to join a broad-based civil disobedience movement. By contrast, labour pushback was much weaker in Cambodia and Indonesia. In Cambodia, unions did not organise any large-scale demonstrations once autocratisation began, even though Hun Sen targeted unions. In Indonesia, Jokowi did not frontally attack unions. He did, however, carry out policies that negatively affected wages and job security. Unions mounted major protests in response to these policies, but they did not mobilise to contest shrinking democratic space. On these issues, aside from a few small leftist labour organisations, unions remained on the side-lines. How well do existing theories explain these varied responses?

### **Extending existing theory**

Civil society scholars have argued that civil society can serve as a firewall that protects democratic institutions when they come under attack (Bernhard 2020; Bernhard et al. 2020). Although labour's participation in civil society mobilisation against autocratisation has received little scholarly attention, a growing literature on civil society resistance to autocratisation has begun to explore the conditions under which civil society is likely to organise against autocratisation. Since labour is a part of civil society, these studies may provide analytic leverage in explaining labour's posture with regard to autocratisation.

One set of explanations focuses on regime vulnerabilities and strengths. Poor economic performance and corruption scandals, for example, foster a widespread sense of grievance that allows civil society opposition to gain traction with wider publics (VonDoepp 2020; Laebens and Lührmann 2021). By this logic, autocratisers should face more resistance when the economy is performing poorly and/or when their government is plagued by major corruption scandals. At first glance, variations in GDP growth rates seem to provide some leverage in explaining why labour's pushback was strongest in Myanmar. Economic performance as measured by GDP growth in the year prior to and during autocratisation was weakest in Myanmar and strongest in Cambodia (see [Table 16.1](#)). Throughout the region, the COVID-19 pandemic resulted in a severe economic contraction in 2020, but Myanmar's (–17.9%) economy was hit harder than Cambodia's (–3.1%) or Indonesia's (–2.1%). However, it was civilian politicians, not the military, at the helm of the state in 2020, so Myanmar's comparatively poor economic performance in 2020 is

*Table 16.1 GDP growth rates before and during autocratisation*

	<i>Year before autocratisation begins</i>	<i>During autocratisation</i>
Cambodia	7.1% (2014)	4.9% (2015–21)
Indonesia	5.0% (2014)	3.75% (2015–21)
Myanmar	–10% (2020)	–17.9% (2021)

Sources: World Bank Development Indicators (2021) for 2014–20, projections for 2021 from International Monetary Fund (2021).

not a persuasive explanation for labour’s stronger response there. The even larger contraction in 2021 was arguably a result of civil society mobilisation against the military junta and not the cause of that mobilisation. Variations in the presence of corruption scandals also do not tell us much about why pushback was strongest in Myanmar. None of the countries had a scandal comparable to the 1Malaysia Development Berhad (1MDB scandal) in Malaysia that ensnared a national leader, and corruption is pervasive in all three countries.

Electoral legitimacy is another factor that affects an autocratising leader’s vulnerability. Autocratisers with legitimate electoral mandates are less likely to face fierce civil society pushback than those who do not (Thompson 2021). Similarly, when leaders have high popularity ratings, civil society may not be able to win widespread support for their opposition to autocratisation (VonDoepp 2020; Laebens and Lührmann 2021; Thompson 2021). Myanmar’s military junta had the least electoral legitimacy among autocratising agents, since they seized power through a coup, and pushback was indeed strongest there. Conversely, labour resistance was weak in Indonesia, where electoral legitimacy was the highest. Jokowi won by a larger margin in 2019 than in 2014 and was a popular president for most of his tenure. Since 2016, his approval ratings have averaged over 60% and, during some periods, exceeded 70% (Jakarta Globe 2021). More puzzling is Cambodia. Despite Hun Sen’s waning popularity, as evidenced by the Cambodian People’s Party’s (CPP) poor showing at the polls in 2013 and 2017, and history of unfair elections, labour pushback was weak.

Other scholars place more causal weight on civil society characteristics than on regime vulnerabilities. VonDoepp (2020) has argued that where CSOs have strategically important allies – the media, business, the judiciary, and donors – they are more likely to mount robust resistance. Variations in allies, however, cannot explain why pushback was stronger in Myanmar than in the other cases. Other scholars underline how civil societies that lack autonomy from political elites may not fight autocratisation because they are partially or wholly captured (Lorch 2021). This argument mirrors insights from the labour and democratisation literature in that unions linked to the autocratising agent are more likely to be passive in the face of a rollback of democratic institutions. However, even in Cambodia, where most unions were beholden to the CPP, there were independent unions that had aligned with the opposition in the most recent election. In Myanmar and Indonesia, unions were not captured by the state or the governing party.

Even if CSOs are not completely subordinate to the state or the ruling party, polarisation along partisan lines may have a similar effect by dividing them and, hence, weakening civil society’s response (Arugay 2019; Mietzner 2021). Extending this argument to labour, one might expect that if unions are politically aligned with the autocratiser, they will stand idly by as autocratisers consolidate power, or that if labour is divided along partisan lines

in a polarised context, that pushback will be weak. Partisan polarisation was highest in Indonesia during Jokowi's first term, when an opposition led by his opponent in the 2014 presidential race, Prabowo Subianto, controlled a large share of the seats in the legislature. Jokowi and Prabowo faced off again in 2019, but this time Prabowo and his party, Gerindra, joined Jokowi's coalition. In both 2014 and 2019, the largest labour confederations split their allegiances, so the absence of pushback by the unions supporting Jokowi conforms to the polarisation argument.<sup>1</sup> However, the Prabowo-aligned unions also stood by as Jokowi aggrandised power during his first term. Moreover, even the unions that backed Jokowi hit the streets to oppose his labour policies during his first and second terms. Thus, unions mobilised on issues that directly affected their members' economic interests but did not do so when the government undermined democracy.

Partisan polarisation also cannot explain weak labour pushback in Cambodia. There, unions were also split politically, with regime-backed unions supporting the CPP and many independent unions backing the CNRP, which had a pro-labour platform. Yet independent unions did not mobilise when the CNRP was attacked, nor did they strenuously oppose the broader attack on civil society that also targeted labour (Young 2021). As for Myanmar, its unions were not aligned with the NLD or any other political party (Nachemson 2021). In theory, this non-alignment should have facilitated unified labour pushback. However, partisan affiliations are not necessarily the most relevant division within labour movements. Sharp tensions existed between union leaders who remained in Myanmar under military rule and those who went into exile (Gillan and Thein 2016, 281; Arnold and Campbell 2017, 808–9; Park 2018, 337–8). These divisions can be just as toxic as partisan divisions, but despite them, the labour movement actively participated in the civil disobedience movement (CDM).

Finally, some scholars highlight the importance of regime responses to civil society opposition, most notably the role of repression in dampening civil society's resistance to autocratisation (Mietzner 2021). When elites are reluctant to respond coercively to civil society opposition, it is argued, civil society is more likely to be a strong bulwark than when elites respond more aggressively. While this argument makes intuitive sense, the existing scholarship on the repression–mobilisation nexus has concluded that repression is a poor predictor of future mobilisation. In some cases mobilisation waxes in the wake of repression, while in others it wanes. Even when repression temporally quells resistance, it may prompt an escalation over the longer term (Boudreau 2004; Davenport 2007; Chenoweth, Perkoski, and Kang 2017).

This is not to say that repression does not affect labour's response to autocratisation, only that these effects are complex and likely interact with contextual variables. The specific techniques of repression – e.g., indiscriminate violence versus more subtle preemptive moves – also matter. In any case, prior to the onset of autocratisation, repression was stronger in Cambodia and Myanmar than in Indonesia, yet labour's response was weaker in Indonesia than in Myanmar. Once autocratisation began, repression increased in all three cases and most spectacularly in Myanmar. The violence reduced street protests but did not stamp out resistance.

To sum up, existing theory provides some insight into why labour resisted in specific cases, but it cannot explain the variation across the three cases. The arguments focusing on electoral legitimacy and the popularity of elected leaders provided the most analytical leverage. But as will be emphasised below, greater attention should be placed on the pace of autocratisation and how this affects perceptions of threat and the repertoires of repression that autocratisers deploy.

### **Explaining labour's responses to autocratisation**

Existing scholarship has demonstrated that coup leaders face a higher hurdle in proving their electoral legitimacy and are therefore more likely to experience pushback from civil society than autocratising leaders who have won elections fairly and squarely. Perhaps just as important, however, are the contrasting effects of rapid versus creeping autocratisation on threat perception and the opportunities for pre-emptive moves that disorganise opponents. Rapid autocratisation – the classic example is a military coup – sends an unambiguous signal that democracy is under attack and is therefore more likely to unify diverse actors against a common enemy. In addition, civil society is in a stronger position to act because the autocratiser has not had the opportunity to weaken civil society before making their move. When autocratisation unfolds incrementally, by contrast, civil society may be slower to deduce that autocratisation is underway, especially in democracies where autocratisers lean more heavily on subtler methods to stifle opposition. By deploying divide and conquer tactics that disorganise civil society over time, moreover, autocratisers weaken its capacity to respond and fragment responses both in time and space.

These dynamics help to explain the varying responses of labour to autocratisation. In Myanmar, the coup unambiguously signalled that civilian rule was under threat, and labour joined forces with other civil society actors to oppose the coup. In Cambodia and Indonesia, where autocratisation proceeded incrementally, both Hun Sen and Jokowi adroitly disorganised civil society. Given the different regime context, Cambodia's independent unions and other CSOs quickly recognised the threat. But each was so knocked off balance that they put up little resistance. In Indonesia, by contrast, unions were slow to recognise the threat. Although they organised large protests to oppose government policies that affected their members' pocketbooks, they did not do so when Jokowi took steps that weakened democratic institutions.

### ***Myanmar***

Of the three countries, labour's response to autocratisation was most vigorous in Myanmar. Although civil society, including labour, was increasingly visible and active in the years since liberalisation in 2011 (Fink and Simpson 2018; Middleton and Win 2021), the tenacity and scale of the resistance to the coup was remarkable. Protests erupted around the country as hundreds of thousands of people hit the streets after the coup on 1 February 2021. By the end of the month, a rolling general strike paralyzed Myanmar's economy and state bureaucracy (Anonymous 2021). Organised labour participated in these collective efforts that united wide swathes of the populace against the military.

Organised labour participated in the civil disobedience movement because they perceived the military to be an existential threat to the labour movement. In interviews conducted soon after the coup, labour activists expressed their alarm about the implications of military rule for organised labour:

Under the military dictatorship, our labour rights will be violated. We can't accept the dictatorship at all.

We are fighting for the whole country. If the military leadership is to win, there will be no labour unions. And if there are labour unions, they will not be

real labour unions: the government will intervene, and the union will become only for show.

Workers want democracy because we have thoughts, and we are not passive. We need freedom to ask for workers' rights – protection and benefits. Only democracy can provide that.

*(Haack and Hlaing 2021)*

Labour activists' acute sense of threat was intimately tied to their comparatively recent experience of military rule, during which the government banned unions and arrested, jailed, tortured, and killed dissidents. In the 1990s, many prominent labour leaders fled abroad, and those who remained carried out their organising activities surreptitiously to avoid arrest. After 2011, exiled labour activists returned and continued their work in the labour movement (Henry 2015). While the labour situation was hardly ideal under the NLD government, which had a tenuous relationship with much of civil society, including labour (Levenson 2021), unions mobilised to defend the NLD's electoral mandate because they understood viscerally that the military would annihilate the labour movement.

In the days after the coup, unions held a joint emergency meeting in order to strategise about how to oppose the military (Haack and Hlaing 2021). Initially they organised strikes in industrial zones, and women-led garment unions around Yangon mobilised thousands of workers to join protests in the city centre (Jordt, Than, and Lin 2021; Paton 2021). Soon they began collaborating with other groups to mount nationwide general strikes (Haack and Hlaing 2021). These collaborations were facilitated by the informal links between labour leaders and other civil society organisations (Gillan and Thein 2016, 280).

The pace of autocratisation in Myanmar, which sent an unambiguous signal that democratic institutions were under attack, helps to explain organised labour's mobilisation against it. Imagine how events might have unfolded if autocratisation had occurred incrementally. Labour and other CSOs would have been slower to recognise the threat and different elements of civil society might have stood by as the generals targeted different groups over the course of several years. Cambodia, where Hun Sen stymied labour (and civil society) resistance with a targeted set of repressive measures that unfolded over several years, illustrates this dynamic.

### ***Cambodia***

Whereas the military coup united labour with other civil society actors on the streets in Myanmar, in Cambodia labour did not mobilise against autocratisation. This comparative quiescence is surprising, as a robust civil society comprising non-governmental organisations, community groups, and labour developed in the first decade of the 21st century and frequently butted heads with the Hun Sen regime (Un 2019). I link labour's feeble response to a series of repressive measures that incrementally disorganised not only labour but also other civil society groups, leaving each group struggling to keep their heads above water as Hun Sen sequentially targeted them.

Hun Sen began to aggrandise his power after the opposition CNRP performed surprisingly well in the 2013 national elections. Rather than focusing his initial fire on the CNRP, however, Hun Sen first moved to weaken the civil society groups that supported the opposition (Un 2019). Independent unions were of particular concern,

as they organised most protests (Bynum and Pfadt 2019) and their support for the CNRP in 2013 helped it to win many votes in centres of garment production (Ward and Ford 2021). The CNRP was still contesting the election results when large worker demonstrations over minimum wages erupted in late 2013 and early 2014. To avert the possibility that the CNRP might capitalise further on worker discontent, Hun Sen suppressed the protests and went on the offensive against labour activists. In the ensuing months, at least 867 union leaders and workers were dismissed, many trade union leaders and activists were charged with criminal offences related to their union activities, and injunctions and requisition orders against unions and workers engaged in industrial actions increased (International Labour Office 2017b, 2017a). During this period, the authorities also tried and often convicted many other civil society activists for engaging in peaceful protest (Human Rights Watch 2015).<sup>2</sup> While independent union leaders and other civil society activists defended themselves against this onslaught, the government enacted new laws designed to weaken CSOs and trade unions. The Law on Associations and Non-government Organizations (2015) and the Trade Union Law (2016) gave the government new legal tools for controlling them.<sup>3</sup> Independent unions voiced their disagreement with the new law but did not mobilise their members to oppose it (Baliga, David, and de Carteret 2016). On the day the National Assembly passed the law, fewer than 100 workers showed up to voice their disapproval (Sotheary and Baliga 2016).

After dealing with civil society, Hun Sen next targeted the political opposition. Perhaps overconfident that the opposition could be contained, the CPP permitted CNRP politicians to assume their seats in the National Assembly in 2013.<sup>4</sup> After the CPP performed poorly in the June 2017 communal elections, however, the CPP took more deliberate action to weaken the CNRP (Un 2019). The government amended the Law on Political Parties and the Law on Election of Members of the National Assembly to give courts greater authority to dissolve political parties and prohibit convicts from serving as party leaders. The authorities arrested the CNRP's leader, Kem Sokha, and a compliant Supreme Court dissolved the CNRP, banning its members from politics for five years.<sup>5</sup> With no credible challengers, the CPP won all the parliamentary seats in the July 2018 national elections. When exiled CNRP leaders announced their intention to return to Cambodia in November 2019, the government arrested at least 125 former CNRP members and activists and carried out a series of mass trials against opposition figures (Human Rights Watch 2021). With no meaningful opposition left to contest elections, Cambodia had completed its transition to full-fledged autocracy.

Despite their links to the opposition, unions did not mobilise their members to protest these actions against the CNRP. The deft sequencing of the regime's assault on labour and other CSOs explains not only labour's failure to defend its opposition allies but also its feeble response to direct attacks on labour. The suppression of the 2013–14 protests resulted in numerous fatalities and injuries. Before independent unions had a chance to recover from the brutal crackdown, the government began its campaign of targeted intimidation of independent unions, which tied them up in court and strained organisational resources (Ford, Gillan, and Ward 2021). The series of repressive tactics deployed over several years, and that targeted both labour and other groups opposed to the regime, both disorganised labour internally and pre-empted broad-based pushback by forcing each group to fight for its own survival. Incremental autocratisation in Indonesia reveals some similar dynamics, but the different regime context required Jokowi to use a more subtle repertoire of repression.

## *Indonesia*

Unlike in Cambodia, where the regime arrested many labour activists and directly attacked both organising rights and many labour activists, the Jokowi administration's assault on labour targeted wages and job security. Although organised labour in Indonesia mobilised to oppose these measures, they did not perceive them to be part of a larger attack on democracy. Focused on the very real threat to their members' livelihood, unions were slow to realise that their defeats under Jokowi were intimately tied to the incremental process of autocratisation underway. The creeping pace of autocratisation, in turn, contributed to this delayed recognition of the nature of the threat (Caraway 2021b).

Jokowi's confrontation with organised labour began early in his first term. The trigger was Government Regulation no. 78/2015 on Wages, better known as PP78, which limited minimum wage increases by imposing a formula-based cap (Caraway, Ford, and Nguyen 2019). Despite the violent dispersal of a large and peaceful union-led protest outside the presidential palace and arrests of dozens of workers protesting against PP78 around the country, unions saw Jokowi as a mere stooge for business, not as a threat to democracy (Mufakhr and Pelu 2015; Caraway 2021b). Most unions focused their efforts on reversing PP78, while others also began to strategise about backing a rival to Jokowi in the 2019 presidential race (Caraway and Ford 2020).

In the meantime, autocratisation proceeded. Whereas Hun Sen targeted civil society first, Jokowi dealt first with the opposition. Unlike Hun Sen, Jokowi faced a legislature in which the parties aligned with his rival in the 2014 race, Prabowo Subianto, controlled the majority of seats. Pulling a page out of Suharto's playbook, Jokowi fractured the opposition coalition by intervening in the internal affairs of two key opposition parties and filing selective charges against political opponents (Mietzner 2016; Power 2018; Aspinall and Mietzner 2019; Power 2020). Although the opposition had sided with unions on PP78, unions were silent.<sup>6</sup>

Likewise, labour remained on the side-lines when Jokowi set his sights on weakening Islamist groups that had allied with Prabowo. In response to the huge Islamist rallies in Jakarta in late 2016 demanding the prosecution of Jakarta's mayor and Jokowi ally, Basuki Tjahaja Purnama, the government issued a regulation that authorised it to ban organisations without prior judicial process. The government used this regulation to ban the Islamist Indonesian Party of Liberation (Hizbut Tahrir Indonesia, HTI) and later the Islamic Defender's Front (Front Pembela Islam, FPI). Prosecutors also charged numerous opposition figures, some tied to Islamists and others not, with treason (Brown 2017). Among the dozen or so Jokowi critics brought in for questioning were two leaders of one of Indonesia's most important union confederations (Nailufar 2016; Tempo.co 2017; Marhaenjati and Arnaz 2018).<sup>7</sup> Despite the obvious dangers the new regulation and harassment of government opponents posed for a feisty labour movement, unions did not express strong opposition.

After winning re-election in 2019, Jokowi continued to consolidate his power. His foe in the presidential race, Prabowo Subianto, joined his grand coalition government. Among the new legislature's first acts were passing laws that weakened the autonomy of two bodies that could check the government: the Corruption Eradication Commission (KPK) and the Constitutional Court. Enacted rapidly and with minimal deliberation, the KPK law in particular generated widespread criticism as a setback for democracy (Nurbaiti 2020; Power 2020; Mietzner 2021). Once again, organised labour stood on

the side-lines and did not join the thousands of students who demonstrated around the country after the legislature enacted the KPK law (Lane 2021).<sup>8</sup>

Labour did mobilise, however, when Jokowi moved forward with his second term's top legislative item, the Omnibus Bill. The massive bill amended more than 70 different laws, including the Manpower Act. The previous president had tried and failed to revise this act several times, beaten back each time by fierce resistance from organised labour (Caraway and Ford 2020). The proposed amendments included many provisions weakening job security that employers had long sought. Unions initially saw the bill as yet another neoliberal measure from a pro-business president. This perception was reinforced by the composition of the drafting committee, which Jokowi packed with employers. Not a single representative from labour sat on the committee (Caraway 2021b). Labour resistance slowed down the bill's progress, but in the end it passed overwhelmingly at a plenary that legislative leaders hastily convened ahead of schedule to avoid labour protests (Argama 2020; Lane 2021; Caraway 2021b).

With the passage of the Omnibus Law, however, prominent labour leaders from varying ideological perspectives began to recognise that not just bread-and-butter issues were at stake (Caraway 2021b). Trade unionists now connected Jokowi's ability to reverse gains that labour had made after the fall of Suharto to the broader regime context: 'democracy has deteriorated under Jokowi'; 'we no longer have a democracy in Indonesia'; 'democracy is under threat' (Interviews, April 2021). This late recognition is understandable. Intensely fought elections continued to be held, after all, and the harassment of union leaders and violent suppression of protests were surgical and sporadic rather than ongoing. In retrospect, the various methods that the authorities had used to stymie labour protests, such as more strictly enforcing a national law prohibiting public gatherings close to 'vital' locations like the presidential palace, the intensified surveillance of unions, the blocking of key arteries into the capital when unions organised major protests, the monitoring of 'strategic risk areas' such as factories and universities to prevent 'anarchistic actions', and cyberwar, took on new meaning (Caraway and Ford 2020; Sastramidjaja and Rasidi 2021; Caraway 2021b).

Now that unions have begun to see Jokowi as not only a pro-business president but also a threat to democracy, will they be more vigilant? The preliminary signs are good. In February 2022, Jokowi supporters began lobbying for a postponement of the 2024 election so that the president could remain in office after the end of his constitutionally limited second term. Calling this effort a 'constitutional coup', the leader of one of the major confederations proclaimed: 'If we're forced, we will oppose this with people power' (Siswanto 2022).

## **Conclusion**

Organised labour is more likely to mobilise to defend democracy when it is aware that autocratisation is happening, perceives it to be a threat, and has not been pre-emptively weakened. The pace at which autocratisation occurs profoundly affects not only awareness and threat perception, but also the extent to which autocratisers can take pre-emptive measures that blunt the capacity of labour and other CSOs to respond vigorously. Only Myanmar, where autocratisation happened rapidly, met these conditions of awareness, perception, and absence of pre-emptive demobilisation. Crucially, the coup made it immediately apparent to union leaders that democracy was under attack, and they perceived this to be an existential threat. Because the coup was carried out



precipitously, moreover, the military did not have the option of pre-emptively weakening civil society step by step, as autocratisers did in Cambodia and Indonesia.

In Indonesia, the incremental nature of autocratisation dulled labour's perception of threat. It did not identify anti-labour measures as part of a broader attack on democracy or consider Jokowi's attacks on regime opponents or institutions of accountability to be labour issues. Because of this, they concentrated their mobilisational efforts on opposing regulations that undercut wages or that reduced job security, just as they did under previous presidents who were not aggrandising power. They did not turn out their members in large numbers to oppose attacks on other groups or laws that weakened democratic institutions.

Cambodia presents some similar dynamics as Indonesia, but given that autocratisation commenced in a setting where Hun Sen could act with more impunity than Jokowi, the government more aggressively demobilised labour. On the one hand, given the history of CPP violence against independent unions, their leaders understood early on that autocratisation was underway and presented a threat to their continued existence. On the other hand, incrementalism allowed Hun Sen to deploy divide-and-rule tactics that disorganised civil society and the opposition, leaving each group flailing to protect itself.

One implication of this analysis of labour responses to autocratisation is that future studies of civil society and autocratisation should endeavour to disaggregate civil society and analyse the conditions under which different sectors pull together to reject autocratisation. In particular, more attention should be given to the pace and sequence of autocratisation (Kneuer 2021) and its effects on the repertoires of repression that autocratisers deploy. All autocratisers repress, of course, but the repertoires of repression vary, and these differences may matter for civil society responses. 'Institutional repression' such as bans on organisations and demonstrations and the harassment of activists with trials and court rulings, often undercuts mobilisation, in contrast to situational repression that is a direct reaction to mobilisation, such as shooting protestors, which tends to have escalating effects (Koopmans 1997).

Autocratisers avidly use these institutional measures during prolonged episodes of autocratisation. Similar to dynamics of attrition highlighted by Yuen and Cheng (2017) in their analysis of regime responses to recent protests in Hong Kong, these tactics may be less violent, but they can be very effective. In the 21st century, it is these less-overt, incremental measures that are disorganising not only labour, but also civil society responses to autocratisation.

## Notes

- 1 The reasons for these differences in political allegiances had less to do with friction among the various unions than with strategic and principled calculations. One confederation persuaded Prabowo to endorse a long list of labour demands, so they backed him despite his appalling human rights record. Another confederation whose leaders had been jailed under the Suharto regime backed Jokowi because of Prabowo's record of human rights abuses. Yet another confederation leader endorsed Jokowi because he was a cadre in the party that backed Jokowi. In this case, however, it was a personal, not an organisational endorsement (Caraway and Ford 2020).
- 2 Legal harassment of civil society and labour activists continued in subsequent years, as documented extensively by Human Rights Watch.
- 3 The Trade Union Law instituted stricter union registration and reporting requirements, granted courts expanded powers to dissolve unions, and prohibited unions from engaging in 'political agitation'. The government also made it harder for independent unions to bring

- collective disputes to the widely-respected Arbitration Council, which threatened to undercut member support by hampering their ability to advocate for members (Ford, Gillan, and Ward 2021).
- 4 This is not to say they were warmly welcomed. Two CNRP parliamentarians, Kung Sophea and Nhay Chamraoen, were assaulted outside the National Assembly in October 2015. The CPP also organised protests against the CNRP's leader, Kem Sokha, and charged 18 CNRP members with insurrection (Human Rights Watch 2014, 2016). (Charges were dropped for seven parliamentarians who received immunity upon assuming office.)
  - 5 The authorities forcibly exiled CNRP's previous leader, Sam Rainsy, in 2016.
  - 6 One reason for this silence is that none of the unions were organically linked to the targeted parties, and none of these parties had strong labour credentials. In addition, unions shared the Indonesian public's cynicism about political parties, which are widely perceived as corrupt and self-serving.
  - 7 None of the major unions had organisational ties to the Islamist groups that Jokowi banned. The unionists brought in for questioning had organised a demonstration against PP78 on the same date as the Islamist rally and had refused police requests to postpone it (Dewi 2016). Accusations flew that the union leaders were in cahoots with the Islamists, but plans for the rally were made before the Islamists announced a date (interview, June 2017). Jakarta's unions had butted heads with the governor over minimum wages, so they were glad to see him targeted by Islamists, but the unions were primarily concerned with pressuring the governor to disregard PP78 and approve a big increase in the minimum wage.
  - 8 The government violently suppressed these protests, then pressured rectors to threaten to expel students who returned to the streets (Mietzner 2021). The government used the same methods to deal with student protests after the passage of the Omnibus Law in 2020.

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# BUSINESS ASSOCIATIONS AND CIVIL SOCIETY IN SOUTHEAST ASIA

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Southeast Asian business is by no means a liberal bourgeoisie, yet its associations have at times formed alliances with civil-society organisations (CSOs) to achieve seemingly liberal ends. Businesses in the region have a well-earned reputation for rent-seeking, corruption, attacks on labour, and environmental destruction (Hadiz and Robison 2004), but they also supported, for example, the People Power movement that toppled the Marcos dictatorship in the Philippines (Hedman 2005). These examples suggest that business associations and civil society are not natural allies or enemies, but rather, that the relationship between them is complex and contingent.

Under what conditions do businesses engage civil society? To answer this question, this chapter first conceptualises business associations and civil society as partially overlapping spheres. Then, it proposes two conditions under which business associations find it convenient to collaborate with other CSOs, namely, when (1) the structural power of their members is limited, and (2) the profit motive of their members incorporates entrepreneurial interests. Finally, the chapter introduces a simple heuristic framework to illustrate variation in the ways in which business associations engage civil society.

The chapter reviews the literature on business politics to highlight variation among businesses and their associations.<sup>1</sup> The dominant view of business in Southeast Asia is as a rent-seeking, national elite that deploys its structural power over capital to dominate the state. This characterisation is often accurate at the commanding heights of the economy, but it glosses over important dimensions of variation. Importantly, the composition of businesses varies by multinational, national, and local ownership, and the interests of businesses vary by sector between entrepreneurial and rent-seeking enterprises. Firm-level differences in turn shape the behaviour of industry associations, making some associations more likely than others to enter marriages of convenience with other members of civil society.

## **Conceptualising business associations and civil society**

The conceptual boundary between civil society and business associations is contested. While individual firms are generally excluded from membership within civil society on the grounds that their activities are private, business associations cannot be excluded on

the same basis. To the contrary, business associations, both in Southeast Asia and other world regions, exhibit several defining characteristics of civil society.

Business associations are ‘long-term organizations with formal statutes regulating membership and internal decision-making in which the members are individual businesspeople, firms, or other associations (that are not necessarily linked by ownership ... or contractual ties)’ (Doner and Schneider 2000: 280). According to this definition, all business associations are formal associations that encompass a diverse membership, but they exhibit significant variation with respect to the terms of membership and their relationship to the state (Schneider 2004). In Southeast Asia, many business associations are, or have been in the past, state-chartered and non-voluntary, such as KADIN Indonesia (Kamar Dagang dan Industri Indonesia, Indonesian Chamber of Commerce and Industry) or the Vietnam Chamber of Commerce and Industry. Others, such as the Philippine Chamber of Commerce and Industry, enjoy privileged status in dialogue with the state, even if they were founded as autonomous, voluntary associations. At the same time, voluntary associations held at arm’s-length from the state are even more numerous, representing various memberships based on sector, ethnicity, and location.

As a result of this variation, not all business associations should be considered a part of civil society. The three most commonly invoked characteristics of civil society are that groups must be associational, voluntary, and autonomous from the state (Aspinall and Weiss 2012; Foley and Edwards 1996; Leftwich 1993). According to these minimal criteria, voluntary, autonomous associations such as Makati Business Club in the Philippines inhabit the realm of civil society, while associations like KADIN do not.

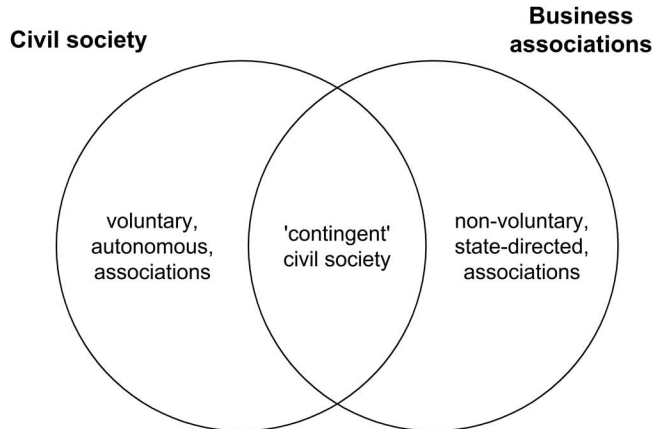
The position of business associations grows murkier, however, when scholars impose additional conditions on civil society. For example, Alagappa (2004) explicitly states that civil society is a public sphere in which groups ‘are not motivated by profit’, a condition that arguably excludes business associations. Diamond (1994, 5) imposes a similar condition, but only on ‘individual business firms’, thereby carving out an exception for business associations. Synthesising these competing viewpoints, Weiss (2008, 151) usefully shifts the standard for inclusion in civil society to actions that are ‘critically engaged with the commonweal’, regardless of motive. [Table 17.1](#) summarises the differences across these scholars’ definitions of civil society.

In light of these definitional ambiguities, I propose to conceptualise business associations and civil society as partially overlapping spheres ([Figure 17.1](#)). On the one hand, some business associations meet the basic criteria for inclusion in civil society, while

*Table 17.1* Characteristic dimensions of organisations constituting civil society

	<i>Associational</i>	<i>Private</i>	<i>Voluntary</i>	<i>Autonomous (from the state)</i>	<i>Rule abiding</i>
Leftwich (1993)	X	X	X	X	
Diamond (1994)	X		X	X	X
Foley and Edwards (1996)	X	X	X		
Alagappa (2004)	X			X	
Weiss (2008)	X		X	X	X
Aspinall and Weiss (2012)	X			X	

Note: The table excludes dimensions that only appear in one author’s definition.



*Figure 17.1* Business associations and civil society as overlapping spheres.

others do not and should be excluded. On the other hand, mainstream CSOs may share many qualities in common with business associations, but there are certain characteristics unique to business associations that distinguish them from their civil-society peers.

Specifically, business associations, including those that are voluntary and autonomous, share two attributes that set them apart from most other CSOs. Namely, business associations are constituted by members that are (1) profit-driven and (2) wield structural power based on their ability to allocate capital. As a result of these distinctive characteristics, the interests and capabilities of business associations differ from those of their civil-society counterparts.

First, business associations represent members who are motivated by private profit, tying their activities to a private sphere that is outside the realm of civil society. Profit-oriented business interests might be narrower than those of organisations motivated by civic engagement, and less likely to produce widely shared benefits. Nevertheless, it is possible that the pursuit of profit might lead some associations to critically engage the commonweal, as in the case of Thailand's competitive clientelism or Makati Business Club's anti-corruption campaigning (Doner and Ramsay 1997; Mikamo 2013).

Second, business associations comprise a membership that wields structural, or 'investment power' (Fairfield 2015). Structural power accrues either from asset mobility or from highly concentrated control over strategic industries, and it confers a type of political capability that is unique to business. Whereas other CSOs articulate their interests by means of legal, electoral, or popular mobilisation, businesses have the ability to constrain the actions of policy-makers simply by threatening to withdraw capital from the economy (Winters 1994). Furthermore, businesses need not coordinate with one another to take such actions, making businesses associations irrelevant to the exercise of structural power (Bates and Lien 1985).<sup>2</sup> Thus, when business associations act politically in ways that resemble those of other CSOs, they augment the underlying structural power of their members.

The distinctions illustrated in [Figure 17.1](#) can be stated precisely by invoking Collier and Levitsky's (1997) 'classical' and 'diminished' subtypes. According to their framework, a business association like Makati Business Club is a classical subtype of a CSO, because it exhibits all the defining characteristics of civil society (voluntary, autonomous,



associational) plus two additional characteristics (structural power and profit-motivated members). These types of associations comprise the overlapping space between business associations and civil society. In contrast, an association like the historical version of KADIN is a diminished subtype of civil society. While it is an association, it historically was state-directed and compulsory. On this basis, I exclude these types of associations from the realm of civil society.

In sum, business associations that are voluntary and autonomous from the state resemble other organisations that constitute civil society, but their behaviour is contingent upon the profit-making model and structural power of their members. Associations are most likely to find common cause with other CSOs when such engagement enhances the competitiveness of their members in ways that cannot be achieved by structural power alone. Accordingly, this chapter styles the overlapping space between business associations and civil society as ‘contingent civil society’.

### **Business in Southeast Asia**

In the sections that follow, I review the debate on the nature of Southeast Asian businesses, paying special attention to the implications for the profit motives and structural power of business associations. Then, I build on that debate to propose a heuristic framework to distinguish the types of business associations that find common cause with civil society from those that do not. Finally, I illustrate variation across business associations by reviewing several recent, and one classic, studies of business politics in Indonesia and the Philippines.

Indonesia and the Philippines are useful exploratory cases for analysing the behaviour of business associations, because they are the two most democratic countries in Southeast Asia. The interests and actions of associations are easier to observe in the transparent rough-and-tumble of policy-making under democracy. Moreover, it is possible that conclusions drawn from Indonesia and the Philippines might travel to their less democratic neighbours, though caution is warranted. The characteristics that shape the behaviour of business associations – profit motives and structural power – need not vary between democracies and autocracies. Business associations should share similar interests wherever their members exercise structural power and profit from a combination of rent-seeking and entrepreneurship, which seems likely to be true in most middle-income economies. However, associations probably express their interests more discreetly in authoritarian contexts where the political activity of CSOs, including business associations, is tightly regulated.

### ***Rent-seeking oligarchs***

The dominant view of Southeast Asian businesses is that they are rent-seeking oligarchs. According to Winters (2014, 12), deep economic inequality in Indonesia and other Southeast Asian countries has produced concomitant political inequality, as ‘a small number of ultra-wealthy citizens’ use their towering economic power to dominate politics. The overriding concern of oligarchs is ‘wealth defense’ against redistributive threats from the people below, the state above, and rival oligarchs beside (Winters 2011, 20–26). Many Southeast Asian states are too weak to guarantee property rights, so oligarchs use their wealth to influence the political, legal, and judicial systems that exercise discretion over property disputes and redistributive policy.

In Indonesia, for example, the politics of wealth defence have created ‘democracy without law’, as oligarchs deploy their material resources to ensure that Indonesia’s democratic process preserves and enhances their wealth (Winters 2014, 16). In some cases, the relationship between wealth and political office is intertwined to the point of being ‘fused’ (Hadiz and Robison 2014). In practice, Indonesian politicians need the financial support of wealthy donors to win elections, and the wealthy need access to valuable resource concessions, government contracts, and regulatory forbearance to maintain their fortunes. These dynamics are replicated at the local level, where well-connected contractors pressure local officials to corrupt procurement processes and businesses otherwise seek to capture local institutions (Hadiz 2010; Pepinsky and Wihardja 2011; von Luebke 2009).

In the Philippines, likewise, there is ample evidence that a national oligarchy overwhelmed an underdeveloped, patrimonial state to secure easy loans, monopoly licenses, import quotas, and other valuable rents throughout the twentieth century (Anderson 1988; Hutchcroft 1998; Kang 2002; McCoy 2009). At the local level, ‘bosses’ built their fortunes by using political office to consolidate control over the ‘commanding heights’ of the local economy (Sidel 1999).

In these accounts, business emerges as a predatory force whose profits depend on access to rents provided by the state. Accordingly, businesses invest heavily in cultivating corrupt relationships with public officials, because access to public office is the ‘key determinant of how private wealth and social power is accumulated and distributed’ (Hadiz and Robison 2014, 35). According to Winters (2014, 29), ‘the biggest game in town is not energetic wealth creation via industry and services, but aggressive wealth redistribution among the powerful after it has been extracted from the country’s declining natural resource endowments’. To this end, businesses deploy every tool available to them, including bribes, campaign contributions, running for office, hiring thugs, and reallocating capital. However, businesses rarely work collectively through associations according to this perspective, because they are in competition with one another for access to rents.

### ***Entrepreneurs***

On the other hand, a minority of scholars has challenged the dominant view by observing a growing entrepreneurial spirit among Southeast Asian businesses. Almost 30 years ago, Ruth McVey (1992, 8 and 33) sought to distinguish ‘rent-seeking ... from capitalism proper’ in an essay that ultimately concludes that ‘Southeast Asian capitalism is losing its improbability’. Haggard (1998) recognises a ‘modernizing wing’ among the ‘non-crony private sector opposition’ in the Philippines, and Aspinall (2013, 233–234) describes ‘a growing layer of middle-sized capitalists who neither need nor benefit from state patronage’ in Indonesia, such as the owners of supermarket chains and transport companies.

None of these authors denies the prevalence of rent-seeking among Southeast Asian businesses, but rather, they highlight a wider range of interests among businesses than the literature on oligarchy acknowledges. Moreover, many businesses combine entrepreneurial and rent-seeking strategies (Khan and Jomo 2000). For such businesses, entrepreneurial activities give them a stake in regulatory regularisation, even if they also desire private goods and preferential treatment in certain areas. For example, Indonesian contractors building sections of the Trans-Java Expressway benefited from

their private connections to public officials, but they also collectively lobbied for favourable legislation (Davidson 2015). In other sectors, commercial enterprises require basic infrastructure to meet their logistical needs, even if they also desire state-enforced monopolies (Tans 2020). Likewise, property developers benefit from predictable building standards, even if they also depend on state-granted land concessions.

In these accounts, the profit motives of businesses are multiple. Some businesses profit from state-provided rents; some businesses profit from efficiency or innovation; and some businesses profit from both. Furthermore, entrepreneurial activities sometimes give businesses an interest in regulatory predictability and certain types of public goods. And when a whole class of businesses shares such interests, businesses can pursue those interests collectively by means of associations.

### **Characterising variation across associations**

The literature on business associations demonstrates that their actions vary according to the needs of their members. On the one hand, scholars as far back as Adam Smith have recognised their potential for rent-seeking (Haggard, Maxfield, and Schneider 1997). Associations provide an efficient forum for allocating state patronage and other rents, and it seems likely that at least some Southeast Asian business associations embrace such a role. On the other hand, scholars have more recently described ‘developmental’ business associations, both in and beyond Southeast Asia (Doner and Schneider 2000; Prichard 2015; Schneider and Maxfield 1997). These associations promote efficiency in various ways (for example, by promoting coordination and worker training) to serve the entrepreneurial interests of their members. Such variation in the actions and interests of associations shapes the relationships between business associations and other CSOs.<sup>3</sup>

Under what conditions do business associations collaborate with other CSOs? Engagement between business associations and civil society is contingent upon the existence of shared interests, which occurs under two conditions. First, the structural power of association members must be limited with respect to a particular goal (Frieden 1991). Otherwise, businesses will have no need to act collectively because fear of capital flight or concentration will prompt public officials to prioritise business interests. Second, associations must comprise a membership whose profit motive incorporates entrepreneurial activities. Otherwise, associations will focus their energies on capturing the state to expand access to state patronage for their members.

In Southeast Asia, structural power and profit motives vary not only by individual businesses but also collectively by industry. Moreover, these underlying characteristics correspond to the easily observable variables of ownership and sector. Therefore, I propose a simple, heuristic framework defined by ownership and sector to illustrate four types of relationships between business associations and civil society (Table 17.2).<sup>4</sup> In doing so, I draw on Aspinall’s (2013, 234) observations of ‘middle-sized capitalists’ in Indonesia.

The first variable is ownership. Locally owned businesses, in contrast to national and multinational firms, exercise limited structural power. Not only are they smaller, but they also are more likely to be integrated into their community socially and culturally. As a result, locally owned firms pose less of a capital flight risk than firms with larger footprints, and they are more likely to engage in collective action via associations to achieve their political goals. In contrast, national and multinational firms are more likely to command mobile assets and concentrated power over strategic industries, conferring structural power sufficient to achieve their goals.<sup>5</sup>

*Table 17.2* A heuristic framework to illustrate the behaviour of business associations

	<i>Local ownership</i>	<i>National and multinational ownership</i>
<i>Commercial enterprises and services sector</i>	<b>Civil associations</b> <ul style="list-style-type: none"> <li>• Entrepreneurial</li> <li>• Limited structural power</li> </ul>	<b>Politically passive associations</b> <ul style="list-style-type: none"> <li>• Entrepreneurial</li> <li>• Considerable structural power</li> </ul>
<i>Natural resource sector, including mining and plantation agriculture</i>	<b>Rent-seeking associations</b> <ul style="list-style-type: none"> <li>• Rent-seeking</li> <li>• Limited structural power</li> </ul>	<b>Weak associations</b> <ul style="list-style-type: none"> <li>• Rent-seeking</li> <li>• Considerable structural power</li> </ul>

The second variable is sector. Businesses in the natural resource sector, such as mining and plantations, depend on government concessions for their success. Accordingly, businesses in this sector are, by and large, rent-seeking enterprises. In contrast, businesses in the services sector as well as commercial enterprises tend to operate in more de-regulated industries, such as supermarkets, transportation, and restaurants, and thus operate at arm’s-length from the government. The degree of rent-seeking prevalent in a given industry may vary from country to country within Southeast Asia, but it is probably fair to generalise that natural resources tend to involve considerable rent-seeking while commercial and services enterprises tend to be more entrepreneurial.

Finally, it is possible to generate simple expectations about which associations will engage with civil society by combining these two variables. Locally owned enterprises engaged in commerce or services have entrepreneurial interests combined with limited structural power. As a result, they are most likely to act collectively via associations that find common cause with civil society. Accordingly, I call these ‘civil’ associations. In contrast, national and multinational firms that extract natural resources have rent-seeking interests combined with considerable structural power. As a result, they are unlikely to act collectively via associations, because their needs are more likely to be met by one-on-one interactions with government officials. These are ‘weak’ associations, undercut by their own members.

In between the extremes are locally owned natural resource enterprises and national and multinational commercial and service enterprises. In the case of the former, business profits depend on access to rents, but individual firms lack structural power to dominate government policy. As a result, locally owned natural resource enterprises must act collectively via associations to protect their access to rents and remain profitable. Hence, I call these ‘rent-seeking’ associations. Finally, multinational commercial and service enterprises combine entrepreneurial interests and significant structural power, allowing their associations to work internally to enhance members’ competitiveness while relying on structural power to secure favourable policies. I call these ‘politically passive’ associations because of their tendency to remain above the fray with respect to contentious political debates.

### **Illustrative cases**

Recent studies of Southeast Asian business illustrate these differences across associations. First, in a case of weak associations, Warburton (2018) shows that Indonesian mining tycoons obtained favourable legislation in the 2010s by means of their considerable structural power, while industry associations languished. Second, in a case of

rent-seeking associations, Billig (2003) shows that sugar planters in the Philippines worked through confederations in the 1990s to promote protectionist legislation that would have benefited the industry but harmed food exporters and consumers. Third, in a case of politically passive associations, Raquiza (2015), Takagi (2017), and others show that the multinational business process outsourcing (BPO) services industry in the Philippines passively supported education reforms in the 2000s that benefited the industry and arguably improved education. Finally, in a case of civil associations, Wardana (2019), Bräuchler (2018), and others show that associations representing Balinese-owned tourist enterprises in Indonesia collaborated with other CSOs to oppose the proposed reclamation of Benoa Bay in the 2010s. Together, these cases illustrate each of the four cells in the heuristic framework.

These important works elaborate the effects of business politics on a variety of important outcomes, including resource nationalism, economic change, the middle-income trap, democracy, and protest movements. For the most part, they are not directly concerned with the actions of civil society. Nevertheless, the empirical detail in these studies is so wonderfully thorough that it is possible to draw conclusions about the relationships between business associations and other CSOs from a careful reading of each of them.

### *Mining in Indonesia*

Associations representing Indonesian mining companies, such as the Indonesian Mining Association (IMA, Asosiasi Pertambangan Indonesia), exemplify ‘weak’ business associations. Warburton’s (2018)<sup>6</sup> fascinating study of resource nationalism in Indonesia demonstrates that mining associations exerted little influence over critical policy debates and were often undercut by their own members, especially ‘an emergent class of mining magnates’ (180). These tycoons, rather than working through associations to achieve shared policy goals, used ‘personalised and particularistic relations’ to shape public policy for private gain. In other words, Indonesia’s mining associations were undercut by members who exercised both structural and informal power for rent-seeking purposes.

Rent-seeking is pervasive in Indonesia’s mining sector, which includes the development of coal, nickel, bauxite, copper, gold, and other mineral resources. Aspinall (2013, 234) specifically mentions ‘natural resources’ as a sector in which ‘access to government decision makers can be critical’. In the mining sector, such access is key because firms must secure licenses from the state to explore and extract mineral resources (Warburton 2018: 151–152). As a result, many local politicians and businesspeople leverage their access to government officials to generate rents. For example, Warburton (192–194) describes a scheme in Southeast Sulawesi in which local politicians and businesspeople purchase nickel licenses from district governments, and then “sell” or “rent” the license to investors from outside of the province’. Rent-seeking is also common at the commanding heights of the sector. For example, ‘Indonesia’s most prominent coal magnate’, Aburizal Bakrie, rebuilt his fortune following the Asian Financial Crisis thanks to his ‘expansive assets and personal networks’, which ‘helped him engineer favourable loans, lines of credit, and access to licences and contracts at below market price’ (163–164).

At the same time, the structural power of Indonesia’s domestic mining industry grew significantly as a result of the mining boom of 2003–2013. On the cusp of the boom, domestic firms began to take over ownership of coal and nickel operations (162–163),

and by 2012, ‘95 per cent of thermal coal production and 80 per cent of nickel production, came from domestically owned companies’ (World Bank 2015, cited by Warburton 2018, 167). As a result, coal in particular not only ‘brought some of the country’s wealthiest tycoons back from the brink of financial disaster’ (167), but it also endowed them with ‘unprecedented structural power’ (161). The boom made the mining sector ‘less dependent upon foreign investors, and domestic capital ... more liquid and more capable of taking on major mining projects’ than ever before (180).

The mining sector’s pervasive rent-seeking and the considerable structural power of a handful of domestic tycoons combined to handcuff industry associations, which were usually ‘divided’ with respect to critical policy issues (205). For example, IMA frequently found itself crosswise with its most influential members. Domestic firms such as Bumi Resources (owned by Aburizal Bakrie) and Adaro Indonesia used their informal connections and structural power to advance their private interests, even and especially when those interests conflicted with those of other mining firms. As one of Warburton’s informants put it, ‘... lobbying by groups like Adaro and Bumi is *very* effective’ (167, emphasis in original).

Warburton describes in detail how these dynamics affected policy debates over resource localisation and industrialisation. In both cases, domestic mining tycoons secured policies from which they stood to gain, even though IMA opposed the policies. In the case of localisation, or the transfer of ownership of mineral resources from foreign to domestic firms, IMA endorsed a regulation that foreign firms ‘divest at least 20% of their business to domestic ownership by the fifth year of production’ (155). However, the IMA-supported regulation was superseded just two years later – to the great benefit of the largest domestic firms – by a new requirement that foreign firms divest 51% of their business after ten years (156ff).<sup>7</sup> In the case of industrialisation, or the goal of expanding domestic processing of mineral resources, IMA advocated the use of ‘government incentives (such as tax breaks)’ to encourage domestic smelting (196). However, the government instead elected to compel investment in domestic smelting – once again to the benefit of large domestic firms – by banning the export of nickel and bauxite (186–187).<sup>8</sup>

In both of these cases, IMA opposed regulations that threatened the interests of its members. The divestment requirements threatened the investments of multinational mining firms, while the export ban devastated domestic nickel and bauxite miners. Yet at the expense of other miners, these regulations created profitable ‘new opportunities’ for domestic mining magnates (206). The divestment rules laid the groundwork for a domestic takeover of gold and copper mines, which remained stubbornly in foreign hands, while the export ban conjured an urgent need for domestic conglomerates to step in and establish smelting operations.

Meanwhile, civil society was largely absent from these policy debates. While civil-society groups supported resource nationalism broadly, Warburton notes that the specific implementing regulations favoured by particular mining firms were ‘controversial and divisive’ (206). It would appear that civil society distinguished the public benefits of resource nationalism from the private gain sought by the individual miners.

In sum, Warburton demonstrates that IMA was a weak association that could neither influence policy nor discipline its members. Instead, mining tycoons used informal connections to government decision-makers, backed by considerable structural power, to generate new sources of rents for private gain. As a result, CSOs had little reason to collaborate with IMA, and little interest in supporting the rent-seeking of domestic mining firms.

### *Sugar in the Philippines*

During the 1990s, Philippine sugar planters were represented by rival confederations that exemplify ‘rent-seeking’ associations. The late Michael Billig’s (2003)<sup>9</sup> classic study of the decline of the Philippine sugar industry traces a vigorous but ultimately unsuccessful lobbying effort by planter associations to ban the importation of sugar, thereby increasing demand for domestic sugar. Despite their rivalry, the Confederation of Sugarcane Planters (CONFED) and the National Federation of Sugarcane Planters (NSFP) were equally committed to protectionist trade policies that would have enhanced the profitability of sugar, and both confederations struggled mightily to sway public opinion and to build legislative support for the ban on sugar imports. Collective action offered the last, best chance to prop up a ‘sunset industry’ lacking in structural power (2), even though a sugar import ban would have undermined the competitiveness of food exports.

According to Billig, Philippine sugar planters are ‘imbued ... with the ethic of rent seeking’ (158). Sugar had been ‘insulated from market forces’ for decades, resulting in an industry characterised by ‘inefficiency, uncompetitiveness, labor problems, and a crumbling infrastructure’ (260). Most importantly, Philippine sugar has enjoyed privileged access to the US market since the colonial era. During the 1990s, the Philippines possessed the third-highest import quota of any sugar-producing country (after the Dominican Republic and Brazil), which enabled it to export 10–20% of total production to the US at prices approximately double the world market price (92–94).<sup>10</sup> In addition, the industry employs a share-classification system of allocating sugar between planters and millers by means of certificates, or *quedans*, that can be traded or converted between markets (103–123).<sup>11</sup> The share-classification system not only is beset by insider trading and smuggling, but it also increases transaction costs, reduces milling efficiency, and discourages innovation.

Despite their reputations as ‘sugar barons’, planters have limited structural power. Even in sugar’s heyday, planter power largely depended on collective organisation and an ability to ‘deliver large blocks of votes’ (2), rather than asset mobility or concentration. In the contemporary era, sugar plantations are as immobile as they always have been, but production has become highly decentralised. According to Billig, ‘the great majority of planters today have fairly small land holdings’ (2), and they are dispersed throughout the country, albeit with a significant share of production located on Negros Island. Not coincidentally, the ‘industry is characterized by extreme disunity’ (3). Dozens, if not hundreds, of associations represent planters in collective bargaining with the country’s sugar mills.<sup>12</sup> For example, no less than 12 associations bargained with Victorias Milling Company in 1994 (237), to say nothing of associations bargaining at more than 20 other mills. The planter associations, in turn, are organised into rival confederations that bitterly opposed one another in the 1990s.

Lacking structural power and preoccupied with minimising competition, the planters’ confederations acted vigorously to arrest the decline of the sugar industry. However, the confederations’ shared desire to protect the profitability of an uncompetitive industry put them at odds with other Filipinos, including food exporters and consumers. As a result, the sugar industry found itself isolated and even scorned for its political efforts.

The sugar industry sought salvation in House Bill No. 9252, introduced before Congress in 1993. The so-called “‘import-rationalization” bill’ would have banned the importation of sugar ‘unless there was a demonstrated shortfall in supply’ (159). In the

event of a shortfall, furthermore, the bill would have restricted import authorisation to planters and millers, forcing food-processors to purchase even imported sugar from sugar producers. The import ban would not only have increased consumer prices, but it also would have threatened the profitability of food exporters, whose export competitiveness depended on access to cheap, high-quality sugar that was most reliably supplied by the world market. Thus, a legislative and public relations ‘war’ ensued over the bill between the sugar and food-processing industries, with the sugar industry ultimately going down in defeat.

CONFED and NSFP aggressively promoted the import ban. Indeed, the bill’s chief sponsor was Congressman Romeo Guanzon of Bacolod, leader of NSFP. CONFED, for its part, attempted in vain to lead a boycott against major food-processors, such as Coke, Pepsi, and San Miguel, to punish them for seeking to liberalise sugar imports (158). Above all, the industry placed its faith in the ‘sugar bloc’ of approximately 40 members of Congress that represented sugar-producing districts (160). Yet while the bill passed the House in 1994 (189), the executive branch signalled that President Ramos would not sign it, and the Senate tabled the bill (198).

Civil society is conspicuously absent from Billig’s account of the import ban controversy, aside from a brief reference to ‘small, uncoordinated, single-issue organizations’ that presumably opposed the ban on the grounds that it would harm consumers (169). The silence suggests that the sugar industry had few allies in its effort to monopolise supply, despite its best efforts to ‘cloak itself in the mantle of nationalism’ (188). Indeed, Billig characterises ‘most Filipinos’ as ‘skeptical, if not outright hostile’ to the sugar industry’s strategy of trumpeting ‘the plight of its workers for political effect’ (197).

In sum, Billig shows that the sugar planters’ confederations fought tooth and nail to secure protectionist legislation that would have redistributed profits from food exporters and consumers to sugar producers. However, they failed to advance the bill beyond the Senate because they lacked structural power, civil-society allies, and support from the public.

### ***Business process outsourcing services in the Philippines***

The IT and Business Process Association of the Philippines (IBPAP), which represents the BPO services industry, exemplifies a ‘politically passive’ association. A compelling collection of papers by Raquiza (2014, 2015, 2017) and Takagi (2017) document the far-reaching influence of the BPO services industry, despite a relative lack of direct political action. The industry’s immense structural power induced other groups, particularly Philippine Business for Education, to campaign on its behalf for education reforms that enhanced the competitiveness of BPO services workers. In this case, the entrepreneurial interests of the BPO services industry overlapped with the goals of education reformers in civil society, yet public collaboration involving IBPAP was minimal because the industry’s structural power was sufficient to achieve its policy goals.

The BPO services industry in the Philippines is competitive and entrepreneurial by virtue of its integration into global value chains. The industry provides voice-based customer care services via call centres, and to a lesser extent, high-skilled office services such as finance, accounting, software development, and transcription. The Filipino labour force’s facility with English and ‘cultural affinity’ with Americans and Europeans ‘appealed to an international clientele’, and foreign investments poured into the country in the 2000s (Raquiza 2015, 50).<sup>13</sup> Thanks to these advantages, the number of



call-centre employees in the Philippines surpassed the number working in India in 2010 (David 2016). However, the Philippines still trails competitors such as India, China, and Malaysia with respect to high-skilled services (Raquiza 2015).<sup>14</sup> The path forward for the Philippine BPO services industry therefore depends on increasing its competitiveness in high-skilled services in order to move up the services value chain (Raquiza 2017).

The size, potential for further growth, and composition of the BPO services industry in the Philippines endow it with colossal structural power. Between 2001 and 2014, the size of the industry grew by a factor of 50, to US\$18 billion in revenue. At the end of that period, the industry employed approximately 1 million workers (Raquiza 2017).<sup>15</sup> Five years later, the industry had grown to US\$26.3 billion in export revenue and added 300,000 workers. IBPAP forecast continued growth as the world recovers from pandemic-related recession, with the possibility of reaching US\$29 billion in export revenues and 1.4 million workers by 2022 (Everest Group 2020). Accordingly, three successive presidents recognised the importance of the industry to sustained economic growth in their Medium-Term Philippine Development Plans (Raquiza 2015; National Economic Development Authority n.d.).

Furthermore, the distinctive composition of the industry compounds its structural power. Specifically, the industry comprises a ‘partnership’ between ‘two sets of industry players’ (Raquiza 2015, 51). On the one hand, BPO operations are dominated by multinational corporations, including third-party service providers such as Accenture and Convergys as well as in-house service centres for companies such as JP Morgan Chase and HSBC (Raquiza 2017). On the other hand, BPO facilities, including office space and telecommunications infrastructure, are provided by Philippine property developers, including many of the Philippines’ richest business conglomerates. As a result, the structural power of the BPO services industry flows both from the mobility of multinational corporations, and from the influence of a ‘strong domestic commercial class’ that is both ‘highly liquid’ and politically well-connected (Raquiza 2015, 52).

The immense structural power of the BPO services industry has afforded IBPAP the luxury of enhancing its members’ global competitiveness without directly engaging politically contentious issues. IBPAP is a highly active association that consults with the government, commissions industry reports, and promotes skills formation.<sup>16</sup> Yet in the politically contentious debate over education reform, IBPAP played only a supporting role despite that policy’s considerable importance to the industry.

Instead, Philippine Business for Education (PBE) led the charge for education reform (Takagi 2017). The reform in question was a proposal to expand basic education from 10 to 12 years, moving the Philippines to a ‘K-12’ education model. Reformers had been trying to achieve such a reform for nearly a century, and nine similar proposals had gone down in defeat before President Aquino signed the Enhanced Basic Education Act in 2013. The most prominent advocate of the K-12 reform was PBE, an advocacy organisation founded by business leaders associated with Makati Business Club and dedicated to workforce development and teacher training.<sup>17</sup> The K-12 reform was one of the organisation’s ‘first priorities’ at the time of its founding in 2006 (Torres 2006).

Meanwhile, IBPAP supported the K-12 reform, but in the language of a passive observer. For example, Alfredo Ayala, president of IBPAP, was quoted in the *Manila Bulletin* as saying, ‘We fully support this initiative because once this is implemented, we can improve the quality of supply in the BPOs or the call center industry’ (Manila Bulletin 2010). His passive language, however, belied the significance of the reform to the industry. In the same article, Ayala explained that the industry was struggling to fill

positions because applicants possessed ‘inadequate communication skills attributed to ... lack of educational training’ and because fresh graduates ‘cannot be hired although qualified because of age requirement as provided under the law’. Thus, the K-12 reform promised to benefit the BPO services industry by increasing both the skill-levels and average age of entry-level applicants.<sup>18</sup>

While IBPAP remained in the background, PBEed convened ‘Education Nation’, a movement that purported ‘to bring together the largest ever constituency for Education Reform including teachers, parents, students, civil society organizations, business groups, local governments, donors and other education stakeholders to demand ... and help attain quality education for all’ (Hernandez 2016). Rhetoric aside, PBEed collaborated with a broad K-12 reform coalition that encompassed not only business-adjacent organisations, but also civil-society associations such as *Kaya Natin!* and the *Eggie Apostol Foundation* (Lerias 2012). These efforts paid off in the form of public support for the bill approaching 60% approval (Calleja 2012). Finally, PBEed worked closely with the Department of Education and the Aquino administration to consummate the reform (Takagi 2017).

In sum, IBPAP was an economically active but politically passive business association. The association was dedicated to increasing the global competitiveness of its members, but the industry’s immense structural power meant that IBPAP could avoid taking combative positions on contentious issues like K-12 reform. Instead, business-adjacent organisations like PBEed looked after the industry’s interests, which in the case of K-12 reform, intersected with the concerns of numerous CSOs.

### ***Tourism in Indonesia***

Bali Tourism Board, and its allies such as the Bali chapter of the Indonesian Hotels and Restaurants Association (*Perhimpunan Hotel dan Restoran Indonesia, PHRI*), exemplify ‘civil’ associations. Work by Wardana (2019), Bräuchler (2018, 2020), and others show that the entrepreneurial interests of Balinese tourism enterprises intersected a broad cross-section of civil society that opposed a proposal to reclaim land in Benoa Bay, located in southern Bali. Acting through associations such as Bali Tourism Board, locally owned businesses aligned themselves with a heterogeneous anti-reclamation movement that opposed the project on cultural, economic, and environmental grounds.

Tourism in Bali is a highly competitive industry, the island’s massive popularity among foreign and domestic tourists notwithstanding.<sup>19</sup> Passengers arriving at Ngurah Rai Airport encounter a bewildering array of lodging and dining options, ranging from five-star restaurants and resorts to roadside stalls and modest guesthouses. Hundreds of tour operators compete for passengers by day, while thousands of restaurants and bars compete for patronage by night.<sup>20</sup> The overabundance of capacity has resulted in chronically low hotel occupancy rates and a continuing (and largely fruitless) campaign by local businesses to limit further growth in the tourism sector (Bali Post 2013a; Dinas Pariwisata Bali 2019; Wardana 2019).

In addition, Balinese tourist enterprises lack structural power. The industry enjoys neither the mobility of the Philippines’ multinational BPO operators, nor the clout of Indonesia’s giant mining conglomerates. To the contrary, the industry is tethered to the island and highly fragmented. The industry is immobile because it is highly specific to Bali’s scenic beauty and romanticised culture, and it is fragmented because of the proliferation of service providers and the divisions among them. Many of the largest enterprises

are owned by multinational corporations or Jakarta-based developers; in contrast, many small and medium-sized enterprises are Balinese-owned (Wardana 2019).

To compensate for structural weakness, Balinese tourist enterprises act collectively via associations. At the same time, their desire to remain competitive in a cutthroat industry gives them a stake in broad public debates concerning the common good in Bali. As a result, Balinese businesses are unusually well-served by making common cause with civil society. For example, Bali Tourism Board is an active and outspoken association that did not hesitate to align itself with the anti-reclamation movement and against the provincial government.

Bali's major business associations opposed the reclamation of Benoa Bay immediately upon learning of the project (Tans 2021). The project, awarded in 2012 to a subsidiary of the Jakarta-based developer Artha Graha, would have created ten or more artificial islands intended for high-end development, including resort hotels, luxury housing, commercial space, and parkland. Both Bali Tourism Board and PHRI opposed the project on the grounds that it would have increased competition against their members in the tourism sector, but association leaders also sought to inflect their opposition with concern for the common good. For example, Bali Tourism Board argued that new development should be redirected away from southern Bali to 'equalize' development across the island (Bali Post 2013b). PHRI warned that the 'artificial' attractions of reclamation would undermine Bali's unique cultural appeal (Rhismawati 2013). In addition, business leaders sought to link their opposition to the Balinese philosophy of Tri Hita Karana, which emphasises the 'harmonious integration' of the human, natural, and spiritual worlds (Adityanandana and Gerber 2019, 1844; Bali Post 2013c). These initial pronouncements were ineffective, however, partly because they were issued without the imprimatur of civil society.

Opposition to reclamation only gained purchase after Balinese businesses aligned their opposition with the broader anti-reclamation movement led by civil society and Balinese customary institutions, especially customary villages. The alignment among business, civil society, and customary institutions occurred after ForBALI,<sup>21</sup> a CSO founded to oppose reclamation, published a map of 'sacred sites' associated with Benoa Bay (Bräuchler 2018). The map was decisive because it united the diverse set of anti-reclamation interests around the customary Balinese obligation to protect sacred sites (Wiranata and Siahaan 2019). Balinese businesses immediately embraced the new rationale for the anti-reclamation movement, endorsing the map before even the final version was published (Bali Post 2016). In doing so, they implicitly acknowledged civil society's leadership of the anti-reclamation movement. As a result of its new coherence, the movement mobilised massive demonstrations throughout 2016 that delayed the reclamation project indefinitely.

In sum, Bali Tourism Board and its allies embraced an alliance with groups in civil society to oppose land reclamation in Benoa Bay. Their participation in civil society was contingent on both their economic interest in limiting competition and their inability to block the project by other means. Even so, business interests in this case intersected a broad cross-section of Balinese society and compelled Bali Tourism Board to engage the commonweal.

## Conclusion

In this chapter, I have argued that business associations are 'contingent' members of civil society. Their actions depend on the profit-making model and structural power of their members. Businesses that have entrepreneurial interests but lack structural power

are most likely to act collectively via associations and find common cause with other CSOs. In contrast, associations that represent businesses with rent-seeking interests, structural power, or both are less likely to collaborate with civil-society counterparts. These associations rarely share interests with other CSOs, either because their interest in rent-seeking does not intersect with the goals of others, or because their structural power enables them to achieve their political goals without resorting to collective action.

In addition, this chapter highlights a range of exciting new research into business politics in Indonesia and the Philippines. These two countries likely represent a broader set of middle-income countries, both in and beyond Southeast Asia, where businesses exercise structural power and practice both rent-seeking and entrepreneurship. Accordingly, business politics in Southeast Asia have attracted the attention of scholars based in countries as wide-ranging as Australia, Denmark, Indonesia, Japan, the Philippines, and the US whose work has documented the behaviour of a diverse array of business associations. On the strength of their empirical work, these scholars have reached important conclusions delineating the political power of business and exploring its effects on resource nationalism, economic change, the middle-income trap, democracy, and protest movements in Southeast Asia. Taken collectively, this work demonstrates the complex and contingent relationship between business associations and civil society, and it implies that further exploration of the relationships between business associations and CSOs would be a promising line of enquiry.

### Notes

- 1 As such, this chapter adopts a pluralist perspective in the spirit of Pepinsky's (2013) 'critical pluralism'.
- 2 In contrast, the structural power of unions to withdraw labour from the economy requires collective action. As a result, politicians can more easily undermine the structural power of labour than of capital. Caraway (this volume) offers an additional perspective on labour mobilisation and civil society.
- 3 'Encompassingness' across sectors is the characteristic most often associated with developmental associations in the literature on business associations. In contrast, I emphasise the profit motives and structural power of members, because engagement with civil society need not be oriented towards development.
- 4 As a typology, my heuristic framework lacks the virtues of mutual exclusivity and comprehensiveness. For example, the secondary sector is absent. Davidson's (2015) fascinating account of the Indonesian Toll-Road Operators Association examines a secondary sector association that combines rent-seeking and entrepreneurial behaviour, thus confounding my framework. Accordingly, I present the framework as a device to illustrate variation across associations, not as a complete theory of associational behaviour.
- 5 Multinational firms, in particular, tend to avoid political engagement to such an extent that Hirschman (1971, 231, cited in Schneider 2013) called them 'mousy'.
- 6 All page references in this section refer to Warburton (2018) unless otherwise noted.
- 7 The relevant regulations were Government Regulation No. 23/2010 and Government Regulation No. 24/2012.
- 8 However, IMA successfully secured a three-year reprieve from the export ban for copper, a sector dominated by two giant multinational corporations. The export restrictions for all minerals were implemented by Ministerial Regulation No. 1/2014, issued by the Ministry for Energy and Mineral Resources (Warburton 2018, 186).
- 9 All page references in this section refer to Billig (2003) unless otherwise noted.
- 10 During the 1990s, the producer price of raw sugar was typically 21–24 cents per pound in the US, compared to 10–14 cents per pound on the world market (94).
- 11 For example, the Sugar Regulatory Administration periodically converts reserve sugar to the Philippine domestic market or the US export market.

- 12 There were 23 mills in operation when Billig's book was published (61). Currently, there are 27 mills spread across 12 provinces (Sugar Regulatory Administration 2021).
- 13 Like many of its counterparts, the Philippine state offers incentives to foreign and domestic investors in the BPO services industry, including 'fiscal and non-fiscal incentives' from the Philippine Economic Zone Authority (Raquiza 2015, 51). However, such incentives differ from private rents because they are available to an entire class of qualifying businesses.
- 14 In 2005, for example, software and IT services contributed 70% of industry revenues in India, compared to only 13 per cent in the Philippines.
- 15 Put differently, the industry employed approximately 2% of the Philippine labour force and contributed approximately 6% of GDP in 2014 (World Bank 2022).
- 16 For example, IBPAP and the Commission on Higher Education developed the Service Management Program, a 'specialized course to be run by partner universities' designed to prepare graduates for entry-level positions in the industry (Raquiza 2015, 55).
- 17 While there was some overlap in the membership of IBPAP and PBEA, it consisted of domestic titans such as Washington Sycip of SGV and Jaime A. Zobel de Ayala II of Ayala Land, not multinational BPO operators (Takagi 2017).
- 18 That is not to say that IBPAP was completely passive, however. For example, the association signed a Memorandum of Agreement with the Department of Education to support the reform (Manila Bulletin 2010).
- 19 Bali, with an approximate population of 4 million people, received 5 million foreign and almost 9 million domestic tourists in 2016 (Dinas Pariwisata Bali 2019). The pandemic, however, reduced those numbers to just 1 million foreign and 5 million domestic tourists in 2020 (Dinas Pariwisata Bali 2020).
- 20 In 2015, Bali had 400 travel agencies, 2,600 bars and restaurants, and 4,000 lodging establishments with a total capacity of 80,000 rooms. In 2019, those figures had grown to 450 travel agencies, 3,400 bars and restaurants, and more than 5,000 lodging establishments with a total capacity of almost 90,000 rooms (Dinas Pariwisata Bali 2019).
- 21 ForBALI is a portmanteau of Forum Rakyat Bali Tolak Reklamasi Teluk Bena, or the Balinese People's Forum Against the Reclamation of Bena Bay.

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# VERNACULARISING HUMAN RIGHTS IN SOUTHEAST ASIA

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By the end of the Cold War, the promotion of human rights and liberal democracy had become a key element in foreign policy and development assistance. However, political elites in Asian countries pushed back. Ministers and representatives of 34 Asian states released the Bangkok Declaration at the 1993 World Conference on Human Rights in Vienna.<sup>2</sup> The Declaration protested the use of human rights as ‘a conditionality for extending development assistance’ or as ‘an instrument of political pressure’, stressing that human rights must be considered ‘bearing in mind the significance of national and regional particularities and various historical, cultural, and religious backgrounds’ (World Conference on Human Rights 1993). Singapore’s foreign minister warned that ‘universal recognition of the ideal of human rights can be harmful if universalism is used to deny or mask the reality of diversity’ (Sen 1997, 9). More insidiously, Asian strongmen who had led their countries for decades, often stifling dissent, argued that human rights extended the colonialist project to subject Third World countries to continued domination (Thio 1999).<sup>3</sup>

However, in the late 1990s, against the backdrop of the Asian-values-versus-democracy-and-human-rights debate, the crushing 1997 Asian Financial Crisis, and increasingly widespread discontent over corruption and cronyism, massive street demonstrations exploded in Malaysia and Indonesia, known in both countries as ‘Reformasi’. Both movements peaked when political structures, weakened by elite disunity, became conducive to radical change (Weiss 2006). Importantly, as demonstrated below, we identify this period as one that sowed the seeds for human rights activism and provided the political catalyst for a local turn to human rights.

## **Civil society’s vernacularisation of human rights**

This chapter draws from vernacularisation theory, bringing grounded insights from the field, capturing how human rights is a lived experience for lawyers in Malaysia, and exploring how they ‘use’ human rights. We focus on the practice of *doing* human rights. We examine how lawyers empowered by the Reformasi experience led an initiative – LoyalBurok (LB) and its subsequent manifestation, the Malaysian Centre for Constitutionalism and Human Rights (MCCHR) – that, among other groups,

localised and increased acceptance of human rights for Malaysians. We map the political conditions under which LB/MCCHR grew their body of work and highlight their strategies and modes of organisation. We consider, too, the experience of fellow cause-lawyering organisation Lembaga Bantuan Hukum (Legal Aid Institute, LBH) Jakarta, and its efforts over the course of decades.

We answer the following questions: How did the political situation influence the development of LB/MCCHR? What motivated the founders to champion and advocate for human rights? What were their strategies, and how did they organise themselves? How does the trajectory and focus of LBH Jakarta – launched under a more authoritarian regime – compare? Space does not permit us to go into other important issues, such as the extent of resistance and pushback from state and non-state actors, or matters of funding, personnel, and whether their human rights advocacy succeeded. We do not seek to offer a generalisation of lawyers' human rights mobilisation but rather, to analyse how human rights were translated for and shaped by the local context, emphasising the importance of political regime and agency.

What is human rights vernacularisation? It is a process made up of a series of numerous, repetitive, focused actions by like-minded groups of people to appropriate and adopt international human rights ideas and norms for a local audience, to increase human rights understanding and use. As global human rights laws, norms, and standards emanating from United Nations mechanisms in Geneva and New York travel, vernacularisation is 'the extraction of ideas and practices from the universal sphere of international organizations, and their translation into ideas and practices that resonate with the values and ways of doing things in local contexts' (Merry 2017, 213).

Localisation studies (including vernacularisation, indigenisation, and contextualisation) use ethnographic, actor-centred approaches to examine patterns of behaviour, structural, social, cultural, and historical conditions within which behaviours occur, and interrogate how the local context and experiences of actors on the ground shape the relevance of human rights in practice (Destrooper and Merry 2018). Similarly, within studies on norm acculturation (Goodman and Jinks 2013), legal mobilisation (Chua 2019), legal consciousness (Chua and Engel 2019), regime change and compliance (Risse, Ropp, and Sikkink 2013), and transnational advocacy networks (Keck and Sikkink 2018), we see how top-down socialisation towards global and regional human rights norms may influence both state and non-state behaviour. But groups working from the top-down cannot domesticate human rights. It is local civil society organisations (CSOs) and activist communities that are vital players in moving human rights ideals through advocacy phases and practices within their spaces and spheres of influence to change or mould government behaviour.

Vernacularisation literature elaborates how human rights are 'done' or practised by local communities, including CSOs and victims or survivors of human rights violations. Destrooper and Merry (2018, 3) conceptualise the process of human rights localisation as the 'travel, translation, and transformation of human rights across scales'. Drawing from the works of Simmons (2009) and Goodman and Jinks (2013) on individual and collective agency in disseminating human rights, Destrooper and Merry also emphasise the importance of power, agency, and the processes through which human rights travel.

In real terms, a 'social service' approach led by social workers and activists and a 'human rights advocacy' approach led by lawyers and political elites are two complementary means of vernacularisation. The former utilises a wide range of strategies, including raising awareness, educating the public, assisting victims and survivors,

and growing the movement, while the latter inculcates international human rights standards into domestic law and mobilises shame towards norm-violating governments (Wongsinnak 2009). Both initiatives can awaken human rights consciousness among the public (Chua and Engel 2019).

Local ‘translators’ appropriate and adopt global rights ideas and norms for a ‘domestic context by modifying them to suit local conditions and relating them to familiar images, symbols, and narratives’ to achieve cultural resonance (Chua 2015, 303). There are five types of translators: ‘conveyors’ who transport ideas, ‘converters’ who convert their clients and society at large through campaigns, ‘adaptors’ who adopt global discourses to suit local contexts, ‘transformers’ who change ideas to make them more acceptable, and ‘generators’ who invent new terms and concepts appropriate for local settings. Depending on the type of activities undertaken, an actor may employ different forms of translation (Rajaram and Zararia 2009, 479–482).

Political contexts and local conditions influence how the translators vernacularise human rights. The essentials vary, including the ‘content’ of the message derived from the global human rights value package; how CSOs that select, reinterpret, and re-articulate the message ‘adapt’ it; their ‘choice’ of modes of communicating the message; and the ‘type’ of interventions CSOs adopt, be these victim or survivor support, legal aid, or litigation (Levitt and Merry 2008).

By adopting a discursive approach to human rights that sees the social practice of human rights as, in part, ‘constitutive of the idea of human rights itself’ (Goodale 2007, 8), we are interested in learning how actors talk about, advocate for, criticise, and enact the idea of human rights (Buerger and Wilson 2019; Goodale 2007). Here, we provide a vignette of the Malaysian political condition that influenced LB/MCCHR’s founders and how their work contributed to the vernacularisation of human rights in the country.

### **The indelible mark of Reformasi: resistance and mobilisation of human rights in Malaysia**

Malaysia has been referred to as pseudo-democratic (Case 2004; Chin 2015), soft authoritarian (Means 1996), or semi-authoritarian (Ottaway 2003). These authors describe Malaysia’s political system as paying lip service to liberal democracy – with formal democratic institutions and regular elections, oppositional politics, independent media, and civil society mobilisation – while frequently violating the basic tenets of democracy, civil and political liberties, and human rights, particularly with arbitrary arrests and repressive laws.

In 1997, the Malaysian economy crashed amidst accusations of deep-seated corruption across different factions in the major Malay political party, the United Malays National Organisation (UMNO). UMNO led the ruling Barisan Nasional (BN, National Front) government. It was also at about this time that the Asian values argument started to lose currency across Southeast Asia, as the Asian financial crisis hit the region. Deputy Prime Minister Anwar Ibrahim emerged as the primary challenger to Mahathir Mohamad for the prime ministership. Both came from the same party: UMNO. To stop Anwar, Mahathir had arrested him in September 1998 using Malaysia’s preventive detention law, the Internal Security Act (ISA). Dubious charges were levelled against Anwar. UMNO’s members were split, and so was the nation. Malaysia erupted into unprecedented street protests, marking the beginning of Reformasi – a call for reform to corruption and single-party dominance. When Reformasi began, human rights did not prominently

feature as the rallying cry of Anwar and his supporters. To non-Malays, who were about 30% of the population, it looked like an intra-UMNO struggle concerning Malays only.

Large anti-government demonstrations were held daily in a display of freedom of speech, expression, and assembly unseen before in the country. The police held Anwar in detention to hide that the then-Inspector General of Police had assaulted him during interrogation. When Anwar emerged in public to attend his court hearings, pictures of his black eye circulated widely, becoming a symbol of injustice, galvanising his supporters' struggle to free him.

Reformasi ignited the imaginations of youth. Through experiential learning in massive rallies at parks and protests on the streets, they gained first-hand evidence of police brutality while acquiring skills in mobilising. The protest movement metamorphosed into something larger, catalysing a broad-based social movement that transcended ethnic lines and endures until today. Activists frequently used human rights framing and language. They challenged Asian values rhetoric, even as the government continued to label public assemblies and civil liberties as 'Western' values that were not of 'our culture'. Human rights resonated with Malaysians for several reasons: Anwar's ill-treatment and torture in prison, the perceived lack of a fair trial in the prosecution of his cases, the corruption surrounding the political elite, and shows of police brutality against peaceful protestors.

Notwithstanding this anger against the government, the reformists Anwar motivated still failed to topple Mahathir and the Malaysian political regime in the 10th general election in 1999. Although change did not materialise, the shadow of Reformasi influenced developments in the Malaysian political scene over the next 20 years.<sup>4</sup> Mahathir eventually stepped down in 2003 after 22 years in power. While suppression of dissent marked his legacy, ironically, he empowered a new generation of activists, including LB lawyers. Legal professionals who would otherwise not partake in demonstrations were on the ground daily during the Reformasi protests, including more than a hundred young lawyers, assisting detainees and providing legal representation deep into the night. Malaysian senior lawyers mobilised and sought out volunteers to form legal-defence teams to act for scores of protestors who were being arrested and charged every day. The Bar Council Kuala Lumpur Legal Aid Centre (KLLAC) became the secretariat coordinating the teams. Being the epicentre of mobilisation, the KLLAC hosted a burgeoning network of legal experts that developed into a bastion against state excesses.

Vernacular mobilisation of human rights is a strategy that consists of 'collective action framing processes' through which 'activists translate and put human rights into local practice' (Chua 2015, 301). It produces oppositional consciousness and expands the movement while continuing to recruit newcomers. The inherent social nature of the exercise also helps mould 'a web of social relations and human connections' (Chua 2015, 328). All of these aspects were in evidence at that time. If not for Reformasi court cases, pupils-in-chambers and lawyers who had just started practising would not have been called on to act. Overnight, they were exposed to the reality of human rights abuses and violations on the ground.

Two of six founders of LB – Amer Hamzah and Edmund Bon – cut their teeth in criminal defence work on behalf of Reformasi demonstrators. Both of them also attended street rallies. Another LB founder, Edward Saw, joined Amer and Edmund in court applications to bail out detainees held without trial under the ISA. They were also part of the Bar Council Human Rights Committee. The then-young lawyers subsequently fell into different areas of expertise based on their interests. Fahri Azzat was

LB's pensmith and contributed largely to the group's writings, articulating serious concerns regarding judges and judicial independence. Amer focused on refugee rights. Edmund filed habeas corpus applications for ISA cases related to arbitrary detention, while Edward's expertise was in labour law, acting for vulnerable workers. The other two founders were Shanmuga Kanesalingam and Sharmila Sekaran. Addressing religious freedom, Shanmuga actively took up apostasy cases on a pro bono basis, assisting the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism. Sharmila was involved with child rights, subsequently setting up a children's rights non-governmental organisation (NGO), Voice of the Children.

Judicial independence, arbitrary detention, child rights, refugee rights, labour rights, and freedom of religion were topical issues that needed a more expansive public airing. All the founders started legal practice around the Reformasi era. The events of that period became etched in their memories and played a large part in how they viewed the law. They felt that it was insufficient to confine the practice of law to just their offices and the courts. The anger of Reformasi was still palpable. Bringing together their collective dissatisfaction with the state of affairs, the six lawyers began submitting opinion pieces to various mainstream print media outlets but soon found themselves up against censorship. The dominant news providers were still newspapers controlled by people linked to the ruling government, who would brook no dissent. Publishing with online news site *Malaysiakini* would only reach a limited audience who had access to the internet.

After some degree of frustration, the founders formed their own platform, setting up LB as a 'blawg' (law blog) or online legal journal in 2006. Hatched over a social gathering, LB aimed to create more open space for critical writings on social issues and legal opinions, challenge wrongdoings by politicians and those in power, and highlight public-interest cases for laypersons' consumption. The politics of Reformasi greatly influenced the LB lawyers; the LB blawg was a manifestation of their years of resistance against the ruling establishment. Reformasi set the tone and conditioned the lawyers to catalyse efforts to domesticate human rights using the internet. The blawg would become the earliest lawyer-led, human rights-based, online initiative combining legal mobilisation and activism in Malaysia. Human stories of suffering made a case for human rights. Legal jargon was simplified. Public-interest court cases were explained. Repeatedly, comments on the blawg saw readers angered by what they had read and calling for change.

The Reformasi movement also provided the LB lawyers with sufficient political reason and opportunity to argue human rights in the Malaysian courts. Initially, Reformasi was an Anwar-driven protest movement seeking to install him as the premier. However, the government's use of the ISA under the pretext of curbing violent action by Anwar's people to overthrow the government and police heavy-handedness in handling Reformasi protestors served to emphasise the lack of human rights protection in Malaysia. These state threats to the right to assemble and to a fair trial left a strong impression on the young lawyers volunteering with the KLLAC. Their views were augmented by media statements of the Human Rights Commission of Malaysia (SUHAKAM), set up in 1999, strongly criticising the government for cracking down on peaceful dissent. The statements elevated the messages of NGOs and Anwar's supporters. The creation of SUHAKAM added a veneer of legitimacy to complaints of human rights abuses.<sup>5</sup>

Armed with the knowledge that what the government was doing was anti-human rights, Amer and Edmund attempted to use the 'ISA 7' case in court to strike down the criminal prohibition on assemblies. In June 2001, seven university-student leaders were

manhandled, beaten, and arrested by the police. They were part of a gathering of 400 students at Masjid Negara, the national mosque, to demonstrate against the ISA and what it stood for – arbitrary detention to suppress political dissent (Weiss 2006). They became known as the ‘ISA 7’. Amer and Edmund were part of the legal team defending them, while Edward Saw held a watching brief on behalf of the Bar Council.

One of the main arguments by the defence was that the Police Act, which makes it an offence to take part in a public assembly without a police permit, was unconstitutional. While the protesters finally lost the case in 2013, they secured a minor victory. The dissenting judge, one of three on the Court of Appeal, held that the Police Act contravened Article 10 of the Federal Constitution. The judge adopted the defence team’s human rights language, stating: ‘This right to assemble is a fundamental right guaranteed by the constitution and is also in line with Universal Declaration of Human Rights, Article 20(1) which says: Everyone has the right to freedom of peaceful assembly and association’ (*Nik Noorhafizi bin Nik Ibrahim & Ors v Public Prosecutor* [2013] 6 MLJ, para. 85, 712).<sup>6</sup> Though the dissenting judge was in the minority, this was the first time a judge had sought to strike down the Police Act, after many failed challenges by lawyers.

By the time the Bersih protest movement calling for free and fair elections started in 2007 (Ufen, this volume), the language of rights and liberties, especially among the country’s urban masses, was entrenched in Malaysia’s social environment. Malaysia had to wait until 2018 to see regime change when the ruling coalition, in power since independence, lost in the 14th general election. In its manifesto, the new administration promised, among other items, greater human rights compliance and alignment with international human rights standards through treaty ratifications. However, in a political coup orchestrated through the realignment of political-party coalitions in 2020, the pre-2018 ruling parties and political leaders regained control over the federal government, jeopardising several human rights law reforms which were being developed.<sup>7</sup>

Throughout this period, then, regime instability in Malaysia catalysed human rights mobilisation in civil society by lawyers to counter the excessive use of force by the state. Energised by the Reformasi movement, LB’s founders attempted to vernacularise human rights among the populace by using their legal know-how to critique national laws and political behaviours that were inconsistent with human rights, and to make international human rights norms relevant to local conditions and for local purposes.

### **Strategies and modes of organisation in vernacularising human rights**

In 2011, [LoyarBurok.com](http://LoyarBurok.com) grew from a non-party political and law blog into a CSO with a physical centre: MCCHR, also known as Pusat Rakyat LB (LB Citizens’ Centre). We focus on the vernacularising work of LB and MCCHR through the lenses of three components: strategic litigation, legal mobilisation, and civic empowerment. These three elements echo what Simmons (2009, 126) presents as required in the politics of change – litigation, elite-initiated agendas (legislation), and political mobilisation (demonstration). In terms of the first component, LB/MCCHR’s lawyers file public-interest cases to implement human rights norms in local courts. Given that individual rights and freedoms under Malaysia’s Federal Constitution have been interpreted restrictively by judges and are frequently trumped by state power,<sup>8</sup> human rights lawyers, including LB lawyers, have attempted to creatively embed human rights in the everyday lives of Malaysians. In terms of the latter two components, and switching between the platforms of LB and MCCHR, LB/MCCHR’s activists infuse human rights demands

into democratic participation and legal reforms, bridging the disparity between human rights as law and human rights as a social movement.

### ***Mainstreaming the language of human rights***

The first blog post on [LoyarBurok.com](http://LoyarBurok.com) in 2006 outlined the general direction that the blawg was to take (Azzat 2006). At that time, there was no expressly mentioned objective of promoting human rights or freedom of speech and expression. The courts were perceived as government-friendly, while politically linked mainstream media heavily censored dissenting voices. Meanwhile, the Bar Council and its committees, in which the LB founders were actively participating, were more formal and did not admit non-lawyers. This led the founders to explore additional means of social advocacy within a limited political space, one where they could freely combine litigation, demonstration, and legislation.

The founders soon decided to open the blawg to anyone interested in contributing, including non-lawyers. The idea was to ‘have everyone write’, to have more people express themselves in writing and to build a communal blog – an army of critical thinkers. The internet provided space for the freedom to express one’s views in urban Malaysia and the founders encouraged critique of local politics, something which was done behind closed doors during the earlier Mahathir reign. This inadvertently vernacularised these rights, empowering rightsholders to claim their right to freedom of thought and expression and exercise these freedoms in their daily lives. Writers were called ‘LoyarBurokkers’.

In line with LB’s image of young lawyers challenging the status quo, the mascot of the blawg was Lord Bobo Barnabus, The Wonder Typewriting Monkey (LoyarBurok n.d.), literally a ‘Monkey in a Wig’ (Kanesalingam 2014), a caricature of an authoritarian mind-controlling figure that seemingly poked fun at judges. The founders claimed that they wrote under the control of Lord Bobo, and they encouraged everyone to also write. LB became the key legal platform to write for at that time. It steadily gained in popularity and young people thought it was hip, especially as the name was anti-establishment and tongue-in-cheek.

The blawg website defined the term ‘loyarburok’ as, ‘noun, colloquialism: one who is full of hot air; one who enjoys talking a lot about things that serve no useful purpose’ (LoyarBurok n.d.). ‘Loyarburok’ means ‘bad lawyer’ in colloquial Malay. Although they faced pressure from their employers, senior lawyers, and judges over their activism, the founding lawyers were unabashedly proud of their delinquent and rebellious image. They found purpose and connection with others over human rights mobilisation; this passion permeated through LB and MCCHR to others. Agency here is significant, as with the opportunities, the right timing and community created, because it was the personalities of the LB founders that led them, together, to create the movement and rope in others.

Many lawyers and non-lawyers (students, conservationists, feminists, doctors, academics, and human rights activists) of all ages wrote for the blawg. Retired judges also contributed. Legal discourse commands prestige in Malaysia, and association with a group of lawyers brings an individual standing by association (Kessler 2014a, 2014b, 2014c, 2014d). At one time, LB had more than 200 contributors or authors. The novelty lay in the fact that it was a communal blog open to all with no censorship; conversations could be had among influential individuals through ‘letter-writing’. Every LoyarBurokker had his or her own username and password. They would upload their posts for publication by a team of volunteer editors and publishers. Pieces were checked

and lightly edited only for defamation and sedition. In addition, blogging was beginning to be trendy. It was like a journal but in itself was the only law blog. Most popular politicians had their own blogs – one of the most prominent blogs was Mahathir's. Subsequently, [LoyarBurok.com](http://LoyarBurok.com) came to allow every LoyarBurokker who wanted it complete control of the blawg for a week. He or she wrote, edited, and curated the content. Often, they invited subject-specific writers to post about the topic the LoyarBurokker chose for the week. This mode allowed the coverage of the blawg to grow exponentially to readers who would otherwise not follow a law-based medium.

Several pivotal moments marked LB's rise in popular consciousness and, with it, the topics that posters debated on the blawg. In 2008, after the state of Selangor fell to opposition parties for the first time in the 12th general elections, the Selangor government, led by Reformasi-era politicians and social activists, began publishing a state-level newspaper, *The Selangor Times*. LB was invited to write a weekly column titled 'Ask Lord Bobo'. This column in a print newsletter allowed LB's authors to reach a different demographic of readers and tap into the anger of the middle classes at governance and political issues in the country.<sup>9</sup>

What truly reflected the LB lawyers' success in making human rights urban, trendy, and wide-reaching was their column, 'Monkeysuit Protocol', in the *August Man* lifestyle magazine, helmed by a lawyer based in Sibu, Sarawak, Adrian Chew. Adrian also curated 'Stories from the East', a series of blawg posts focused on the states of Sabah and Sarawak in East Malaysia.<sup>10</sup> Further, LoyarBurokkers, who included many university-student activists, were actively working on the ground. They performed at the *Urbanscapes* art and music festival in 2010 – LB was one of the first activist groups to be featured in the event.<sup>11</sup>

Opening up the blawg to contributors paved the way for LB to reach the height of its popularity in 2009, during a constitutional crisis in the state of Perak (Choong 2014). A struggle to select Perak's next chief minister emerged when three state lawmakers claimed they had lost confidence in the incumbent and defected to another political party. The incumbent chief minister was sacked and he then challenged his removal in court, represented by Amer and Edmund, among other lawyers. The LB blawg became a focal point where highly respected constitutional and legal experts traded opinions on the matter. At that time, such open discussion in a published format, be it online or in print, critiquing and dissecting the actions of political leaders, royalty, and the courts was unprecedented. Malaysia had had several constitutional crises in the past, involving fallen state governments due to party-hopping in Sarawak in 1966 and Sabah in 1985, but those events occurred before the advent of the internet.

LB collated the articles on the blawg into its first publication, *Perak: A State of Crisis* (Quay 2011). Editor Audrey Quay couched the Perak crisis debate in the language of human rights, evoking the ideals of Article 21 of the Universal Declaration of Human Rights on the rights to democratic participation and to elect a leader of one's choice.

Before and during the years of carrying out blog mobilisation, the founders of LB were also active in public mobilisation through the Bar Council. In 2003, Edmund chaired the Bar Council National Young Lawyers Committee, which launched a campaign to abolish Section 46A of the Legal Profession Act (LPA), regarding Bar Council membership. The government responded by deleting Section 46(1)(a) of the Act. In 2007, Amer, as deputy chair of the Bar Council Human Rights Committee, and Edmund, as chair of the Committee, led a 'Walk for Justice' over a video of a prominent lawyer brokering the appointment of judges with the chief judge of Malaya. This was only the second time in



the Bar's history that lawyers had taken to the streets. The public assembly by lawyers, blatantly breaking the law on public assemblies, was a precursor to unprecedented and persistent shows of public dissent in the country.

On 10 November 2007, Bersih had its first assembly, drawing 100,000 demonstrators. A rally by the Hindu Rights Action Force (Hindraf) followed on 6 December 2007, calling for justice and the protection of rights for Hindu Malaysians after a spate of temple demolitions. A few days later, Amer and Edmund, along with other activists and lawyers, were arrested and remanded for taking part in celebrations and a public procession commemorating Human Rights Day. They were later charged in court and acquitted. Despite the arrests, several other public rallies continued, breaking down the fear of police brutality and intimidation carefully cultivated during the Mahathir years and institutionalising the right to peaceful assembly.<sup>12</sup>

### ***From LB to MCCHR: human rights vernacularisation through institutional strength***

In March 2011, after several years of discussions and postponements, and with support from the other LB founders, Long Seh Lih and Edmund led the establishment of the MCCHR. Seh Lih is a human rights expert who had worked with SUHAKAM and crossed paths with the LB lawyers when the Bar Council participated in a SUHAKAM public enquiry. She then worked with the UN on several human rights assignments abroad before returning to Malaysia to helm MCCHR. MCCHR aimed to 'do human rights' – more specifically, to conduct new forms of education initiatives and public engagement about human rights.<sup>13</sup> The centre is also a resource centre open to interested parties to hold seminars, debates, and even concerts without charge. CSOs and informal groups of activists have meetings and workshops at the space.

The setting up of MCCHR institutionalised LB's legal mobilisation and localisation of human rights. There was now an entity to seek funding, run programmes, and formalise strategic litigation in human rights beyond the pro bono work that LB lawyers had been taking on since Reformasi. As blogging became widespread, many law blogs and platforms providing legal commentaries and operating in the same mode as LB had sprouted up. The founders felt that LB had achieved its purpose; MCCHR is now the primary vehicle to continue their vernacularisation project.

Strategic litigation, in which cases are litigated in court to support victims of human rights violations or human rights defenders and to achieve systemic change through court rulings, is the core of MCCHR's work. The organisation is the first of its kind in Malaysia. Its aim was to have the courts apply human rights principles in their rulings, using provisions in the Federal Constitution. Among the well-known cases, MCCHR has taken on is one related to women's rights, in which the High Court ruled that pregnancy discrimination is a breach of a constitutional right. The judgement stated that:

The word 'gender' was incorporated into art 8(2) of the Constitution in order to comply with Malaysia's obligation under the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), to reflect the view that women were not discriminated. It is settled law that the CEDAW had the force of law and was binding on member states, including Malaysia.

*(Noorfadilla bt Ahmad Saikin v. Chayed bin Basirun & Ors [2012] 1 MLJ, para. C, 833)*

Other noteworthy cases include those related to freedom of religious beliefs (unilateral child conversion), indigenous land rights (land grabs), freedom of expression (book bans, and censorship of political satire and cartoons), and the right to a fair trial (preventive detention under emergency law). Annually, MCCHR runs strategic litigation training camps for young lawyers and non-lawyers, publishing the *Strategic Litigation Training for Lawyers: A Facilitator's Manual* in 2014 and *Litigating Freedom of Thought, Conscience and Religion* in 2016. It hosts a free online training module on religious freedom. In 2019, MCCHR embarked on a new initiative, Project Law Strike, to draft new laws or amend existing ones for the Pakatan Harapan government, covering issues of online sexual harassment, freedom of speech and assembly, trafficking in persons, human rights defenders, and statelessness.

LB/MCCHR founders concur that human rights advocacy through the courts must be complemented by social and media advocacy. Alongside legal work dealing with the courts and government agencies, MCCHR's civic education programme, 'UndiMsia!' (Vote Malaysia!), has harnessed youth energy to channel their unhappiness about how the country is run to take up non-violent and direct forms of activism. Under the umbrella of UndiMsia!, the flagship 'IdolaDemokrasi GameShop' facilitates social and political analysis among students and provides technical support for resistance actions to curtail state power and impact governmental action for human rights. 'We took the Federal Constitution, broke it down, and showed how little power people really had during elections. Thus, we needed to act every day – even a single day!', said one UndiMsia! trainer. More than 200 IdolaDemokrasi GameShops have been organised since 2011, attended by over 5000 participants. Many of these participants have gone on to become UndiMsia! trainers, MCCHR volunteers, and youth political leaders. They have mobilised their peers and executed their own human rights initiatives. Collating information from its programmes, MCCHR published *Activating Malaysians: The D-I-Y Toolkit* (MCCHR 2012), available online for free, which individuals and groups are using for 'do-it-yourself activism'.

The journey from blog mobilisation to increase postings on [LoyarBurok.com](http://LoyarBurok.com) to growing a large number of legally and non-legally trained activists under MCCHR's banner for human rights activism was inadvertent. Many MCCHR activists came initially through the ranks of the blawg. The move to institutionalise human rights work through MCCHR as an organisation is undeniably the vital turn that converted more among the uninitiated, including non-lawyers, to act for human rights at the ground level.

### **Cause lawyering: motivation, agency, and civil society**

Alagappa (2004) categorised Malaysia as having a controlled and communalised civil society stuck in a semi-authoritarian regime. Reformasi set in place conditions that inspired the lawyers of LB to define their careers by using human rights to resist the government. Nevertheless, Reformasi does not provide a complete answer. Living in a restrictive civil society environment, why did the LB founders choose to 'do' human rights? Studies on cause lawyering offer insight.

LB/MCCHR was formed and led by 'cause lawyers' (also referred to as 'lawyer-activists' or 'legal aid lawyers'). They provided pro bono legal services and carried out non-legal social mobilisation activities to promote social justice and human rights. Cause lawyering broadly refers to morally activist lawyers (Luban 1988, xvii). Cause lawyering can be defensive, seeking to prevent or stop rights violations, or to work towards social

transformation. It can be embedded in or independent of social movements working for a shared political goal. It challenges and draws from mainstream professional values, constantly re-examining the legitimacy of the line between law and politics (Munger 2008; Sarat and Scheingold 1998, 24–25). Lev posited that small contingents of private lawyers who are articulate proponents of rule-of-law values go out of their way to defend these values out of personal and professional interest and lawyerly ideology. He observed that ‘interest alone is too confining to explain the complexities and reach of legal activism. Ideology, however, alone or in conjunction with professional interest, goes further’ (Lev 1998, 447). Their reaction to human rights ideas, like the concept of general law, affirms the urge ‘to surround society with a defensive shield of transcendent values against state power’ (1998, 447). Interviews with people who worked closely with LB/MCCHR provided similar observations.

A cause lawyer seeks to empower rights-users and promote public participation ‘by demystifying the law and legal institutions’ (Marshall and Hale 2014, 306). The LB/MCCHR lawyers saw the limitations of using the formal mechanism of court advocacy to effect change. Learning from the Reformasi movement, they sought to harness the energy of a different audience: ordinary young Malaysians. Litigation is slow, time-consuming, and expensive. Human rights cases are often lost because international human rights norms are not automatically part of Malaysian domestic law. But beyond the courts, lawyers’ statements receive attention from the press and parliamentary leaders. They can influence statutory reforms. Human rights principles are often adopted to support the lawyers’ arguments, and critically, they are made public to be understood by the masses.

### ***The Malaysian Bar’s duty and tradition of dissent***

Additionally, the Malaysian legal profession has always been at the forefront of meeting political challenges with the language of rights, thus shaping the legal landscape and discourse along the way. In the 1970s, the Bar Council was vocal in its criticism of the government’s use of the ISA, its amendment of the Federal Constitution to enhance the powers of the ruling party, and its proposal to pass the Essential (Security Cases) (Amendment) Regulations 1975 (ESCAR), which would amend the rules of evidence for security offences, under a proclamation of Emergency (Lev 1998, 443). The Malaysian Bar passed a resolution for lawyers to boycott appearing in ESCAR cases. The government responded by amending the LPA to introduce Section 46A, which disqualified lawyers from membership in the Bar Council until they had seven years of legal practice, on the misguided assumption that young lawyers were behind the protest.

The conflict between the government and the Bar Council continued after Mahathir Mohamad became prime minister in 1981. That year, about 200 lawyers converged at the Parliament building to protest against restrictive amendments to the Societies Act. The Council also protested against amendments to the Official Secrets Act, which reduced judicial oversight of executive decision-making. These protests were followed by ‘Operasi Lalang’ in 1987, when the government detained more than 100 CSO activists, members of parliament, journalists, and other politicians on national security grounds. Then in 1988, Mahathir removed the Lord President of the Federal Court following a spate of decisions that went against the government. Through the Bar Council, Malaysian lawyers highlighted their discontent over these issues and, even to date, continue to critique governmental policies and actions regularly. This practice of dissent has been

elevated among Bar members to be known as a ‘tradition’, understood as justified because the LPA imposes a statutory duty to uphold justice without fear or favour.

### ***Lembaga Bantuan Hukum Jakarta: legal aid and beyond in Indonesia***

Some comparisons with cause lawyers in the leading Indonesian legal aid organisation, LBH Jakarta, are apt. The Indonesian Bar Association (Persatuan Advokat Indonesia, PERADIN) sponsored the founding of LBH Jakarta in 1969 as Indonesia’s first legal aid NGO. Founder Adnan Buyung Nasution had to visit high-ranking officers in the Suharto regime for consent to establish it. Finally, in 1970, with the support of the provincial government of Jakarta, LBH Jakarta officially began operations. LBH Jakarta became Indonesia’s most prominent centre of socio-political-legal criticism and reform and led to a boom in legal aid, with other providers established under public and private university law schools and political organisations, or oriented towards specific interests (Nasution 1981, 189–190).<sup>14</sup> After establishing the national Indonesian Legal Aid Institute Foundation (Yayasan LBH Indonesia, YLBHI) in 1980, LBH Jakarta became a legal aid institute only for the city. Human rights are enshrined in YLBHI’s core values, vision, and mission YLBHI. Since the 1960s, defence lawyers from PERADIN and LBH Jakarta have embarrassed the government at home and abroad by challenging political trials as staged affairs, turning the trials into platforms for political criticism (Lev 1998, 439F).

Nasution argued that the growth and role of legal aid organisations cannot be separated from political, economic, and social developments (1981, 191–192). LBH Jakarta was born out of increasing public demands for justice, particularly for the poor who were negatively impacted by development pressures. The struggle for the rule of law and the upholding of human rights peaked in the late 1960s, when intellectuals, journalists, and human rights activists were arrested, detained, and oppressed. What political freedom the government of the New Order gave to achieve national development and more equitable distribution allowed for the establishment of legal aid organisations. These events in Indonesia, decades ahead of Malaysia’s – or Indonesia’s – Reformasi show how sudden heavy-handedness by the state can galvanise civil society opposition, which freedoms accorded by the state can further facilitate.

Over the years, LBH Jakarta has taken on many high-profile public-interest cases, drawing from international human rights law in its submissions. Particularly outspoken lawyers include Yap Thiam Hien, Suardi Tasrif, Adnan Buyung Nasution, and former LBH directors Mulya Lubis and Abdul Hakim G. Nusantara. The senior lawyers captured public attention and attracted younger advocates to join in the cases to defend political detainees.<sup>15</sup> Yap and Adnan Buyung were arrested for defending students in 1974 and accused of being masterminds behind the movement, as student activists often gathered at the LBH office.<sup>16</sup>

But the organisation has not stopped at the provision of legal aid. Community organising, research, strategic litigation, and policy advocacy are seen as part of the duties of lawyers. For example, in the past, the courts did not recognise a procedure that provided legal standing for class-action suits. LBH Jakarta advocated for such a procedure; now these suits are recognised in Indonesia. LBH Jakarta brought its first legal-standing case to court in 1988, representing Wahana Lingkungan Hidup Indonesia (WALHI, Indonesian Forum for Living Environment), an environmental NGO which is part of the Friends of the Earth International network, as a representative of nature

against a corporation. The court recognised their standing. Another recent example was a citizen suit against the Indonesian president and other government agencies over air pollution in Jakarta.<sup>17</sup>

Further, LBH Jakarta's building has become a space for activists to gather and convene. The lawyers are political activists and work at the grassroots, forming thick ties with other CSOs and setting up other organisations, including Indonesia Corruption Watch and the Commission for Disappeared and Victims of Violence (Komisi Untuk Orang Hilang dan Korban Tindak Kekerasan, KontraS). LBH Jakarta also conducts a highly competitive annual legal aid training for 50 young lawyers, which receives applications from university graduates all over Indonesia. This workshop covers ideology and awareness, human rights knowledge, legal skills, and most importantly, participatory action research for which the lawyers are sent to live with communities. The live-in experience has the power to change perceptions, and LBH Jakarta takes care to place lawyers among communities against which they may be prejudiced – an approach to enhance acceptance of diversity in Indonesia. A selection process then follows this training to recruit new legal assistants. University students are the clients, training participants, and key stakeholders of LBH's movement. LBH also holds professional paralegal training for community organisers.<sup>18</sup>

For the LBH Jakarta lawyers, legal aid does not solely focus on reaching favourable outcomes for the poor. They take on a broader perspective that includes non-litigation activities, coalescing around the concept of making structural changes in law, policy and institutions, and in empowering the community. Likewise, LB/MCCHR's lawyers go beyond taking dock briefs at legal aid centres, to volunteer time and resources to pursue non-judicial human rights activism alongside strategic litigation to effect change.

LBH Jakarta acknowledges that they are more activists than lawyers and call themselves legal aid servants (*pengapi*). *Pengapian* refers to volunteerism; most LBH lawyers adopt this principle of volunteerism and commit to not being paid if the organisation does not have any funds to pay them. Meanwhile, as young wage-earners in the profession, the lawyers of LB/MCCHR pooled their own money to take on strategic human rights litigation cases, run the blawg, then subsequently extend to launch a physical centre.

Both LB/MCCHR and LBH Jakarta closely interact with the law, following a trajectory of using the law (through the courts) or circumventing or resisting it (through activism). Where the law is supportive of human rights, it is readily brandished. Where it is not, the lawyers denounce it as a tool of state oppression and seek in court for it to be quashed.

### Lessons learned from the region

Merry describes human rights as, 'a set of ideals about how governments should treat their citizens and about how all humans should be treated', and suggests rights 'articulate goals that we would like to make effective' (Destrooper and Merry 2018, viii). Vernacularisation then asks how the ideals of 'justice, fairness and equality that underpin human rights' are 'part of everyday life for many people around the world' (Destrooper and Merry 2018, viii). First, because human rights have to be framed in local terms and appropriated rather than imposed, a 'top-down' approach to translating international human rights norms into a domestic setting will fail, while local practices need to be translated 'up'. An effective process can transform the role of a survivor,

parent, or spouse to become an advocate, activist, or proponent, whether by a social or legal transformation (Merry 2006).

Second, LB/MCCHR and LBH Jakarta were formed by lawyers who championed cause lawyering, provided pro bono legal services, and executed non-legal social mobilisation activities to promote social justice and human rights. They were inspired by what they saw and felt in the political conditions around them, thereby raising their oppositional consciousness. The founders of each organisation adopted strategies that catered to their populations. They pursued similar goals that emerged under similar authoritarian pressures but with differing political contexts and local conditions. But to both groups, the pursuit of human rights is not normative or academic; it is a matter of justice and, on occasion, life and death.

Undeniably, there is some Western influence in the growth of human rights movements. International support for human rights has contributed to cause lawyering in developing countries, particularly in the provision of funding. Many cause-lawyering groups that have managed to grow in size while challenging powerful domestic interests in the developing world do so with foreign money. However, this chapter demonstrates Ellman's point that 'cause lawyering in the Third World is the product of developments that Third World actors are shaping as well as being shaped by' (1998, 350–351).

Third, a characteristic shared by lawyer-activists in Malaysia and Indonesia is the 'web of social relations and human connections' brought together by collective-action framing processes, as Chua (2015) mentions in her study of gender activists in Myanmar. Interest, ideology, and agency are supported by social networks, not only within the legal profession but also with other local human rights CSOs. How far vernacularisation can be taken in a given domestic context relies heavily on this web and network.

The experiences of LB/MCCHR and LBH Jakarta lawyers linger with them. Alignment with victims of oppression has taught them not to remain silent in the face of injustice. After leaving these movements, many lawyers continue to pursue public interest and human rights cases through their private law practices. This is the everyday practice of human rights.

## Notes

- 1 We acknowledge Dr. Coeli Barry (Institute of Human Rights and Peace Studies, Mahidol University, Thailand) for her guidance and comments on Edmund's earlier PhD essays on vernacularisation theory, which have influenced the writing here.
- 2 Tew (2020) argues that the Asian values debate is not relevant in the adjudication of human rights.
- 3 Despite the 'Asian' sentiment against human rights, the Association of Southeast Asian Nations (ASEAN) established the ASEAN Intergovernmental Commission on Human Rights (AICHR) in 2009 and adopted the ASEAN Human Rights Declaration (AHRD) in 2012. The effectiveness of these endeavours remains in question, but they have increased the extent and quantity of human rights work in Southeast Asia (Clarke 2012; Davies 2014; Mohamad 2002; Petcharamesree 2013; Renshaw 2013, 2019; Uhlin, this volume).
- 4 Meanwhile, the simultaneous Reformasi movement in Indonesia transitioned the country from a long-term hegemonic authoritarian regime intolerant of civil society, with a distinct military role in government, to what has been perceived to be Southeast Asia's largest democracy. In 2002, the country overhauled its constitution, instituting a fully elected legislature including a new Dewan Perwakilan Daerah (Regional Representative Assembly), provincial and district-level assemblies, stiffer requirements for the passage of constitutional amendments, and a constitutional court (Weiss 2006). At present, Indonesia faces pressures of democratic backsliding (see Caraway and Ufen's chapters in this volume).

- 5 Interestingly, SUHAKAM was formed at the height of Reformasi (and the pushback against human rights in ASEAN). To the surprise of many observers, SUHAKAM was effective in furthering a human rights agenda due in part to the quality and courage of the then-commissioners. It is still unclear how and why Mahathir agreed to establish SUHAKAM. One theory is that former Deputy Prime Minister Musa Hitam convinced Mahathir of the need to form it to enhance Malaysia's international standing, as the image of Anwar's black eye in the global press was too glaring to be ignored (Renshaw, Byrnes and Durbach 2011). CSOs used SUHAKAM to full effect as a platform to raise domestic human rights cases and convey to the public what human rights violations meant. Making a public complaint allowed CSOs to invite media, thereby increasing the possibility of their reporting a story for mainstream public consumption. Since its formation, SUHAKAM has become an important vehicle in the vernacularisation of human rights in Malaysia.
- 6 Because international law and treaties are not automatically enforceable in the courts, lawyers had to first import and weave in human rights through Malaysia's Federal Constitution. The words used before the courts must have legal force. Once they are accepted, lawyers can then edge in normative human rights arguments. This is how global human rights norms can manifest themselves domestically, through judicial vernacularisation.
- 7 For an analysis that takes into account the implications of the 2018 elections, see Sharom and Spooner (2019).
- 8 Interview, Fahri Azzat, co-founder of LB, 24 June 2021.
- 9 Interview, Long Seh Lih, first chief executive officer of MCCHR, 6 and 21 July 2021.
- 10 Interview, Adrian Chew, LoyalBurokker, 20 November 2021.
- 11 Interview, Karl Rafique, LoyalBurokker, 23 November 2021.
- 12 See Choong (2014) and Chan (2019) for more details about the Bersih movement.
- 13 Interviews, Long Seh Lih, first chief executive officer of MCCHR, 6 and 21 July 2021.
- 14 For more on LBH Jakarta and the development of legal aid in general in Indonesia, see Lubis (1985); Lev (1987); Schauble (1990); and Irwan and Hearn (2016).
- 15 See Lev (1972, 276–277) for an account of the arrest of respected attorney Yap Thiam Hein in 1968 and resultant protests by intellectuals, university students, lawyers, and human rights activists.
- 16 Interviews, Febi Yonesta, former director of LBH Jakarta, 18 and 22 November 2021.
- 17 Interview, Alghiffari Aqsa, former director of LBH Jakarta, 26 November 2021.
- 18 Interview, Alghiffari Aqsa, former director of LBH Jakarta, 26 November 2021.

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# CIVIL SOCIETY AND ENVIRONMENTALISM

## Crossing frontiers of activism

*Oliver Pye*

The connection between environmental issues and civil society in Southeast Asia is a long and complex one. This is not surprising, given that the abundant natural resources in the region were one of the main reasons for its colonial subjugation. Their appropriation was always a key dynamic in changing social relations of nature, connected to the accumulation of wealth and power, exploitation and oppression, gender relations and ethnicity, and the conviviality or not of humans and non-human nature (Pye 2012a; Boomgaard 2016). The sheer ecological importance of the biodiversity hotspots of Southeast Asia – arising from the region’s geological and biogeographical history, its vast tropical rainforests and coral reefs – has meant that the region has always held a special place for conservationists, place-based or not (Sodhi and Brook 2011). The dependency of most Southeast Asians on non-human-nature for their livelihoods has encouraged them to view ecology through the lens of environmental justice. Civil society, then, has been and still is a contested space for different ‘environmentalisms’ (Forsyth 2017).

There are very different and conflicting ways of viewing the engagement of civil society with the environment, both in the scientific debate and the real world. The most influential in mainstream academia and in terms of financial clout and political power is Ecological Modernisation Theory, which awards civil society a key supporting role in the process of ‘ecological rationalization’ (Mol et al. 2014, 21). The idea is that societies modernise naturally, and that a mixture of market signals, consumer behaviour, technological innovation, and institutional reform will gradually address ecological problems (Mol and Spaargaren 2000). The most famous popularisation of these ideas in global developmental politics is the concept of ‘Sustainable Development’, which has become the hegemonic framework over a period of 30 years or more. Civil society is seen as a partner, particularly of ‘corporate leaders’ in ‘stakeholder initiatives’ in a ‘win–win–win’ scenario (Schiffman et al. 2010; Sachs 2012).

In this rather instrumentalist and narrow understanding, ‘civil society’ is usually used as shorthand for professional NGOs. Issues related to Southeast Asia have often played a major role in transnational campaigns by international NGOs such as the World Wildlife Fund (WWF) or Greenpeace. Most Southeast Asian countries now boast a plethora of environmental NGOs of their own, too. Both international and local professional organisations play key roles in the spaces of civil society engagement that emerge

in the context of ‘good governance’ and development cooperation. And most are affected by the shrinking of these spaces connected to the strengthening of authoritarian regimes across the region.

In line with the broader and more dialectical understanding of civil society as sketched out in the introduction to this edition (Hansson and Weiss, this volume), however, civil society engagement with environmental change in Southeast Asia entails much, much more than NGOs that focus on ecology. Rather, it includes a great number of persons and social groups that develop agency around issues connected to environmental change, including, but not restricted to, social movements and non-human-nature. This is the approach a second analytical framework, Political Ecology, takes. Activism and social movements related to the environment emerge because of contradictory interests of different groups and actors at various scales. These processes and politicisations are also highly gendered, not least because the unpaid social-reproduction work performed largely by women is connected to ecology in intimate ways, and also because powerful groups are usually dominated by patriarchal networks. Rather than being win–win–win, struggles over the environment tend to emerge in opposition to the appropriation or destruction of natural resources by corporations and accompanying aspects of state governance. In this view, civil society can be divided into two camps (with many ambiguous and contradictory positions in between), i.e. those that help to embed the hegemonic discourse of ecological modernisation and related strategies of accumulation and domination within wider societies, and those that develop counter-hegemonic struggles and narratives (Perreault et al. 2015; Bryant 2017; MacGregor 2017).

Within Political Ecology, it has become fashionable to view environmental movements and activism through a post-structuralist lens (Peet and Watts 2010). This draws heavily on the characterisation of the large environmental movements in 1970s Europe as ‘new social movements’ that ‘transcended’ class, focusing instead on identity, cultural politics, and autonomy in a ‘post-materialist world’ (Pichardo 1997; Forsyth 2017). Post-colonial theory, meanwhile, argues that action by the ‘subaltern’ in the Global South is characterised by singular epistemologies and ontologies that necessarily differ from those in Europe (Chibber 2013). A post-colonial perspective challenges as Eurocentric the claim that ‘we are all in this together’ that the discourse of the Anthropocene implies and stresses the cultural specifics and fundamental differences between different ways of seeing, narrating, and imagining nature–society relations (Tsing 2005). Anthropologists such as Haraway and Tsing shift the focus of agency towards microbes and ‘critters’ that resist the ‘radical simplification’ and ‘multispecies forced labour’ of the global imposition of monoculture agriculture they call the Plantationocene (Haraway and Tsing 2019).

In contrast to this post-structuralist perspective, approaches such as ‘accumulation by dispossession’ (Harvey 2005) or ‘World-Ecology’ (Moore 2015) situate civil society as part of, or reacting against, structural dynamics imposed by a capitalist world-system. According to Harvey, neoliberal globalisation represented a new phase of capital expansion into ‘non-capitalist’ territories, appropriating land, forests, and water resources of peasants, small-scale fishers, and the urban poor. Struggles against these new ‘land grabs’, although exhibiting enormous variety, follow similar patterns. In World-Ecology, conflicts over non-human-nature emerge as capital searches for ‘global ecological fixes’ characterised by the ‘dialectic of plunder and productivity’ (Moore 2015, 124). The context of this ‘Capitalocene’ presents environmental struggles primarily as ‘post-development’ struggles, as indigenous peoples and peasants react to the territorialising

expansion of capital, developing various ‘subsistence perspectives’ as they do so (Mies and Bennholdt-Thomsen 1999).

Environmental activism in Southeast Asia has often been of this ‘post-development’ variety, i.e. arising from attempts to resist the incorporation of nature into capitalist development. But what happens *after* nature becomes incorporated? After all, the region has been characterised by processes of industrialisation, urbanisation, and proletarianisation for decades – all of which create new social relations of nature. Labour, and in particular, environmental labour, studies that analyse the labour movement’s struggles around ecological issues are often missing from discussions of civil society and the environment (Shantz 2004; Rätzkel et al. 2021). In the context of the climate emergency (and as Rita Padawangi discusses in this volume), urban terrains assume a new importance, as business-as-usual in industrial production, energy production, and transportation systems is no longer an option. Civil society in Southeast Asia has become a contested terrain of hegemonic, ‘green growth’ strategies on the one hand, and social-ecological transformation strategies on the other.

### **Colonialism and national liberation**

Hundreds of years of colonialism transformed the social relations of nature across Southeast Asia, creating contested terrains of engagement and path dependencies that still shape the frameworks under which civil society operates today. For centuries, savage warfare was used to impose monopolised trade networks for goods such as nutmeg and cloves (Reid 1988). In the 19th century, colonial powers moved to impose ‘territorial control’ (Vanderveest and Peluso 1995), that is, state ownership over land and forests. Forestry departments, for example in British Burma and Malaya, Dutch Indonesia, and dependent Thailand, were established to organise large-scale logging operations and to exclude and criminalise peasants’ customary use of forest resources (Peluso 1992; Vanderveest 1996; Bryant 1997; Kathirithamby-Wells 2005). With the help of local elites, land was alienated from the peasant population and concentrated in the hands of European companies for commercial plantations producing sugar, tobacco, and rubber for global supply chains (Breman 1990; Stoler 1995).

While environmentalist arguments were advanced to restrict peasants’ access to forests, for example against the ‘shifting cultivation’ that was supposedly the main reason for deforestation (Bryant 1997), foresters, natural scientists, and ‘explorers’ in the employ of colonial regimes led this ‘green imperialism’, not civil society (Grove 1995). Rather, the curtailing of their traditional rights led to widespread surreptitious transgressions and open rebellion by local populations. One example is the Saminist movement on Java at the end of the 19th century:

Samin’s followers differed in the types or forms of resistance they practiced. They are most known for speaking in ‘riddles’ or taking a literal interpretation of anything said. Foresters and other officials were key targets. Some Saminists lay down on their land when the Dutch surveyors came to reclassify communal and salary lands, crying out ‘Kango’ (I own it). Others cut teak despite Dutch efforts to guard the forest. They refused to pay taxes, refused to pay fines, refused to accept wages, refused to leave rented or communal land when their leases expired. Some piled stones in the roads they had been ordered to build.

*(Peluso 1992)*

Environmental justice was also an integral part of the national-liberation movements that emerged all over the region in the early 20th century. In Indonesia, peasant groups and workers in the timber industry developed a programme of a people-oriented forestry that was unfortunately not implemented after independence (Peluso 1992). The commercial plantations that came to symbolise so much of the colonial regime's subjugation of nature and extreme systems of exploitation and oppression became sites of organising and rebellion. In Vietnam, the emergence of illegal workers' organisations and mass strikes by 'plantation coolies was an important building-block in forging the linkage between the anti-colonial and anti-capitalist struggles in Indochina' (Murray 1992, 61). Workers challenged the industrial monoculture model, for example by a mass movement of squatters in North Sumatra after independence, in which workers followed their 'dream for independent small-landholding homesteads' (Stoler 1986, 136).

### **Environmental justice, post-development, and democracy**

The militarisation of society soon stifled the possibilities opened up by national liberation movements that fundamentally questioned the social relations of nature colonialism imposed. The military became so powerful, first, because in most Southeast Asian countries, liberation had to be conquered by armed force, and second, because the region was soon engulfed in proxy wars in the context of geopolitical competition among the United States, the Soviet Union, and China. Forests in particular became both sites of warfare (Le Billon 2001) and part of national development strategies that viewed logging concessions as a 'take-off' strategy of capital accumulation. Military dictatorships in Indonesia (1965–1998), the Philippines (1972–1986), Thailand (1945–1973, 1976–1988), Cambodia (1975–1978, 1978–1993), and Myanmar (1962–2015), as well as one-party authoritarian states (Vietnam, Laos) and (with qualifications) Malaysia (1969–2008) and Singapore (since 1965), left little room for civil society to flourish.

Environmental concerns were related to wider, social, and political developments. As Southeast Asia pursued a successful development strategy of export-oriented industrialisation, ecological problems and contradictions were exacerbated. Under military dictatorships and authoritarian rule, ecological activism was seen as a 'soft' way to voice opposition. Activists were able to connect local struggles to each other and to development as a whole. Their highlighting corruption and abuse of power scandals associated with the destruction of nature and livelihoods helped to undermine any remaining popular legitimacy these regimes had left. Organising around ecological issues fed into emerging movements for democracy, and the toppling of dictators led to new surge in environmental activism.

In the Philippines, for example, local struggles against projects such as the huge Chico Dam started challenging the development model of the Marcos regime in the 1970s. Sustained protests led to the World Bank's withdrawal from the project, which would have relocated an estimated 100,000 indigenous Kalinga and Bontoc people. Pictures of murdered protest leader Maeli-ing Dulag were prominent in the pro-democracy demonstrations that brought down the dictatorship in 1986. The opening up of democratic space led to a blossoming of environmental civil society, including the formation of the 'Green Forum' consisting of 'over 200 NGOs, grassroots organisations and church groups' and significant influence for newly formed environmental bodies such as the Department for Environment and Natural Resources (Magno 1999).

Environmental justice was similarly aligned to the democracy movement in Indonesia. The environmental forum Wahana Lingkungan Hidup Indonesia (WALHI, Indonesian Forum for the Environment) was founded in 1980, under the Suharto dictatorship. Formed as a grassroots network of hundreds of local initiatives and NGOs across the archipelago, WALHI agitated against the 'Korupsi, Kolusi, Nepotisme' of destructive environmental projects that were central to the regime's development strategy. Using broad civil society coalitions, and stressing people's rights to land and forest resources, WALHI conducted successful campaigns against the Indorayon pulp and viscose factory on Lake Toba on Sumatra and a planned pulp plantation in West Papua (Potter 1996; Gordon 1998). After the mass democracy movement toppled Suharto in 1998, interconnected movements around environmental justice, indigenous rights, and agrarian reform expanded struggles for environmental and agrarian justice. In 1999, the Aliansi Masyarakat Adat Nusantara (AMAN, Alliance of the Indigenous Peoples of the Archipelago) was founded. The Federasi Serikat Petani Indonesia (Federation of Peasant Unions of Indonesia) led mass occupations of large-scale plantations and forests in the post-Reformasi years (Peluso et al. 2008). As in the Philippines, civil society played an important role in working with new government agencies to protect the environment and to combat natural resource corruption.

This interaction, of environmental civil society with democracy movements and the surge in environmental activism once democratic freedoms have been gained, can also be seen in Thailand. The Thai military had been propped up by the United States in the Cold War. Using the monarchy as an ideological veneer, officers and generals developed a vast system of corrupt patronage geared towards the plundering of the country's natural resources. By the end of the 1980s, they had succeeded in logging most of the forests, when in 1988, flooding caused by clear-cutting of watershed forests killed nearly 500 people, 'as whole villages were swept away by hill slides of water, mud, and logs' (Pye 2005, 83). Civil society mobilisations fused together the general public outcry, campaigns by conservationists against logging in protected areas, and widespread protests by farmer groups against logging to force through a general logging ban in 1989 (Hirsch and Lohmann 1989).

The military and the Royal Forest Department (RFD) had to rethink their strategy. They rebranded themselves from the 'stump department' (as the RFD was known) to the main agents of conservation and reforestation in the country. They embarked on an ambitious expansion of – people-free – national parks and of eucalyptus plantations for the pulp and paper industry that they dubbed 'green' reforestation. The king fittingly bestowed royal patronage to projects such as 'Green Isan' and 'Khor Jor Kor' – his Crown Property Bureau was the biggest stakeholder of the Siam Pulp and Paper company. The notoriously corrupt military and RFD were perfectly suited to mismanaging a public reforestation programme and to evicting indigenous people from their homes in the name of conservation – or so they thought.

When the military launched a coup in early 1991 and proceeded to evict villagers from reforestation sites in the Khor Jor Kor project, they were surprised by the scale of the resistance. Villagers refused to move, and after one of the first villages, in Dongyai forest, was forcibly relocated, a group opted instead to camp in a nearby temple. In this endeavour, they were supported by the well-known forest monk Phra Prachak Khuttachitto and his Khao Hua Nam Phud conservation network. Activists then spread the word about the 'Thai refugee camp', as they called it, to those other villages earmarked for future eviction. Farmers started talking and setting up groups.

In February 1992, they formed the Isan Farmers' Committee to Solve the Land Problem in 36 Forests (Kanakamakan Chauban Kekhai Banha Thidin Thamkin Phat Isan 36 Pa). This Committee of 36 Forests was able to launch a mass campaign of passive resistance, stopping the Khor Jor Kor project in its tracks. In turn, this contributed to undermining the legitimacy of the military regime, which a mass democracy movement in Bangkok toppled in May 1992 (Pye 2005).

The subsequent rebirth of democracy in Thailand opened space for one of the most interesting examples of environmental justice movements in Southeast Asia: The Assembly of the Poor (Samatcha Khon Jon; see also Duangthai, this volume). The Assembly was a novel kind of civil society institution. It gave primacy to grassroots organisations, usually on a community-by-community and autonomous basis. At the same time, professional NGOs such as the NGO Coordinating Committee on Rural Development or the 'Friends of the People' played important coordinating and leadership roles, although ostensibly only 'advisors' (Missingham 2003). The Assembly's politics were in a post-development framework – large-scale development projects, such as the Pak Mun dam, were destroying the environment and livelihoods of rural Thais. Industrial fishing trawlers were threatening fish stocks and the livelihoods of small-scale fishers. Their alternative was based around the subsistence and autonomy of rural, small-scale producers and more sustainable production. Farmers set up the Alternative Agriculture Network to promote ecological farming methods, whilst the Federation of Small Fishers of Southern Thailand successfully advocated for a three-mile trawler-free fishing zone off the coast and developed programmes to re-establish mangrove forests and conservation areas for fish-spawning.

Among the main forces within the Assembly were the northeastern farmers from the Khor Jor Kor mobilisations. They were now demanding compensation and secure land titles but were also challenging the whole model of industrial forestry managed by the RFD. Instead of a centralised timber industry run by officials in Bangkok, they proposed a Community Forest Bill, which would put the management of part of the forests under local control. Another large group was the Northern Farmers Network (NFN), formed in 1994. The RFD expanded the number and area of national parks in the north of Thailand and was planning to relocate hundreds of indigenous communities. In response, up to 20,000 people from all the affected forest areas took part in an eight-day march from Chiang Mai to Lamphun and negotiated a stop to the eviction plans. Again, the Assembly was pushing for a more fundamental shift in forest conservation policy away from 'people out' towards the recognition of the role of indigenous peoples in protecting forest landscapes (Pye 2005).

### **Indigenous forest defenders in global civil society coalitions**

The institutions of anti-people forestry departments and large-scale commercial plantations remain a colonial legacy around which local struggles, social movements, and NGOs organise and position themselves still. All over Southeast Asia, the military has been heavily involved in the logging industry, either via timber companies they owned directly or by fees and kick-backs associated with the power to award concessions to their cronies (Broad 1995). The rapid destruction of these mega-diverse rainforests can be characterised as one of the biggest ecological crimes of the 20th century. Civil society engagement around these issues has been enduring and shows certain features that are pertinent to environmentally engaged civil society in general.

One of the most famous examples of activist campaigning against the logging industry is the road blockades by the indigenous Penan in Sarawak at the end of the 1980s. The Penan are an indigenous people who still lived partly as hunter-gatherers, dependent on extensive tracts of forests for their livelihoods. These were under threat by 'rapacious logging interests' of notorious companies such as the Samling and Ribunan Hijau 'groups' (Majid Cooke 1999, 144; Faeh 2011). In response, the Penan, organised by their longhouse settlements, started blockading 23 logging roads to stop timber companies from entering their territories. They kept this up for eight months, relocating to the blockades to man them. Other Penan groups joined in, with waves of direct action in different locations through 1993 (Davis et al. 1995).

As in other parts of Southeast Asia, the loggers were intimately connected to powerful political figures such as Chief Minister Abdul Taib Mahmud (Bruno Manser Fund 2012). An array of actors in politics, media, military, and police immediately confronted the Penan blockaders. However, other groups in civil society supported the Penan, such as the NGOs Sahabat Alam Malaysia (SAM, Friends of the Earth Malaysia) and the Institute of Social Analysis, who used their global connections (e.g. the World Rainforest Movement) to launch an impressive international campaign (Majid Cooke 1999). Using networks of transnational activists (the Swiss activist Bruno Manser, who disappeared in Malaysia in 2000, was particularly famous), these NGOs were able to form a 'transnational campaign coalition' (Tarrow 2005) that generated a large European constituency of 'rooted rainforest cosmopolitans' (Pye 2012b, 179). While the latter was successful in organising quite an effective boycott of tropical timber, the strategy to use international pressure as a 'boomerang' (Keck and Sikkink 2014) could be said to have backfired. As Brosius (2003) and Weiss (2004) have argued, the Malaysian government accused local NGOs, particularly SAM, of being stooges for a new kind of 'environmental colonialism'.

The Penan case shows a pattern of civil society campaigning that is characteristic of Southeast Asia more generally. At the local scale, along the 'commodity frontier' (Moore 2015) of appropriation, small-scale farmers or indigenous peoples try to resist land-grabbing of one form or another, defending a multi-species and mosaic landscape that combines cash-crop and subsistence production. In cities, activists and professional NGOs support these struggles, link them, and generalise from them. They also act as the link to transnational coalitions that campaign in the Global North by problematising the role of Western corporations and consumers. These, in turn, often provide funds for professional NGOs in Southeast Asia.

In her discussion of the Meratus Mountains of Borneo that were being logged by the 'Fast Forest Development Company', Tsing (2005) engages with three groups that were active and connected in this 'forest of collaborations' (245): village leaders in the Meratus mountains, 'nature lovers' from the provincial capital of Banjarmasin, and New-Order-era activists from Jakarta. All three successfully cooperated to stop logging in the area and to achieve recognition for the local people's community forestry. This collaboration led to the non-renewal of a logging concession. The three groups could celebrate different victories: the Meratus Dayak gained control over their forest area; Kompas Borneo (the 'provincial nature lovers' group) won a Ford Foundation grant to conduct research into community forestry in the village; and for the environmental activist forum WALHI in Jakarta, it was an important success story for national campaigning around community forest rights.

Tsing is interested in how these actors 'collaborated across difference': 'Collaboration is not a simple sharing of information. There is no reason to assume that collaborators



share common goals. In transnational collaborations, overlapping but discrepant forms of cosmopolitanism may inform contributors, allowing them to converse – but across difference’ (12). The differences in social position, location, cultural proximity to the location of the conflict, political perspectives, and *raison d’être* of each group also led to widely divergent interpretations of events. Retrospectively, each actor told very different stories about what had happened. Because of these frictions, ‘the moment of common cause is full of misunderstanding’ (222). At the same time, these ‘differences invigorate social mobilisations. Differences engage political abstractions, making them applicable to global situations’ (245).

But action for indigenous people’s rights over natural resources does not necessarily lead to solidarity and collaboration. As Hall et al. argue (2011, 11), claims based on ‘ethno-territorial identity’ can exclude migrants of other ethnic groups. At the end of the 1990s, for example, local elites in West-Kalimantan used ‘ethnic identity as a resource’ (van Klinken 2008, 44), inciting bloody violence against Madurese transmigrants to create ‘racialised territories’ (Peluso 2008, 62). In Thailand, the Buddhist conservationist Dhammaanat Foundation and a CSO called the Chomthong Watershed Conservation Club mobilised against upland Hmong, whom they accused of destroying forests and creating a water crisis in the lowlands (Pinkaw 2000). Forsyth and Walker (2008) argue that Thai NGOs’ bias towards subsistence-oriented lifestyles was built around ethnic stereotyping, in which the Karen were depicted as ‘forest guardians’, while the Hmong were decried as ‘forest destroyers’. In this way, civil society’s post-development ‘critique of modernization adds legitimacy to the protectionist perspective’ (217) that argues for relocating people from the uplands.

### **Eco-activism in the neoliberal age**

One of the paradoxes of civil society activities in Southeast Asia is that the opening up of democratic space coincided with neoliberal hegemonic integration into the globalised economy. After years of operating underground or under extreme oppression, environmental NGOs were offered new opportunities to contribute to and shape more progressive environmental policies. With mainstream development aid focusing on sustainable development, funding for large projects was suddenly available. Instead of operating from the margins, with little or no money and staff, environmental NGOs were in a position of influence.

The new orthodoxy of the neoliberal age was very much one of partnership. As production became increasingly integrated into global supply chains, transnational corporations were seen as potential ‘sustainability leaders’. Rather than organising grassroots protests, it was said, the key was now to reach ‘decision-makers’ to bring about real change that would create win-win-win scenarios for everyone. Neoliberal thought awarded markets the preeminent role in ecological rationalisation, and NGOs seized upon the power of ‘ethical consumers’ to develop ‘brand pressure’, thereby persuading those at the top of the chain to ‘clean up their act’. Corporations were happy to comply by founding and ramping up corporate sustainability departments. This explains the dominance of ecological modernisation theory in much of civil society’s concrete work on the environment in the democratic era.

These general trends were underway at the same time as one of the largest environmental issues of the 21st century in insular Southeast Asia: the expansion of the palm-oil industry. The Reformasi movement in Indonesia repeated a pattern seen across the

region, in which democratic reforms left the conglomerates that had grown powerful during dictatorship – and their intensive ties to the state apparatus – largely intact (Robison and Hadiz 2004). The decentralisation of political power meant that large corporations such as Wilmar, Sime Darby, Sinar Mas, and the Salim/Indofood group were able to negotiate large concessions directly with the (male) regents, or *bupati* (Brad 2019). These concessions combined many of the issues connected to logging – land grabs, indigenous peoples’ rights, biodiversity loss – with the more permanent conversion of forest lands into monoculture agribusiness plantations. This exacerbated ecological problems: monoculture plantations have a greater and more permanent impact on biodiversity than logging; pesticide use and run-off from palm-oil mills impact rivers; and using burning for conversion was partly responsible for catastrophic forest fires in 1997, 2015, and 2019.

Driven to action by these serious ecological problems, especially after the 1997 forest fires, key NGOs in Western Europe such as the WWF, Greenpeace, and the Forest People’s Programme started to campaign vigorously, partly with ‘brand-bashing’ campaigns that targeted large buyers of palm oil such as Unilever and Nestlé (Hai 2012; Pye 2012b). In 2004, the WWF, together with these two corporations and major producers in Southeast Asia, founded the Roundtable on Sustainable Palm Oil (RSPO). This ‘multi-stakeholder initiative’ developed various sustainability principles and criteria per the win-win-win model. It now claims to supply over 15 million tonnes of ‘certified sustainable palm oil’ to the global market ([rspo.org](http://rspo.org)).

However, NGO membership is mainly of the Western conservationist variety (e.g. WWF, Conservation International, Fauna and Flora International), with only very modest participation by local civil society organisations.<sup>1</sup> Despite claims to the contrary, the RSPO has failed to achieve meaningful change regarding the environmental impact of the industry as a whole, mainly because it does not address expansion into new areas and remains committed to the large-scale monoculture model of business (Pye 2019). Significantly, grassroots CSOs such as WALHI chose not to follow this business-oriented model. Instead, they became involved in the much broader coalition that organised the ultimately successful Campaign for a Moratorium on Agrofuel Targets in the EU. Going against the neoliberal orthodoxy of the time, this campaign focused on political regulation, specifically to change legislation that subsidised agrodiesel from palm oil as a supposedly climate-friendly alternative to crude-oil-based diesel (Pye 2010). These subsidies are set to be phased out – to the fury of trade associations in Malaysia and Indonesia that represent many RSPO members.

The palm oil example points to the paradox of civil society engagement on environmental issues and to a deepening division between different currents within the environmental movement. On the one hand, the global integration of the economy, the hegemony of ‘sustainable development’ within development cooperation, and the neoliberal paradigm-shift towards corporations as leaders of a new green economy have created enormous opportunities for civil society. CSOs are given a seat at the table in large-scale stakeholder initiatives where funding is unlimited, activism is no longer dangerous, and the possibility to sit and talk with ‘strategic partners’ is alluring. This current is led by international players from the conservationist camp such as the WWF. Flagship projects include the Heart of Borneo and the Coral Triangle Initiative, for which civil society organisations have secured official support from both governments and businesses, and substantial development aid for large-scale conservation projects (WWF 2014; CTI-CFF Regional Secretariat 2021). Mining, logging, and plantation

corporations are seen as partners to achieve a new, green economy, for example in the B4E HoB Green Business Network Forum of the Heart of Borneo Initiative (van Paddenberg et al. 2013, 193).

On the other hand, these same factors have led to an acceleration in the appropriation and destruction of natural resources. These conservation initiatives' business partners are the same corporations that are busy converting forests into monoculture plantations or polluting rivers with mining tailings. And there is a very real partnership between business and government – one that is based on the acceleration and expansion of a neo-extractivist model. A case in point is the Indonesian government's Masterplan for the Acceleration and Expansion of Indonesia's Economic Development (MP3EI), which presented an aggressive vision of infrastructural development, allotting provinces different resource-extraction roles. Central Kalimantan, for example, is to become a centre of the mining industry, West Papua, with the Merauke Integrated Food and Energy Estate (Ginting and Pye 2013), a centre for food and energy crops, and so on. Conservation projects like the Heart of Borneo then suffer under a kind of double-speak in which government and business representatives adhere to the initiative at project forums but are busy supporting palm-oil expansion (Potter 2009), mining projects, and infrastructure development such as new roads in Sabah that 'would drastically reduce protected-area integration across the northern Heart of Borneo region' (Sloan et al. 2019, 1). In this context, conservation efforts tend to focus on restricting activities of the local population in the area (Eilenberg 2015; Pye et al. 2017).

### **Civil society in the climate emergency: green growth or social-ecological transformation?**

Naomi Klein's observation that neoliberal ideology precluded global, coordinated, governmental action to regulate corporations just at a time when climate change made such decisive political intervention necessary (Klein 2015) is particularly pertinent to Southeast Asia. The region is already severely affected (as worsening storm catastrophes in the Philippines show) and the predicted devastation in business-as-usual scenarios – including inundation of coastal cities and die-back of the coral triangle – is alarming. If ever there was a time for decisive, environmental action by Southeast Asian governments, it would be now. Or, lacking that, it should be time for civil society in the region to step up the pressure for a radical social-ecological transformation of society.

Unfortunately, the climate justice movement is currently weak and civil society is in no state to mount this challenge. Most civil society organisations are either incorporated into a 'green growth, green economy' discourse that greenwashes an industrial strategy of resource-intensive expansion and neo-extractivism or continue with the post-development orientation of local land and environmental conflicts in rural areas. The latter entails an increasingly defensive struggle that fails to generalise from local struggles and, importantly, to take the fight to now-dominant urban areas, and so to mount an effective counter-hegemonic challenge to 'fossil capitalism' (Malm 2016).

A good example for the former is the hegemonic incorporation of civil society into a 'post-political' development strategy in Singapore, which portrays itself as the 'Garden City' (Neo 2021). According to NSM theory, Singapore's post-material urban middle class should support a vibrant environmental movement. However, this seems to be mainly of the animal-welfare variety. Mild activities such as collecting signatures for the conversation of a small plot of forest by the Nature Society of Singapore were already

seen as beyond the pale (*ibid.*), whilst the real challenge, of transforming Singapore's industrial development strategy, is not addressed at all. This self-proclaimed 'smart city' (Ho 2017) has the highest per capita greenhouse gas (GHG) emissions in the world, which, scandalously, it intends to increase by 60%, to an annual 65 MtCO<sub>2e</sub>, by 2030.<sup>2</sup> It relies almost exclusively on fossil fuel for its energy production, its banks fund extractive industries throughout the region, and it has no intention of transitioning to a car-free city – despite having the technological and financial capacity to do so (Pye 2022). In a different way, in Vietnam, mass people's organisations aligned with the Communist Party, such as the Women's Union, the Vietnam Union of Science and Technology Associations, and the Farmers Union, have been used as vehicles to raise mild concern over environmental issues as a means of ecological modernisation. At the same time, they are not allowed to challenge the government's overall pro-business and ecologically destructive development strategy (Ortmann 2021).

A more complicated question is CSOs' positioning towards REDD+, the programme of the United Nations Climate Change Conference that offsets emissions in exchange for 'not logging and converting forests'. REDD+ is highly contentious in the climate justice movement, because it not only does not reduce emissions (at best, the offset is zero-sum) but also allows the most polluting industries (e.g. mines and airlines) to claim carbon neutrality without actually reducing their own emissions or transforming their business model. There were intense debates in Southeast Asian civil society over whether to engage with REDD+. In Indonesia, AMAN decided to try to use REDD+ to strengthen indigenous claims to forest areas. In 2013, it won an important legal victory that freed customary forests from the category of state forest so that 'indigenous peoples were now entitled to manage forests on their ancestral lands' (Suharko 2021, 183).

From a political ecology perspective, however, REDD+ projects across the region often strengthen state forestry agencies, corporations, and carbon traders at the expense of subaltern groups. In Cambodia, for example, indigenous peoples face a losing battle when REDD+ projects expect local communities to stop using forest resources, while promised compensation payments are intermittent, insufficient, or non-forthcoming. Climate-change policies become a tool for the powerful in the context of land grabs and a land-titling law dubbed the 'leopard skin policy' because it offers individual land titles that punctuate communal holdings in a sea of land concessions (Milne 2013; Hak et al. 2018; Scheidel and Work 2018). Similar dynamics can be seen in Indonesia. For these reasons, other civil society groups, such as WALHI and the Civil Society Coalition to Save Indonesian Forests and the Global Climate (Koalisi Masyarakat Sipil untuk Penyelamatan Hutan dan Iklim Global), have rejected REDD+ and carbon trading (Eilenberg 2015; Lounela 2015; Suharko 2021).

The clearest opposition to climate change policies in the region can be seen in the movement against coal. The strongest effort is in the Philippines, where 'almost all the proposed coal plants have been met by protests from local communities and stakeholders' (Magno 2021, 148). Local protests are supported by broader coalitions, and in particular by the Catholic Church; many dioceses have formed alliances with indigenous peoples to stop extractivist projects. For example, thousands of people marched to stop a planned coal plant in Batangas City in 2015 and 2016, and a broad alliance was able to stop a coal mine in South Cotabato that threatened the ecology of Lake Sebu (Delina 2021; Magno 2021). Anti-coal protests have also been significant in Malaysia, for example, mobilisation against a coal-fired power plant in Lahad Datu in Sabah (Majid Cooke and Hezri 2017). Unfortunately, more grassroots activism in the Philippines, particularly the kind

that challenges the government's neo-extractive development strategy, is met by more repression. Since the Duterte presidency, the Philippines has seen the most murders of land defenders and environmental activists of any country (Global Witness 2019). On Palawan alone, 12 activists in the Palawan NGO Network, Inc. (PNNI), which contests logging interests on the island, have been killed since 2001 (Magno 2021, 146).

A similarly repressive reaction by an authoritarian regime to environmental activism is evident in Vietnam. Large and grassroots environmental justice movements emerged against bauxite mining in 2009 and pollution by the Formosa steel works in 2016–2017. Thousands mobilised when the Taiwanese Formosa company caused the mass death of fish and the CEO of the Formosa plant suggested publically that the people had to 'choose between development or fish'. A campaign around the message 'I choose fish' generated significant presence in social media, and protesters were so angry that they managed to overrun riot police protecting the factory – an unprecedented occurrence. Worried that the movement threatened to undermine the regime in general, the Vietnamese government reacted with brutal repression. Riot police violently dispersed demonstrations and key leaders were put away for years, effectively shutting down the protests (Nguyen and Datzberger 2018; Ortmann 2021).

Authoritarian rollback is also environmental rollback. The decades of many environmental NGOs' depoliticised win-win-win collaboration with corporate players now come home to roost, as these same players invoke the power of the state to show how hollow that partnership really was. In Indonesia, we have seen a major setback with the passing of the so-called Omnibus Law, which simultaneously attacks legislation protecting the environment and labour rights (Sembiring et al. 2020).<sup>3</sup> The government pushed the law through in the context of COVID-19 restrictions and despite protests in 45 cities (Saifullah 2020). One upside is that the law brought together the environmental-justice and labour movements in an unprecedented manner. This might strengthen developments that have seen environmental-justice NGOs look to labour as an ally, for example in the palm-oil industry, where the NGO Sawit Watch is involved in the labour coalition *Koalisi Buruh Sawit* and in a new project to develop a Just Transition perspective for a social-ecological transformation of the sector (Pye et al. 2021).

The Malaysian example shows how linking specific, local contestations with a more generalised, urban-based movement can challenge entrenched power structures and make inroads into state power. In their work on the environmental movement in Malaysia, Majid Cooke and Hezri (2017, 2021) discuss how various local struggles – for indigenous land rights, against coal plants, against a radioactive rare-earth refinery, against water privatisation, etc. – came together in mass demonstrations in the Bersih movement of 2012 (see also Ufen, this volume). Environmentalist CSOs were able to integrate the message, 'clean politics and clean environment' (Majid Cooke and Hezri 2021, 207), into a broader movement for a reform of Malaysian politics. This is also due to the fact that a new generation of activists are taking up issues of 'urban pollution, sanitation, waste removal, water supply, and electricity generation, as well as a new, additional set of problems from heavy industries, especially air pollution' (218). Subsequently, key environmental activists became MPs for the opposition *Pakatan Harapan* coalition, and, upon the latter's historic victory over the ruling *Barisan Nasional*, took up important positions in the new (albeit short-lived) government.

The return of authoritarianism poses crucial challenges for environmental civil society across the region. It also shows the limits of post-structuralist political ecology and post-development perspectives that pit the local against a 'Western' development

model. When military regimes or authoritarian figures such as Hun Sen in Cambodia or Duterte in the Philippines operate with impunity, it is easy to isolate local protests as insignificant opposition to successful national development strategy and to murder key activists. Although attention to multi-species agency helps to provide an anthropologically informed view of society-nature interactions, it offers little in terms of *political* agency that can challenge this new authoritarianism of intensified extractivist development. The regional trend towards authoritarian extractivism suggests structural dynamics connected to a new cycle of global, capitalist accumulation. Tackling these will necessitate transcending the national scale but also rethinking transnational campaign strategies, as a focus on ethical consumerism will not be enough to shift the balance of class forces across Southeast Asia.

As the climate emergency impacts more and more people in Southeast Asia and questions our social relations of nature in both rural and urban areas, civil society confronts greater challenges than ever before. CSOs can look to past experiences of working under and toppling dictatorships to tackle the new wave of authoritarianism. They can draw on years of global campaigns to forge links between local and national struggles and the global climate-justice movement. To effectively challenge the development path in Southeast Asia, they will have to transcend the last frontier of environmental activism, to move from rural sites of extractivism to urban centres of industrial production. More attention to labour and environmental labour studies will be needed. For a radical socio-ecological transition in the 21st century, new alliances, particularly with the working class in climate-relevant sectors of industrial production, agribusiness, energy, and transport, will be necessary.

### Notes

- 1 Of the 16 NGO members, 15 are zoos, which are, strictly speaking, businesses.
- 2 In its 'intended nationally determined contribution' submitted to the UNFCCC, the government of Singapore promises to reduce its 'emissions intensity of GDP' – in other words, the amount of greenhouse gases they produce per Singapore dollar of GDP. Given their growth targets, however, this translates into a 60% *increase* in total emissions compared to the 2005 baseline. Similar increases in emissions are planned across the region (see Pye 2022).
- 3 Officially titled the Job Creation Law, it is an 'omnibus' law because it imposes changes to many other important laws crucial to the environment and workers' rights. Changes to environmental and forestry laws make it easier for companies to acquire business licenses and more difficult for citizens to sue them for pollution. Changes to manpower and labour laws make it easier for companies to avoid paying a minimum wage, to hire and fire workers, and to employ them on temporary contracts (see Caraway, this volume).

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# MULTI-LEVEL MIGRANT CIVIL SOCIETY ACTIVISM IN SOUTHEAST ASIA

*Stefan Rother*

This chapter discusses the advocacy of migrant civil society in Southeast Asia. The term migrant civil society encompasses a wide range of actors, including migrant self-organising, i.e. migrant-led organisations, as well as various support organisations. The latter can be faith-based, issue-based (women's rights, labour rights, human rights in general, etc.), or service-oriented (providing legal or financial advice, support by concerned citizens in the country of destination, etc.). The main focus here, though, is on the political dimension of migrant civil society activism and thus the political representation of an often marginalised sector. While 'migrant' is commonly used as an umbrella term, including refugees, this chapter specifically focuses on temporary labour migration.

The struggle for representation of migrants is a global phenomenon; however, there are specific characteristics of Southeast Asian labour migration that make the issue particularly challenging. The dominant form of labour migration within and out of the region is temporary, contract-based, and situated in the low-wage sector. Due to this overly temporary nature, migrant civil society activism to a significant degree takes place on the transnational level. While there are support groups organised by citizens of destination countries and some self-organisation of migrants primarily focusing on the situation within those countries, most activism reaches beyond borders.

Migrant activism mirrors the various spaces and levels in which policies are negotiated and enacted that affect the situation of the migrants. First, the rules, regulations, and spaces for activism of countries of destination (COD) have a major influence on the conditions under which migrants work and can organise in person. Second, countries of origin (COO) frame the migration process to a significant degree, with some of them, such as the Philippines, having established fairly sophisticated sets of 'labour-export' institutions (Rodriguez 2010). These institutions are involved in preparing migrants for their departure and offer various forms of support while abroad, for example, through labour attachés stationed at embassies and consulates. Several other countries in the region have tried to follow the Philippine example, with Vietnam even setting yearly targets for their 'labour-export' as part of the country's 'poverty reduction program' (Nguyen 2014). COOs and CODs are also often formally linked through bilateral agreements – or separated through disagreements over the treatment of migrants; these

can escalate up to moratoriums and deployment bans being put in place (Henderson, Shivakoti, and Withers 2020).

Political migrant civil society networks' advocacy thus addresses countries both of origin and destination. This strategy also applies to more development- or support-oriented organisations that link families left behind with migrants abroad through programmes such as credit or savings unions. The 'migration industry' is transnationally organised, as well (Debonneville 2021), with recruitment agencies having offices or partner organisations in COOs and CODs. Trade unions have been traditionally weak in the region and left most migrant activism to civil society organisations (CSOs) (Ford 2006); there have been cases of partnership in transnational organising, though, in the form of social movement unionism (Rother 2015).<sup>1</sup>

Migrant civil society activism does not necessarily stop at these horizontal levels but can also include a vertical dimension, reaching up to the regional and global levels. While the major regional organisation, the Association of Southeast Asian Nations (ASEAN), has a rather poor record in addressing the issue of labour migration, it nonetheless provides some spaces for civil society organisations to make their voices heard (Uhlin this volume) – and to reach governments that might be unresponsive on the national level (Rother 2018), which can be the case in CODs (e.g. Malaysia) as well as in COOs (e.g. Cambodia). These spaces are limited, though, and very much depend on the hosting country, i.e. the current ASEAN chair. In response, migrant civil society has managed to create independent 'alternative regional spaces' (Rother and Piper 2015) for the establishment of networks, and exchange of information and strategies. These are also connected to the global level by representatives' engagement in processes such as the Global Forum on Migration and Development (GFMD) and deliberations on the Global Compact for Safe, Orderly and Regular Migration (GCM) or the ILO's (International Labour Organisation) Decent Work for Domestic Workers Convention 189. The outcomes of these global processes are then used as tools for advocacy on the ground.

The aim of this chapter is to map these various levels of advocacy. The findings are based on extensive fieldwork in the region and participant observation in numerous regional and global processes. After a brief overview of the conceptual and theoretical literature on migrant civil society activism, with particular focus on Southeast Asia, I will analyse and illustrate the (trans)national, regional, and global levels of advocacy. In the conclusion, I will then discuss how these levels are connected and if this multi-level engagement is expanding the space for and influence of migrant civil society.

### **Labour migration in Southeast Asia**

According to UN data,<sup>2</sup> the sub-region of Southeast Asia is the origin of 23.6 million migrants; almost one-third of them (7.1 million) stay within the sub-region, while the other two-thirds venture outside of it: to other Asian states, the Gulf states, North America, and, to a lesser degree, Europe. Around 96% of the migrants who stay within Southeast Asia reside in three COD: Malaysia, Singapore, and Thailand. Indonesia, Cambodia, Myanmar, Laos, Vietnam, and the Philippines are primarily COO, with the last accounting for the highest number of emigrants in the sub-region, as well as being the country with the ninth-highest number globally. Before the COVID-19 pandemic, projections expected the numbers to increase further with the majority of the migrants working in (semi-)temporary, low-skilled jobs (Testaverde et al. 2017). Due to the temporary, sometimes irregular,<sup>3</sup> status of many migrants, they face increased risks

of exploitation and human rights abuses, which are particularly rampant in the Gulf states and the Middle East (Human Rights Watch 2006). Women, who make up almost half of all migrants, are especially vulnerable due to the nature of their occupations in the domestic work and care work sector, which tends to take place in often uncontrolled and unregulated private spaces (McAdam 2020).

Working and living conditions also affected the situation of migrants during the pandemic. The Migration Data Portal states that ‘Migrants in South-eastern Asia have suffered disproportionately from COVID-19, often due to inadequate and cramped living conditions’. For example, in Singapore by mid-February 2021, migrant workers housed in dormitories made up 90% of COVID cases. This led to the city-state’s enacting restrictions for the movement and entry of migrant workers, a policy many other CODs mirrored. Home countries of migrants, such as the Philippines, on the other hand, faced the challenge of accommodating – and in several cases repatriating – large numbers of returned migrants.

### *Theoretical considerations*

Among marginalised groups, temporary labour migrants face a particular representation dilemma due to their transnational status. In CODs, they are unable to obtain citizenship or resident status<sup>4</sup> and are often excluded from fundamental rights such as freedom of organisation. Their relationship with their COOs might be ambivalent as well. While their leaving may not necessarily have been motivated by political opposition, it tends to be caused by dissatisfaction with employment opportunities back home. Furthermore, their home country might be highly dependent on the remittances migrants send home and thus less inclined to take up migrants’ rights issues with the COD. Even if it is willing to do so, there is usually a power imbalance between the states due to different levels of economic development, resources, etc. Staff in embassies and consulates are expected to be supportive of their citizens abroad; however, there are numerous reports of their trying to keep reports of exploitation ‘under the carpet’, displaying patronising attitudes particularly towards female migrant domestic workers (Sim 2009), or being involved in cases of abuse themselves.<sup>5</sup>

Migrant civil society therefore needs to be active ‘here’ as well as ‘there’ (Waldinger 2008),<sup>6</sup> i.e. advocating for migrants’ rights and specific policies in COOs as well as in CODs. It is increasingly hard, though, to make a clear distinction between the two places. For example, policies of the home country could include demanding a minimum wage in the COD, promoting a standard contract valid in both countries, setting rules for embassy staff, or regulating recruitment agencies. In turn, COD policies can have an effect on the COO, for example in setting wages and remittance channels, regulating recruitment agencies, allowing political engagement of migrants directed towards the home country (e.g. absentee voting, campaigning, or establishing party chapters), and more.

Migrant activism is often situated in a transnational political space. There is a rich literature on transnational social fields (Levitt and Glick Schiller 2007) and spaces (Pries 1999; Faist and Özveren 2004) of migration, highlighting the manifold social links and ties that migrants establish across borders; here, geographical (i.e. nation-state) and social space do not exclusively overlap. While many of these authors subsume ‘political’ under ‘social’ activity and focus on the personal ties that emerge between COO and COD, a specific political perspective has emerged as well (Guarnizo, Portes, and Haller 2003; Kivisto 2003; Schütze 2016).<sup>7</sup> This transnational political space can incorporate

both country of origin and destination – or more than two countries, such as when migrants from two nationalities join forces in a common destination, such as Filipino and Indonesian migrant domestic workers do in Hong Kong (Rother 2012, 2017).

In an early article on ‘Migrants’ Transnational Political Practices’ (though not spaces), Østergaard-Nielsen adds another dimension to this engagement, arguing that these practices ‘are influenced by the particular multilevel institutional environment, which migrant political actors negotiate their way through. This environment includes not only political institutions in the sending and receiving country, but also global norms and institutions and networks of other nonstate actors’ (Østergaard-Nielsen 2003, 760). This important multi-level dimension was initially only rarely taken into account in the literature on migrants as political actors but has gained more attention in recent years (Piper 2015; Uhlin and Kalm 2015; Schierup et al. 2019; Rother 2020a). Some of these works focus on how migrant civil society targets global institutions, but even then, these actors are usually rooted in a transnational and/or regional context.

Unlike earlier research, which tended to be based on case studies of migrants’ political engagement while in ‘the West’, the multi-level literature is more aware of South-South migration, with (Southeast) Asian migrant organisations being particularly active. One explanatory factor for the initial Western-centrism could be found in political opportunity structures (Tarrow 2005) for political activism – or lack thereof. It certainly would be too simple to assume that migrants who are based in ‘Western’ countries automatically enjoy full freedoms and access to spaces for political engagement and thus see less need to address supranational levels. This is very often not the case, and, for example, the European Union has emerged as an important arena for migrant activism – not because it is necessarily a more open space than the national level, but because it is a powerful actor and important policies which affect migrants and refugees are deliberated here. Still, labour migration from Southeast Asia very often is directed towards non-democratic countries, either within the region (such as Malaysia or Singapore) or outside of it (such as the Gulf states). When we further take into consideration that migrants may expect very little support from their COO (for example Cambodia, Myanmar), there is a clear lack of space for political engagement.

In their ‘boomerang model’, Keck and Sikkink (1998, 1999) demonstrate how transnational advocacy networks (TANs) can facilitate appeals by groups who have no access to the government in their own country, to citizens of another country. Their goal is that these citizens pressure their own government to pressure the offending regime. As seminal as this work has been, one can note a certain Western-centric bias in the model, since the country on which the authors expect TANs to put pressure on tends to be located in the West. For the case of multi-level advocacy in Southeast Asia, Nicola Piper and I have proposed a ‘vertical’ version of Keck and Sikkink’s boomerang model, in which migrant civil society uses global conventions, international human rights standards, and various frames to bring their agenda into ASEAN (and ideally back into their own national context) (Rother and Piper 2015, 38). Certainly, not all of migrant civil society in Southeast Asia acts in a manner that can be considered transnational, multi-level, or even openly political. But the very lively and dense civil society landscape has formed ‘networks of networks’ or umbrella organisations; these shape discourse and seek to influence policies in the region and beyond. In the following sections, I will therefore map a selection of processes that take place on these various levels and then discuss in the conclusion how these are interlinked and how studying migrant civil society activism in Southeast Asia can add to our understanding of transnational activism.

### ***National and transnational advocacy***

In the case of migration, even local or national activism is rarely ‘just that’ – a transnational or translocal dimension is inherent to engagement in the country either of origin or destination (Kremers and Rother 2018). There is a spectrum, though, and some civil society organisations focus primarily – but not exclusively – on the national context in the country of origin. It could be argued that the primary level of engagement is, to a degree, linked to political opportunity structures or spaces for civil society engagement. In the Philippines, these spaces keep shrinking or expanding depending on the administration at the time and its openness to civil society input, but compared to most other countries in the region, they remain relatively large. This is certainly due to a solid foundation that activism in the country can build upon. The Philippines was the first state in the region to develop an active labour-export programme (Rodriguez 2010). Initially seen as a short-term response to economic crises in the 1970s, it became increasingly institutionalised over the years, with a sophisticated mix of programmes, departments, and legislation aiming to cover all stages of the migration process, from pre-departure orientations to reintegration after return. This has led to the Philippines’ being seen as a case of ‘best practices to managing migration’ (Martin, Abella, and Midgley 2004). Politicians in the country like to refer to it as the ‘gold standard’ for labour-export (Rother 2022).

While large-scale labour migration has become an established feature of the Philippines and the remittances sent home by migrant workers continuously make up around 10% of gross domestic product, the costs have been high as well – including abuse, exploitation, families’ being separated for extended periods of time, underpayment, and overcharging. This has led to a long tradition of organising for migrants’ rights, starting under the dictatorship of Ferdinand Marcos. Many migrant organisers were linked to the mass movement that ultimately contributed to the ousting of Marcos in 1986. Early in the democratic transition, the movement split into several factions, but organising for migrants’ rights has continued and grown over the years. One of the major landmarks in migration policies can be seen as the direct result of mass protests: the Migrant Workers and Overseas Filipinos Act of 1995 (RA8042), also referred to as the ‘Magna Carta’ for migrants (Tigno 2004). Singapore executed Filipina migrant domestic worker Flor Contemplacion for murder in early 1995, a verdict that led to bilateral tensions between the two countries, intense coverage by national media,<sup>8</sup> and public outrage in the Philippines, with many civil society organisations’ taking to the streets and advocating for policies that would provide better protection for migrant workers (Stasiulis and Bakan 1999; Camroux 2009). In what can be considered record speed, the Philippine Congress adopted the Magna Carta, a major piece of legislation (Gonzalez 1998), which has seen several amendments over the years and remains relevant until today.

The Flor Contemplacion case and related civil society mobilisation thus affected national government policies – but it also had an impact on civil society itself. The Philippine Migrants Rights Watch (PMRW) was established in 1995 as a civil society network with the objective of ‘education, lobbying, and monitoring activities toward the recognition, protection, and fulfilment of the rights of all Filipino migrants and members of their families before departure, during migration, and upon return’.<sup>9</sup> This mission statement highlights the transnational dimension by defining a scope that includes the entire migration process. Still, the main focus of the work is on the home

country, including pre-departure orientation for migrants, support for their families while they are abroad, and reintegration. PMRW also addresses the Philippine government through advocacy campaigns and in formalised spaces of engagement such as the Consultative Council for Overseas Filipino Workers (OFCWs) (CCOFWs), founded in 2001 and (to reflect the inclusion of the private sector) renamed in 2013 as the Overseas Land-Based Tripartite Consultative Council (OLTCC) (Rother 2022, 10).

Here, the PMRW and its rights- and faith-based member organisations provide feedback to specific legislation, such as asking to veto an amendment to the aforementioned RA8042 because, ‘although the intent of the proposed bill was laudable, there were certain provisions that were deemed as essentially anti-migrant worker and serving only the interests of recruiters and insurance companies and related lobby groups’ (Marave 2010, 1). The network has also lobbied for an Overseas Voting Act, which was passed in 2003, and provides OFWs with information on how to register for national elections. Advocacy thus targets not only the Philippine administration and Filipinos living inside and outside the country, but also a wider audience.

For example, in 2004, PMRW compiled an ‘alternative report’ on Philippine migration, highlighting issues such as illegal recruitment that had ‘not been adequately discussed’ (PMRW 2004, 2) in official reports, and added policy recommendations. This document was predominantly geared towards the international community, as was a 2015 ‘CSO Shadow Report to the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW)’ (CMA 2015). As a country that has ratified CEDAW, the Philippines has to report regularly to the UN its progress in implementation of the convention. While these state reports obviously stress the country’s achievements, civil society reports aim to provide a more fully fledged picture. They also provide an opportunity to frame issues in various ways: while CEDAW has a wider scope, this shadow report focused on the protection of female migrant workers, in particular migrant domestic workers, thus framing migration also as a women’s rights issue. The report highlights several cases of abuse and policy shortcomings, and calls to tackle the root causes of migration, since most women were migrating not out of choice, but out of necessity (*ibid.*). Philippine civil society regularly produces such reports, including on the UN Migrant Worker Convention, and thus uses global spaces to highlight domestic issues. They can also help to gain leverage on the national level, since governments are not keen on ‘losing face’ on the global stage; the Philippines has therefore started to hold meetings on a List of Issues Prior to Reporting (LOIPR) where government and civil society representatives can have an exchange before submitting their respective reports (Rother 2022, 15).

The fate of Flor Contemplacion led to the creation of a further major network: Migrante International was founded in 1996 as a global alliance of OFWs, linking its origin directly to the case, which had ‘aroused wide indignation over the Philippine government’s inaction and failure to save her life and brought to national awareness the life and death situation of OFWs’.<sup>10</sup> According to the alliance, it has over 200 member organisations in over 23 countries, making it ‘the biggest organization of overseas Filipinos all over the world’.<sup>11</sup> During the Migrante congress, held every three years, a global council is elected representing global regions with large concentrations of OFWs. While many of the network’s activities are therefore conducted in a decentralised manner, the country of origin remains a major space for political engagement; for example, Migrante’s headquarters in Manila is closely connected to political actors such as GABRIELA, a militant, national coalition of women’s organisations (Lindio-McGovern 2007,



26–28). The nationwide network is also allied with Gabriela Women’s Party and several other leftist party-lists.<sup>12</sup> In turn, these link up to other transnational networks, i.e. there are GABRIELA chapters in major Philippine migrant destinations such as the United States, Hong Kong, Taiwan, and Germany. During election time, actors within these overlapping networks jointly campaign for domestic and absentee votes for their representatives. The political split of the Philippine left is also felt in the political engagement and (lack of) cooperation between the various networks (Rother 2009); for example, the ‘militant’ Migrante International is not part of the PMRW coalition, which can overall be located among social-democratic political actors.

Finally, opportunity structures for transnational advocacy depend also on political spaces in the migrants’ destination. Besides various Western countries, several East Asian destinations have become major sites of migrant activism, including Hong Kong (Hsia 2009). While the Special Administrative Region of the People’s Republic of China has seen a dramatic decline in political and civil liberties in the past years, OFWs (who are predominantly employed as migrant domestic workers) have enjoyed important freedoms there, including the right to organise, hold public rallies, take legal recourse (to a degree), and even the ability to unionise. In a form of social movement unionism, OFWs in Hong Kong cooperate with migrant workers from other nationalities, such as Indonesians, which has also strengthened migrant organising in their home countries (Rother 2017). Besides political advocacy directed both towards the administration in the destination and the government back home, these civil society coalitions also act as service providers, including providing financial-literacy training, credit unions, shelters for abused workers, legal advice, and manifold forms of support during the COVID-19 pandemic.

Migrant domestic workers exclusively work in a live-in arrangement in Hong Kong and are particularly vulnerable in this private space. When the administration took measures to control the pandemic, several blind spots became obvious, such as lack of quarantine sites, financial support, and personal protective equipment; migrant civil society organisations and trade unions tried to address these shortcomings (Lui et al. 2021, 4–5). For example, when the situation worsened in 2022, with migrant domestic workers finding themselves terminated and homeless after testing positive for COVID-19, the Migrante International-affiliated Asia Pacific Mission for Migrants (APMM) started a quick reaction project called ‘Upsurge the Care HK’; its aim was to provide for immediate needs such as safe and secure sleeping places, food and water, as well as information for the rest of the community as a pre-emptive response and a social-awareness campaign for society at large.<sup>13</sup> It can thus be seen as a prime case of civil society engagement combining direct support, information, and advocacy work.

When comparing these political spaces with those of another global city in the region, Singapore, a very different picture emerges. Tellingly, Lenore Lyons called her 2004 paper on organising for domestic workers’ rights in Singapore ‘The Limits of Transnationalism’ (Lyons 2004). Almost 20 years later, this assessment – which also included Malaysia – in many regards still holds true: ‘The activities of migrant worker groups in both countries are curtailed by strict rules governing the formal registration of NGOs, a strong interventionist stance by the state, restrictions placed on the activities of international NGOs and other agencies, and often-fraught diplomatic relations with the two major migrant-sending countries – Indonesia and the Philippines’ (Lyons 2004, 4). Therefore, formal self-organising by migrant workers is not possible

and meetings must be framed as cultural or purely social activities. Singapore has two very active support organisations, though. The first is Humanitarian Organization for Migration Economics (HOME), registered as a charity and guided by the pillars, 'Welfare, Empowerment and Advocacy'.<sup>14</sup> Transient Workers Count Too (TWC2) is also registered as a charity and defines itself as 'a reliable help agency for migrant workers who encounter problems with their employers, a source of information for employers and the public, a centre for generating action-oriented research and a credible advocate for a more enlightened regulatory framework'.<sup>15</sup>

The work of these two organisations thus reaches beyond direct assistance; they can be seen as acting as intermediaries among various stakeholders, with the triangle, *migrant worker – state – migration industry* being at the core. Advocacy for policy change is also involved, but this has to take into consideration the boundaries of civil society in Singapore – where migrant domestic workers are positioned at the outside (Yeoh and Huang 1999). Accumulating what Meredith Weiss has called 'coalitional capital' (Weiss 2006) through networks among various civil society organisations within the city therefore remains a challenge; however, this can also be done in spaces that reach beyond the nation-state, i.e. on the regional (Uhlin, this volume) and global levels.

### ***The regional and global levels***

The issue of temporary labour migration is considered a continuing 'blind spot in ASEAN's vision' (Son 2017). It is directly linked to sovereignty and thus to one of the major underlying norms of the regional organisation. Setting standards that allow COOs directly to support and monitor the protection of the rights of their migrants abroad could be seen as such an interference. Nonetheless, there have been some steps towards regional governance of labour migration within ASEAN. The 'Declaration on the Protection and Promotion of the Rights of Migrant Workers', considered a milestone at the time, was adopted by the ASEAN heads of state in Cebu, Philippines, in 2007, and was a response to the widespread abuse and exploitation of migrant labour. However, hopes that a legally binding instrument would quickly follow were frustrated in two regards: first, it took no less than ten years for a follow-up document to emerge, and, second, this turned out to be only 'morally binding'. The document that was signed on 14 November 2017 in Manila was titled the 'ASEAN Consensus on the protection of the rights of migrant workers' (the 'ASEAN consensus'). It subordinated all major policies to national laws, regulations, and policies, thus upholding the sovereignty principle, and omitted a monitoring and reporting mechanism discussed above in relation to UN conventions (Rother 2018, 111).

For migrant civil society, participation in ASEAN fora is limited and regulated, since these are 'invited spaces' where the rules of engagement are ultimately established from the top-down by ASEAN member governments. One of the more inclusive mechanisms is the ILO-supported ASEAN Forum on Migrant Labour (AFML), which brings together representatives of states, employers, trade unions, and civil society. The forum provides a venue to discuss pressing matters of migration in the region – such as 'Recovery and Labour Migration in the Post-Pandemic Future in ASEAN' at the 14th meeting in September 2021<sup>16</sup> – and an opportunity for civil society to interact with government representatives on the regional level who might be less approachable in a national context. Recommendations are compiled in the outcome documents and there is a loose follow-up documentation of initiatives that could be traced back to previous

meetings; however, since selection of civil society participants is conducted in a less than transparent manner on the national level and states might object to the participation of what they may consider ‘unwelcome’ organisations, this still remains a predominantly top-down process (Rother 2018).

As a response to limited access to formal ASEAN policy spaces, migrant civil society in the region has started to create its own independent processes – in other words, it has invented spaces. Migrant civil society has thereby established a form of ‘alternative regionalism from below’ (Rother and Piper 2015). These processes consist of the advocacy of networks such as the Migrant Forum in Asia (MFA) for a rights-based migration infrastructure (Piper and Rother 2020), participation in events with larger agendas such as the ASEAN Civil Society Conference/ASEAN Peoples Forum (ACSC/APF) (Gerard 2013), and even the formulation of an independent civil society proposal for an ASEAN Framework Instrument on the Protection and Promotion of the Rights of Migrant Workers (Samydorai and Robertson, Jr. 2009). Complementing these efforts is increasing interaction with parliamentarians in the region – in the case of CODs, usually from opposition parties.

Probably the most distinctive feature of migrant civil society is the impressive amount of coalitional capital that has been built up in the region in the past decades – we have referred to it as ‘political remittances’ - and the diffusion of a rights-based approach (Piper and Rother 2020). One of the main actors in this regard is MFA, ‘a regional network of migrants, migrant rights advocates, faith-based organisations, academia, members of the media, lawyers, and individuals working on social justice for migrant workers and members of their families. The MFA network is currently represented by 250 organisations in around 26 countries in Asia and the Middle East’ (email communication with MFA, 29 March 2021). The MFA structure highlights how ‘region’ is very much a social construct – in this case, consisting of COOs and CODs that are closely connected over several (sub-)regions. Southeast Asian organisations are very prominently represented in this network of networks and the headquarters of MFA is in Manila, having relocated there from Hong Kong – underlining the relevance of place, since such an operation is most likely to thrive where there is comparatively open space for activism and a history of organising (two aspects that tend to be correlated, as well).

Both HOME and TWC2 are members of MFA. This connection provides them with the opportunity to exchange experiences, resources, and strategies with network members from the COOs of the migrants they support in Singapore as well as with organisations based in other CODs. The network also provides training opportunities for activists from its member organisations. Some of these are conducted in partnership with the Diplomacy Training Program (DTP), an independent Australian NGO (DTP 2015). According to participants, these programmes can have lasting impacts. For example, in April 2019, Rejimon Kuttappan, a former *Times of Oman* journalist and now Senior Investigator for India and the Arab Gulf of Equidem Research and Consulting, who focuses on policies in CODs (including several for Southeast Asian migrants), participated in an MFA event in Lebanon and tweeted that he was ‘Telling the stories on how DTP 2012 Training in Qatar changed my life! Yes, it helped me in understanding the importance for #migrants rights’. It also helped him ‘to do more serious work on migration, help the migrants and become part of a good number of policy making meetings and global reports’ (Tweet @rejitweets 7 April 2019). Likewise, Hom Karki, who writes for Nepal’s *Kantipur Daily* and *Kathmandu Post* – thus focusing on a COO – participated

in DTP courses in both Dubai and Nepal. He has written extensively on issues such as forced labour, unpaid salaries, compensation, access to justice, and domestic worker issues, thus bringing the MFA agenda to a wider audience (DTP 2018, 10). Both investigative journalists are members of the South Asian Media for Migrants (SAMM) network, founded by MFA, which also has set up similar networks for lawyers (Lawyers Beyond Borders, LBB) and parliamentarians (Asian Parliamentarians for Migrants Rights) (Rother 2020b; Piper and Rother 2021). These efforts extend the outreach of civil society networks to other sectors and also to countries with more restrictive environments for engagement and reporting.

### **From the grassroots to the global level – and back**

The MFA thus connects strategies of capacity-building and linking up with stakeholders who reach out beyond the network. While cooperation with journalists, lawyers, trade unions, and parliamentarians could be seen as a horizontal dimension of advocacy, there is also a vertical one. MFA is very active in global processes such as the GFMD; in deliberations at the UN level, such as on the Global Compact; and at the ILO, where it participates and intervenes. MFA representatives bring the pressing issues of their members and the migrants they represent into these global processes and report back. They provide a wealth of information on these developments that might be hard for grassroots activists to follow due to questions of resources, access/accreditation, etc. MFA also offers training for individual activists about these processes, preparing them for their participation where they represent their organisations as well as the MFA network as a whole.

MFA itself is part of such a vertical structure, having joined and contributed to global umbrella organisations for migrants' rights such as the Global Coalition for Migration and the Civil Society Action Committee. This coalition was formed as a response to the deliberations on, and now the monitoring of the implementation of, the Global Compact; it defines itself as a global platform for civil society engagement on migration policy and governance with three main objectives: 'Timely and strategic information-sharing on global migration policy and governance', 'Collective and coherent civil society strategizing and action', and 'Increasing and democratizing access for civil society engagement at all levels of global migration policy and governance'.<sup>17</sup> Besides participating in 'invited spaces' for deliberations at the global level, MFA and its partners are also involved in setting up independent parallel events such as the Peoples' Global Action on Migration, Development and Human Rights (PGA) that enable more inclusive participation for their members and other activists.

The involvement in these various spaces can go 'all the way through', as the case of Ellene Sana, Executive Director of the Philippine Center for Migrant Advocacy (CMA), illustrates. In this position, the long-term activist provides various support services for migrants, such as facilitating assistance for OFWs in distress (including a hotline), facilitating welfare assistance for OFWs and their families (including repatriation), and numerous advocacy and information campaigns (Javellana-Santos 2019). CMA is also a member of the PMRW; in this function, in addition to as an individual organisation, it participates in regular consultations with the Philippine government. CMA also prepared the shadow report discussed above and organised the LOIPR exchange with the Philippine government. It is, further, a long-standing member of MFA. Ellene Sana is involved in many of its activities, as organiser, resource person, or speaker. She has also

been present in most of the global fora and parallel events mentioned here; this engagement includes providing input, acting as chair or rapporteur of a roundtable during the civil society days of the GFMD, and organising a workshop during the PGA. She and many other Southeast Asian activists and migrant civil society organisations have thus become one of the main driving forces of ‘global migration governance from below’, being well-represented and active within a wide range of global fora and linking their advocacy work there back to their constituency ‘on the ground’.

Establishing global migration governance is moving at a slow, sometimes glacial, speed. The process reflects tensions at the nation-state level, such as unequal relations and bargaining positions between COOs and CODs, strict adherence to sovereignty, disputes over cases of abuse, shrinking space for civil society, etc. Still, some concrete outcomes have been reached, such as ILO Convention 189 (C189) on decent work for domestic workers, which also applies to migrant domestic workers.<sup>18</sup> Civil society organisations – in particular, MFA – were very active during the two-year deliberations in 2010–2011 in Geneva, being present as observers in the conference rooms as well as holding parallel events, press conferences, and demonstrations on the outside. After the adoption, MFA supported the ‘12 by 12’ campaign spearheaded by the International Trade Union Confederation (ITUC), with the goal to get 12 countries, including the Philippines, to ratify C189 in the year 2012. While the full mark was not hit on time, the Philippines did indeed ratify the convention and several other countries in the region and beyond followed. In these cases, advocacy has shifted towards monitoring the implementation of the convention, although C189 also remains an important reference point for civil society organisations based in countries that have not yet ratified it. For example, in February 2022, HOME Singapore started a campaign scheduled for several months that ‘focuses on what it means to have #DecentWork standards for migrant domestic workers in Singapore’s context to entrench domestic work as a form of work that requires strong labour protections’ (HOME Tweet, 8 February 2022). For this campaign, HOME could build upon and refer to experiences from other MFA members and migrant destinations – such as Hong Kong, which the campaign material refers to as a place ‘where migrant workers are able to form unions’ (HOME Tweet, 7 February 2022), in obvious contrast to Singapore, with its still-restrictive association laws.

### **Conclusion: sometimes transnational is not enough...**

This chapter has focused on the activism of migrant civil society within and from Southeast Asia. How is this activism conceptually different from other TANs, and what does the study of Southeast Asia add to our knowledge of such activism? I would argue that the difference is gradual but significant, in that these networks are particularly active in – and actually shape – multi-level governance spaces. This, in turn, can be linked back to the particularities of the migration regime in the region. Most labour migration that is taking place is contract-based and temporary, with no opportunities for a right to abode. Activism thus has to be transnational in nature, targeting both COO and COD simultaneously. However, sometimes transnational advocacy is not enough. This is due to a representation dilemma: migrants might encounter blockages in getting access to their government in the COO, but CODs might not be sympathetic to their causes, either. Therefore, activists have chosen to move their advocacy also to the regional and global levels, with the goal to use those levels for increased influence on the COO/COD level.

I have shown that migrant civil society from the region is organised horizontally as well as vertically and that these various levels are closely connected – which cannot necessarily be said about state-led policies, which might reveal mismatches or tensions among bilateral, regional, and global levels. This policy incoherence poses additional challenges for migrant civil society. One response has been to make their advocacy not only multi-level but also multi-stakeholder – i.e. establishing connections with trade unions, lawyers, journalists, parliamentarians, and, if possible, also like-minded states. Gradually, this engagement has helped in expanding the space for and influence of migrant civil society, although that is by no means a linear process. In particular, on the national level, a change in government (policies), democratic backsliding, or undemocratic stasis can result in shrinking spaces for civil society, with Thailand being a recent example. In these cases, though, Southeast Asian migrant civil society activists at least now increasingly have access to alternative spaces, be they invited or invented.

## Notes

- 1 For example, the Philippine Alliance for Progressive Labour (APL) has sent organisers to Hong Kong to support migrant domestic workers in unionising. The (now dissolved) pro-democracy Hong Kong Confederation of Trade Unions (HKCTU) spent decades organising migrant domestic workers in the city.
- 2 If not indicated otherwise, all data in this section are based on the Department of Economic and Social Affairs (UN DESA) Population Dynamics, <https://population.un.org/wpp/DataQuery/> and the IOM Migration Data Portal, <https://www.migrationdataportal.org/regional-data-overview/south-eastern-asia>
- 3 There are estimates that around one-third of migrant workers in the Asia Pacific region have an irregular status in their country of destination.
- 4 Except when they fall under the category of so-called high-skilled migrants or expats, for whom special provisions apply. The focus of this chapter, though, is on migrants who are not necessarily low-skilled, but who work in jobs that are categorised as such (Raguram and Kofman 2004).
- 5 <https://www.gmanetwork.com/news/news/pinoyabroad/313558/phl-envoys-staff-in-alleged-sex-for-fly-scheme-ordered-home-to-face-probe/story/>
- 6 It has to be noted that Waldinger predicts that ‘migrant cross-state social action’ might decrease over time; however, his analysis of Latin American migration to the United States is based on the assumption that migrants might choose to stay and incorporate in the COD, which is not an option for most Southeast Asian migrants.
- 7 Notably, many influential texts, including the three cited here, draw their empirical base from the South/North American migratory space.
- 8 Philippine media report on the situation of OFWs on an almost daily basis; however, they tend to focus on individual cases rather than structural shortcomings.
- 9 <http://www.pmrw.org.ph/p/the-philippine-migrants-rights-watch-is.html>
- 10 <https://migranteinternational.org/about/>
- 11 Ibid.
- 12 The party-list system was established in 1987 to assure the representation in Congress of disadvantaged community sectors or groups (Tangkia and Habaradas 2001).
- 13 <http://www.apmigrants.org/index.php/wh-4/statements/263-upsurge-the-care-hk-support-our-migrant-domestics-in-covid-distress>
- 14 <https://www.home.org.sg/about-us>
- 15 <https://twc2.org.sg/who-we-are/organisation/>
- 16 [https://www.ilo.org/asia/publications/WCMS\\_832073/lang--en/index.htm](https://www.ilo.org/asia/publications/WCMS_832073/lang--en/index.htm)
- 17 <https://csactioncommittee.org/>
- 18 Compliance varies, but unlike the UN migrant worker convention, several CODs have ratified CI89, which increases the chances for wider spread implementation and can serve as a tool for transnational advocacy.

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# CONCLUSION

## Southeast Asia's glocalised<sup>1</sup> civil society landscapes: national topographies and transnational contours

*David Camroux*

On 30 June 2022, Ferdinand ‘Bongbong’ Marcos, Jr. was inaugurated as president of the Philippines following a landslide victory in the elections of 9th May. The People Power Revolution<sup>2</sup> in the Philippines of 1986 had seen the overthrow of the dictatorship of his late father, President Ferdinand Marcos (1972–1986). Appealing to a return to a golden age – while whitewashing the brutality and plunder of his father’s presidency – Bongbong refused all debate during his campaign. His campaign was conducted largely on social media and involved a high level of disinformation (Eusebio 2022) and the employment of paid trolls (Wallis et al. 2021). His election rode on a wave of authoritarian nostalgia seen also elsewhere in Asia (Chang et al. 2007).

The Philippine case is not unique. In Indonesia, in 2014 and 2019, presidential candidate Prabowo Subianto, the ex-son-in-law of former Indonesian dictator, Suharto, rode on a similar wave of authoritarian nostalgia (Muhtadi 2020). Once defeated, his successful opponent, Joko ‘Jokowi’ Widodo, appointed Prabowo Minister of Defence, positioning Prabowo for a third run at the presidency in 2024. A similar scenario could also play out in the Philippines. Sara Duterte-Carpio, Bongbong’s running mate, and daughter of the outgoing autocratic president, Rodrigo ‘Dingdong’ Duterte (aka ‘The Punisher’), was convincingly elected as vice president.<sup>3</sup> A deal between these two powerful dynastic families positions her to run for the presidency in 2028, while protecting her father from prosecution by the International Criminal Court for as many as 30,000 extra-judicial killings in his so-called war on drugs.

A plethora of terms explain the political evolution of Southeast Asia in the first decades of this century. These range from democratic ambivalence (Webb 2022) to democratic backsliding (Lorch 2021; Thompson 2021), democratic stagnation (Mietzner 2012) or democratic decline (Mietzner 2021a; Setiawan and Tomsa 2022) to, more worryingly, democratic deconsolidation (Mietzner 2021b) or an authoritarian turn (Noren-Nilsson 2021). Southeast Asian democracy can mutate into illiberal forms (Garrido 2021), patronage democracy (Aspinall 2019), or democratic majoritarianism (Abrams 2022) or even repressive pluralism (Fealy 2020), and authoritarian regimes may grow increasingly sophisticated (Morgenbesser 2021).

This somewhat depressing picture raises the question of the seemingly limited role of civil society in these trajectories (Arugay 2019). As Weiss and Hansson mention in their

introductory chapter, this handbook seeks to be a worthy successor to the seminal work of Muthiah Alagappa (2004) and his colleagues, who made a link between civil society and the enlarging and contracting of democratic space. The same year, another edited volume (Lee 2004) explored the institutional and other boundaries of that space in a series of case studies. This handbook incorporates both these approaches.

Almost 20 years later, this volume offers an important caveat with the warning in our introduction that ‘civil society is neither exclusively pro-democracy nor pro-human rights’. One of the most important contributions of this handbook is to explore in many chapters the existence of an ‘uncivil’ society (Beitinger-Lee 2010). Civil and, for that matter, uncivil society can be seen as an ‘imagined community’, to use Benedict Anderson’s (2006) much used (and abused) description of the nation. This is certainly appropriate for leaderless movements such as those protesting, or rioting, depending on one’s perspective, in the streets of Jakarta in May 1998 or in Yangon in February 2021. These ‘imagined communities’ may be transitory or even transnational, such as the so-called Milk Tea Alliance involving protestors initially in Hong Kong and Bangkok (Ponglamjiak 2021), and then Yangon and Mandalay (Stokke, this volume).

### **Domestic topographies**

The amorphous nature of civil society and its imagined character comes to the fore in this handbook, beginning with our first section, devoted to the spaces and platforms or vectors of/for civil society. The common theme throughout this handbook is that understanding, and defining, political space is crucial in any understanding of civil society behaviour (Hansson and Weiss 2018). For heuristic purposes, in my analytical grid, I have broken down the topography of the space for civil (and uncivil society) into three elements: the societal environment, the nature of states and regimes, and institutional frameworks such as legal systems, political party structures, and electoral systems.

### ***The societal environment***

Turning to the societal environment, let me begin with a subject that has seen the most ‘ink spilt’, or more factually, the greatest number of megabytes launched into cyberspace: the trajectory of the internet and social media in recent years. Merlyna Lim tackles this subject in our somewhat disturbing chapter (see Lim’s chapter, this volume). In the first decade of this century, the internet was seen as a liberating force, both in terms of empowerment at the local level, and in promoting democracy (Abbott, 2004; Hill and Sen 2005). Today, notwithstanding the importance of online political activism and advocacy, the internet and social media are also spaces for disinformation, hatred, and mobilisation for violence (Sinpeng and Tapsell 2020). In the Philippines, the Southeast Asian country with the highest level of social media use, the internet has become a tool for disinformation and the persecution of opponents. In short, while the technology may ostensibly be neutral, it provides a space both for civil and uncivil society. Moreover, through the efforts of paid and comprador regime bloggers, ‘vloggers’, influencers, and ‘trolls’, the boundaries between the space of civil society and that of the state/regime have become blurred.

Minna Valjakka (in this volume) presents contemporary arts as not only vectors to expand the space for civil society, but also spaces in themselves. In some parts of Southeast Asia, the arts seem to have been less impinged upon by regime and state actors. There, socially engaged artists can find themselves protected to a degree in the name of the

universal value of ‘artistic freedom’ or, more prosaically, because political elites perceive them as non-threatening. Yet, the cases of real or *de facto* one-party states in Cambodia, Laos, and Vietnam show the limits to tolerance, with heavy-handed censorship of art authorities deemed to be ‘harmful’. Myanmar’s crackdown since the coup of 1 February 2021, echoing previous periods of military rule, shows there is nothing permanent or inevitable about the artistic world’s being considered a neutral space in civil society (Hernandez 2022). Not only has the military junta physically targeted artists (including actors, poets, and rappers), but also poster art, for example, has become politicised and even uncivil (Nilsen 2022).

As the chapters in this volume by Buranajaroenkij, Rydström, Nguyễn, and Hoàng, and even Tans show, a societal environment is one framed in terms of belief and value systems, not only of a religious nature (Bonura’s chapter, this volume), but also incorporating vernacularised secular concerns (Bon and Wong’s chapter, this volume). While earlier literature on Islam in Indonesia in particular indicated its ‘civil’ nature (Hefner 2000; Freedman 2009), developments over the last two decades now highlight its potential uncivil possibilities (Hefner 2019; Chaplin 2021). This is due in part both to external influences and to the questioning of traditional religious authority (Saat and Burhani 2020) and mainstream Islamic organisations (Amin Abdullah 2020). A question requiring further research is the extent to which the fact that Indonesia’s two mass-membership bodies, Nahdlatul Ulama and Muhammadiyah, occupy quasi-state functions in the provision of social welfare and education impinges on their legitimacy as civil society organisations.

A similar question could be raised as to the role of the Catholic Church in the Philippines: it also performs important quasi-state functions in education and social welfare. The Church was a major force in the People Power Revolution of 1986 (Cartagenas 2010) and still has a degree of moral authority, but this is being challenged by the rise of evangelical and other sects and churches. For example, the Iglesia Ni Cristo (Cornelio 2017) supported both Rodrigo Duterte in 2016 and Marcos, Jr. in 2022, contributing to their electoral victories and the Philippines’ democratic regression.<sup>4</sup> Finally, the two most populous Theravada Buddhist countries in Southeast Asia, Myanmar and Thailand, offer evidence also of both civil and uncivil behaviour by religious groups and organisations. Members of the sangha may have been at the forefront in 2007 of Myanmar’s Saffron Revolution demanding the end to military rule (Walton 2016), but the decade of political liberalisation also fostered the rise of militant Buddhism with a violent ethno-nationalist agenda, particularly directed against a Muslim minority. In southern Thailand, too, monks have taken up arms against a Malay-Muslim insurgency (Jerryson 2011). They have also mobilised support for the latest military coups and the ethnoreligious-nationalist-conservative authoritarian turn in Thailand generally over the last two decades (Connors and Pathmanand 2021). Even an ostensibly more pluralist religious environment such as that in a *Pancasila*-inspired Indonesia does not necessarily contribute, as might be expected, to a civil society space conducive to democracy (Formichi 2021).

### ***State/regime weakness or strength***

Andreas Ufen’s nuanced comparative study of political developments in Indonesia and Malaysia (Ufen’s chapter, this volume) underlines the need to examine state structures carefully. For him, they are determining factors in assessing the space for civil society. In

an earlier study, prior to the aborted ‘democratic transition’ in Myanmar, Rudland and Pederson (2000) similarly suggested that the then-military regime illustrated the case of a ‘strong regime functioning in a weak state’. The nature of the state, what Croissant and Hellman (2020) depict as ‘stateness’, is a crucial factor in determining the topography of civil society. In the Philippines also, a strong presidential regime obscures the existence of a weak state. On the contrary, Eugénie Mérieau (2016) has argued that, in the case of Thailand, a deep state perpetuates a mode of power, irrespective of the elected (or unelected) governments in place. The embeddedness of the Thai state limits the capacity of civil society to act through conventional NGO modalities (Phongpaichit 2021). The result is the emergence of somewhat leaderless protest movements whose declared objectives may ostensibly be those of political reform, but who are motivated by questioning of Thailand’s monarchical system and who challenge patriarchal social norms (Buranajaroenkij’s chapter, this volume; Sinpeng 2021). They also respond to an authoritarian civil society defending Thailand’s autocratic model (Sombatpoonsiri 2020).

Disenchantment with the role of civil society as a promoter of democratisation is linked to the Southeast Asian experience of a global phenomenon, the rise of populist regimes. In Indonesia, descriptions of populism under the presidency of Joko Widodo range from the oligarchic (Aspinall 2015), to technocratic (Mietzner 2015), to religiously violent (Barton et al. 2021). Scholars describe populism under Philippines President Rodrigo Duterte as penal (Curato 2016), punitive (Camroux 2022), or authoritarian. Presidential regimes, like those in Indonesia and the Philippines, are structurally particularly amenable to populist leaders. However, civil societies in parliamentary constitutional monarchies such as those in Thailand and Cambodia have also shown they are susceptible to populist appeals. Nevertheless the ‘supply’ side of populism needs to be examined in relation to the ‘demand’ side: in other words, a receptive civil society (or at least sections thereof) that exists in relation to a weak state.

### ***Institutional frameworks***

Advocacy groups, whether they militate over questions of urban land use (Padawangi’s chapter, this volume) or are involved in forms of legal mobilisation (Berenschot and Bedner’s chapter, this volume), intrinsically function in variable types of space. The definition of these spaces may be physical, as in the first case, or judicial, as in the second. In both cases, the boundaries in which they function are institutionally and politically determined. Moreover, a legal system that serves as a vector for advocacy can also be used to reduce the political space available to activists (Holmes 2022).

In such contexts, the question of leadership in civil society organisations is salient, as Astrid Norén-Nilsson demonstrates in this handbook. While the question comes to the fore in examining uncivil society (e.g., the leading role of the Mandalay-based Buddhist monk, Wirathu, in the Ma Ba Tha movement in Myanmar), it is often neglected in analysing ‘civil’ groups. In particular, leadership is of importance for organised labour, discussed by Teri Caraway in this volume, which operates within the boundaries state and regime establish. In her nuanced comparative analysis, Caraway shows how regimes can co-opt, or at least neutralise, labour organisations, limiting their space within civil society (see also Young 2021).

Andreas Ufen (in this volume), in line with work by co-editor Weiss (e.g., Weiss 2006; Aspinall and Weiss 2012; Weiss 2020), explores the relationship between political parties and civil society groups. Among other examples, he examines the success of the Bersih

(Clean) movement in bringing about political reform and the first change of governing coalition in Malaysia since independence. The victory of the Pakatan Harapan coalition seemed to suggest that a pro-democracy coalition of parties, supported by social movements, could pave the way for a transition through party politics. However, it was left to the new coalition in Parliament, headed by former Prime Minister Mahathir Mohamad, to confront structural issues such as the first-past-the-post voting system and gerrymandering. Intra- and inter-party rivalries and then defections saw the fall of Pakatan Harapan and the return of a reconfigured version of the previous governing coalition. Civil society activists in Malaysia found themselves to have limited resources to contest elite rivalries and defections in partisan politics.

The Thai case comes to the fore in several chapters in this handbook (especially those of Ufen and Buranajaroenkij), once again underlying the mutable space the symbiosis/dichotomy between civil society action and state/party systems generates. In Thailand, an ostensibly similar movement to Bersih, but of an authoritarian orientation – the People’s Alliance for Democracy – paved the way for the 2014 coup and the victory of pro-monarchist/conservative political parties in the 2019 elections, in a system structured in their favour (Sombatpoonsiri 2020). The Yellow Shirt movement ‘succeeded’ in bringing about democratic regression through its alliance with existing political parties. It then largely ceased to exist. During these elections, a newly constituted political party with significant support amongst urban youth, the Future Forward Party, became a key party in the opposition bloc. A politicised Thai Constitutional Court disqualified its leader, Thanathorn Juangroongruangkit, in November 2019 (Mérieau 2022), followed in February 2020 by the dissolution of the entire party. The party reconstituted itself as a progressive movement, nurturing youth and student activists who have continued to protest against the government of prime minister, and 2014 coup leader, General Prayut Chan-o-cha. An extra-parliamentary civil society opposition has sought to fill some of the void left by the incapacity of a conventional party-based political opposition. This situation has only partly been changed by Future Forward’s reorganisation as the Move Forward Party.

At the time of writing this process could be occurring in the Philippines. During the 2022 presidential election campaign there, the then-Vice President, Leni Robredo, despite being chairperson of the Liberal Party,<sup>5</sup> ran as an independent candidate, branding her campaign as a ‘people’s campaign’. She chose hot pink as the colour for her supporters as opposed to yellow associated with the Liberal Party since 1986 and the overthrow of Marcos, Jr. Her campaign relied on a large group of youth supporters, who conducted house-to-house canvassing, and her rallies were widely attended. Despite the enthusiasm generated, she received only 27.14% of the vote, compared to 58.77% for Marcos, Jr.

Following her defeat and declared withdrawal from political life, Robredo launched on 1<sup>st</sup> July the Angat Buhay NGO (Cepeda 2022), using the second part of her two-fold campaign slogan, *Gobyernong Tapat, Angat Buhay* (Honest Government, a Better Life for All). This is a revealing development. Basically, parliamentary opposition to the Marcos administration has been formally reduced to one senator in the 24-member Senate. Even in the context of the Philippine tradition of ‘turncoatism’ – or pursuing ‘pork’ by siding with the incumbent President – this is unique. As a result, resistance to a feared autocratic consolidation will need to occur outside the Filipino Congress. Yet, as John Nery (2022) has argued, it is hard to see how a civil society organisation like Robredo’s Angat Buhay, or even a reform-minded Catholic Church, could substitute for

an institutionalised political party. Parties, even ones such as those in the Philippines based on clans and patronage, can compete in elections; civil society organisations cannot. As argued throughout this handbook, once again, national institutional frameworks determine the space available to CSOs.

### **Transnational contours in ‘glocalised’ spaces**

It has been implicit throughout this volume that local/national civil societies seek space, not only within national borders (both physical and ideational) but to greatly varying degrees, also in a global or transnational environment. As the chapters in this handbook demonstrate the result is, in my view, evidence not so much of ‘globalisation’ but rather of ‘glocalisation’. ‘Glocalisation’ is a two-fold phenomenon involving a shift from the national upwards to the supra- or transnational or global, and downwards to subnational or local bodies (Swyngedouw 2004). For heuristic purposes, the global or transnational ‘horizons’, or boundaries engendering ‘glocalised’ spaces, can be divided into three types: the normative, the societal, and the systemic. Linking the three is a fourth transversal element, the economic.

### ***Normative factors***

It is not an exaggeration to suggest that Southeast Asia is the most inherently ‘glocalised’ region in the world. The rich historiography of the peoples of Southeast Asia (see for example, Lombard 1995; Harper 2020; Sidel 2021; Tagliacozzo 2022) concurs that they have been at the crossroads of global forces, including those of beliefs and values. The colonial interregnum was, perhaps, the most impactful period, at least in terms of shaping institutions and bringing the peoples of Southeast Asia into a global economy, but its importance needs to be understood relative to trajectories over the last 70 years or so. It is almost platitudinous to argue that ‘glocalisation’, like globalisation, is not only economic, but also social and ideational. Historically these currents of thought and organisational forms have been vernacularised and assimilated into local environments. The question then becomes not only *how* ideas spread but, also, *which* global norms matter (Acharya 2004), and how then they become localised, or ‘glocalised’ as Southeast Asian. This handbook addresses in a holistic way three subjects that profoundly concern civil society: religion, gender, and the environment. These three subjects that touch on the human condition are both terribly local and also incredibly universal.

In this volume, Duanghathai Buranajaroenkij addresses the question of gender advancement. Although her case study is limited to Thailand, a number of her conclusions could be applied to neighbouring Southeast Asian countries where women are also largely excluded from formal political establishments. The caveats she applies are also salient elsewhere: some of the most prominent female politicians are the daughters of emblematic deceased politicians (Aung San Suu Kyi in Myanmar, Megawati Sukarnoputri in Indonesia, Gloria Macapagal Arroyo in the Philippines), the widows of male politicians (the late Cory Aquino and Leni Robredo in the Philippines), or standing in for exiled or imprisoned brothers or husbands (Yingluck Shinawatra in Thailand, Wan Azizah Wan Ismail in Malaysia).<sup>6</sup> Given the boundaries for entry into the institutionalised political sphere, Duanghathai argues, civil society provides a space to advance gender issues.

Southeast Asian countries have a long history of women's organisations whose norms initially confined women to traditional subservient roles. However, as early as during anti-colonial struggles in both Indonesia and Vietnam, women challenged gender stereotypes with some long-lasting consequences. In recent decades, economic empowerment and educational advances at the local level have impacted on evolving norms and expectations. It is fiendishly difficult to make a distinction between what normative change is domestically driven and what is a result of a changing global environment. Nevertheless, it could be argued that Western feminist thought has had an impact in Southeast Asian civil society; perhaps the #metoo movement also resonates, especially in the milieu of the urban middle class. At the same time, a group such as Sisters in Islam in Malaysia specifically seeks to ground its feminism outside of Western thought.

Moreover, the regional environment institutionalised in the Association of Southeast Asian Nations (ASEAN) has widened the space to advance gender issues – including sexuality and gender-identity rights advocacy (Weiss 2021) – throughout Southeast Asia. The 2008 ASEAN Declaration of Human Rights, based on that of the United Nations, is gender-neutral in its terminology. The ASEAN Confederation of Women's Organisations is an accredited civil society organisation to the ASEAN Secretariat. A conducive regional environment is also reinforced by a global environment involving both norms and financing. For example, enhancing educational opportunities for girls and empowering women economically are considered apolitical by Southeast Asian regimes enlarging the space, not only for local NGOs, but also for international NGOs (INGOs). Foreign aid donors can and do impose gender-advancement conditionalities on their foreign direct investment (FDI). For instance, the European Union not only includes gender conditionalities in its aid, but such conditions are also part of the trade agreements it has signed, or is in the process of signing, with Southeast Asian countries. This is not the case for another area that overlaps with questions of gender, that of lesbian, gay, bisexual, and transgender (LGBT) rights.

Rydström, Nguyen, and Hoang address LGBT rights in Vietnam in this volume. They examine the success of civil society not only in opening space for advocacy but also in changing perceptions of LGBT individuals as 'social evil' to being seen as 'human beings' (see also Pham 2022). Ostensibly there is, in this case, a clear import of at least forms of advocacy from the West: the replication of the Gay Pride marches that began in New York over 50 years ago. Yet while some forms of protest and celebration may suggest the adoption of global norms, this does not explain the reception of these norms. In some cases, a conducive local environment with a degree of cultural acceptance of homosexuality has enlarged the civil society space for LGBT advocacy. Nevertheless, this does not explain why an authoritarian regime such as Vietnam's tolerates such advocacy. I would argue that the regime sees it as 'apolitical' and unthreatening, as in many secularised countries of the world. Moreover, regime tolerance for the LGBT movement wins approval at little cost from Western partners allowing for the 'pinkwashing' of intolerance of other social movements.<sup>7</sup>

In their glocalised dimension, environmental issues involve also an element of a regime pandering to the international community, i.e. 'greenwashing'. More profoundly, as Oliver Pye discusses in this volume, environmental CSOs function in a normative space determined by adherence to the notion of sustainable development. This normative framework is global, local, and regional at the same time: the promotion of 'sustainable development so as to protect the region's environment' is the 9th of the 15th purposes ASEAN designates in its 2008 Charter (Moon 2016, 51). 'Sustainable development', like



its more recent mutation, the ‘fight against climate change’, is perhaps the most glocal of concepts, being applicable at the local and global level at the same time. Concretely, governments in Southeast Asia pay at least lip service to the concept, thus, theoretically, opening space for environmental CSOs to function.

In practice, the width and depth of this space remains determined by the nature of regimes, with flawed democracies like the Philippines and Indonesia offering more possibilities for advocacy than a one-party state like Vietnam. The ‘ecological Leninism’ of the Vietnamese Communist Party, to use David Hutt’s (2022) ironic terminology, seeks to encourage a civil society concern with the environment, but under Party leadership. As elsewhere in Southeast Asia, when CSOs are conservationist, for example, in saving the cute Asian elephant or the cuddly orangutan from extinction, they enter literally into a conservative space and one deemed as apolitical or unthreatening to the state. They also garner international approval. However, as Pye (in this volume) notes, when advocacy CSOs ‘trespass’ (no pun intended) into the space of land and property rights, and/or denounce the environmental degradation frenetic neo-liberal development causes, they enter into more contentious terrain. Yet questions of environmental degradation are also regional. For example, the periodic forest fires resulting from illegal logging in Indonesia cause a pall of life-threatening haze that spreads to Singapore and Malaysia. This diffusion not only calls into question the non-interference/respect-for-sovereignty principle of an inter-governmental organisation such as ASEAN, but it also opens space for transnational advocacy among ASEAN NGOs.

While environmental action is a subject that crosses physical borders, the religious worlds of Southeast Asia have also historically known no borders. There is a fundamental tension between the great religious traditions’ claims to universality, and the extent to which civil societies adhering to those traditions organise locally or at best, nationally. Today this situation is even more paradoxical given the transnational flows of ideas and norms especially in Islam and Christianity. In this volume, Carlo Bonura posits a reason for this paradox: historically, religious groups in civil society have been important in promoting nationalist political, not religious, agendas. During the colonial period, this meant the crucial place of the Young Men’s Buddhist Association in the struggle against British colonial rule in Burma echoed a similar role for Muslim groups against Dutch colonial rule in what is today’s Indonesia.

More recently, as mentioned above, the Catholic Church was crucial in ending the Marcos dictatorship in 1986 and re-establishing democracy. Buddhist groups in both Myanmar and in Thailand have alternatively been advocates of democracy and also of autocratic rule. Vietnam, at least since unification in 1975, is the exception where religious groups abstain – or are forced to abstain – from activity of an overtly political nature. This is despite the fact that important sections and leading personalities of the current pro-democracy movement in Vietnam are clearly connected to various religious groups: Catholic, Protestant, and Buddhist. Some of them even started their pro-democracy engagement as part of a struggle for religious freedom after 1975 (Hansson in press). Vietnam’s exceptionalism can perhaps be explained by the fact that Communist state officially recognises the largest number of religious organisations, in a country where officially only a quarter of the population claims a religious affiliation. Nevertheless, in all these cases, the nature of the state and regime is a determining factor in the space available to a religiously oriented civil society.

Glocalisation, as I have argued above, has been for centuries in the ‘DNA’ of religious practice in Southeast Asia. It can be seen in examples ranging from the syncretic nature

of Javanese Islam, to the synthesis of Catholicism and folk religions in many parts of the Philippines, to the adoption of Western intellectual discourse in the Theravada Buddhism of Thailand. An even more inter-connected world of the last few decades has provided even greater opportunity for these flows of ideas, with the effect of enlarging the space for both civil and uncivil society. The diffusion of norms and ideas has been facilitated also by transnational structures, such as the Organization of Islamic Cooperation, founded in 1969 as the Organization of the Islamic Conference, which has provided Indonesian and Malaysian governments with an important platform (Alles 2016). The role of UN bodies in organising dialogues between religions – and for religious freedom – also serves to diffuse global norms that enter into the discourse, not just of governments, but also of civil society (Alles 2021). At the regional level, Article 22 of the ASEAN Human Rights Declaration sets ‘freedom of conscience, thought and religion’ as a fundamental principle (Moon 2016, 47). While there are no effective mechanisms to ensure compliance with this principle, which few Southeast Asian countries respect, at least a benchmark has been established.

As Carlo Bonura (in this volume) demonstrates, there is no one single position along the global/local continuum for religion in Southeast Asian civil society. In Indonesia, the two major mass organisations extolling a civil Islam are indeed very local. But they also speak a universal language of religious tolerance while supporting Indonesia’s nationalist and secular Pancasila ideology. Even more liberalising tendencies in civil society appear to be locally driven. For example, the Indonesian Association of Muslim Intellectuals (ICMI), an instrument of Vice President and later President Habibie in the 1990s, was designed to be a nationalist vehicle of moderation. Liberalisation after *Reformasi* saw the growth of liberal Islamic associations, such as the online-based Liberal Islam Network, seeking to root a liberal Islam locally, while making it more cosmopolitan. At the same time, uncivil Islamist groups, such as the banned Front Pembela Islam and Hizbut Tahrir and the violent Jemaah Islamiyah, are expressions of a global Salafist wave localised in Indonesia (Chaplin 2021).

The Theravada Buddhism of Southeast Asia is, in theory, less susceptible to global influences: after all, being Burmese or Thai is defined, in part, as being Buddhist, whether of the Theravada or Mahayana tradition. However, contemporary Buddhism enjoys a global respectability embodied in the person of the Dalai Lama as a moral leader, which reflects back in Southeast Asia. Burmese Buddhism in its uncivil form, such as that of the Ma Ba Tha, draws on the Islamophobic conspiracy theory of the great replacement popularised in parts of the West.

As for the Philippines branch of the Catholic Church: by its very nature, it is a participant in the trajectory of Catholicism worldwide and the liberalising developments of recent decades. In the Philippines, the Church is challenged by the worldwide rise of Pentecostalism and the ‘prosperity gospel’. In reaction, the Filipino Catholic hierarchy has fostered *within the Church itself* a charismatic movement, El Shaddai (Wiegele 2005), led by real-estate developer Mike Velarde. El Shaddai and charismatic Protestant groups may draw their inspiration from the United States, and through the involvement of the Filipino diaspora, they are by nature global, yet their messages and actions are localised within the Philippines. In 2008, Christl Kessler and Jürgen Rüländ raised the question of whether this populist religiosity would contribute to widening the space of Philippines’ civil society in favour of democracy. What it has done is to foster a local variant of the Trumpian illiberal democratic wave, in the process glocalising many of its themes.

### ***Societal contours***

In this volume, Stephen Rother's analysis of advocacy for migrant rights highlights the national/transnational space occupied by diasporas, particularly that of overseas Filipino workers. The almost 10% of the Filipino population who live overseas are a powerful economic force: their remittances provide 10%–15% of Gross domestic product (GDP) and they constitute a political force Filipino politicians fervently court (see Aguilar 2014). Aided by social media, the internet, and other forms of communication, the Filipino diaspora can arguably live in two worlds of civil society at the same time. The question is whether they occupy an extra-territorial space in civil society promoting democracy. During the 1970s and 1980s, the Filipino diaspora in the United States provided a haven for opposition to the Marcos dictatorship, with Benigno Aquino himself being exiled there. However, in the presidential elections of 2016 and 2022, the majority of Filipinos overseas supported, respectively, Rodrigo Duterte and 'Bongbong' Marcos, aware of their autocratic demeanour.

The case of the Burmese (Myanmar) diaspora provides a further example. After the repression of 1988, Burmese overseas constituted a crucial part of the opposition to the military dictatorship. They certainly were instrumental in maintaining Western sanctions and keeping the situation in Myanmar 'on the radar screen' in Western media. This came to the fore during the Saffron Revolution of 2007, when, aided by new technologies, foreign audiences could see the military repression in Myanmar in real time. In the period from 2011 to 2021, the diaspora provided support for NGOs in Myanmar itself, as well as for Aung San Suu Kyi and the National League for Democracy. After the coup of February 2021, the Burmese diaspora, particularly in the United Kingdom and the United States, but also in some EU countries, finds itself once again creating a space for extra-territorial opposition to the military junta. However, thanks to advanced communication technologies, this renewed space also brings Burmese worldwide closer to a challenger National Unity Government (NUG). Not only are several NUG ministers physically in exile outside Myanmar but also local diasporic Burmese communities support the NUG's parallel foreign ministry.

Overall, the Vietnamese Kieu (overseas Vietnamese) are an important source of both financial transfers, and, increasingly, expertise for the Vietnamese single-party-controlled capitalist economy. In my personal experience, I have noticed that the acrimonious divisions prior to unification in 1975 have faded over time and Vietnamese diasporic millennials and especially members of Generation X cultivate a kind of long-distance patriotism. Chinese assertiveness in the East/South China Sea provides a handy cause for this nationalist convergence. In the process, a space has been opened for diasporic civil society activity – one connected locally in Vietnam itself – as long as it carries a patriotic tinge.

That said, not all such diasporic activist connections orient in this way. In their chapter devoted to LGBT activism in Vietnam, Rydström and her colleagues raise the case of a Vietnamese expatriate in Singapore who is a leading figure in the Vietnamese LGBT movement. The religious sphere touched upon by Bonura in this volume is also one where the Vietnamese diaspora, as a form of extra-territorial civil society, lives a wider space outside the country (Hoskins and Ninh 2017). However, their linkages to co-religionists in Vietnam itself also enlarge the space for the latter in the 'homeland'.

### **Systemic factors**

As the authors in this handbook allude to on various occasions, both civil (and uncivil) societies function, not only in domestic and global contexts, but also in a *structured* regional context. Following the end of the Sukarno-inspired *Konfrontasi* between Indonesia and its neighbours, the Association of Southeast Asian Nations was founded in 1967, during the Cold War, with five members. It expanded between 1995 and 1998, after the end of the Cold War, to now include ten countries of Southeast Asia<sup>8</sup> and has been successful as a security community in avoiding war in the region (Acharya 2021). Once again there is a ‘glocalised’ phenomenon at play: in terms of norms and nomenclature, there is a deal of replication with the European Union (Jetschke and Murray 2011). This norm diffusion is reinforced by the fact that the EU–ASEAN (now strategic) partnership is the oldest inter-regional relationship worldwide, dating from 1972.

The existence of this regional organisation is a double-edged sword for domestic civil societies. On the one hand, like all international organisations (Meyerrose 2020), ASEAN as an *inter-governmental* body strengthens the power and legitimacy of executives, irrespective of whether they are democratically elected or not. As Anders Uhlin (in this volume) and Alice Ba (2013) underline, the legitimacy aspect is of particular salience. However, ASEAN also provides a number of other benefits for member governments. These range from a more pronounced presence on the international scene, making ASEAN, in theory at least, ‘central’ to regionalisation in the Asia-Pacific, and easier access to international financing. ASEAN also provides a shield against criticism of the internal affairs of its members, given the sacrosanct principles of respect for sovereignty and non-interference (Ba 2009; Camroux 2020). This has, in consequence, diminished the space for civil society action.

On the other hand, the ASEAN Charter, which all ten members ratified in 2008, gave ASEAN a legal personality. Article 1.13 declares that the aim of the Association is ‘to promote a people-oriented ASEAN in which all sectors of society are encouraged to participate in, and benefit from, the process of ASEAN integration and community building’ (Moon 2016, 55) As Anders Uhlin (in this volume)<sup>9</sup> and Kelly Gerard (2014) have argued, this people-oriented thrust, in theory, should open up space for civil society. In theory, also, regional frameworks for civil society action present the possibility of intra-regional alliances or networks and, thus, enlarge the space for civil society action beyond the nation state (Parthenay 2019).

In his chapter, Anders Uhlin lists long-standing regional civil society networks, many of which are human-rights advocacy organisations. This focus is understandable given that the 7th of the ASEAN Charter’s 15 purposes (and also one of the Association’s 14 principles) is to ‘strengthen democracy, enhance good governance and the rule of law and to promote and protect human rights and fundamental freedoms’ (Moon 2016, 45–48, 63–69). In Southeast Asia, the vernacularisation of human-rights discourse occurs through the filter of ASEAN and ASEAN-related bodies, as Bon and Wong (in this volume) argue, with reference both to local and international norms (Allison and Taylor 2017).

In 2009, a year after the ratification of the ASEAN Charter, an ASEAN Intergovernmental Commission on Human Rights (AICHR) was established, to which each of the ten member governments appoints a representative for a three-year term (Tan 2011). The AICHR is a consultative body with no compliance mechanisms, whose purpose is to promote and protect human rights. It is widely criticised as ‘toothless’

or as an exercise, as Uhlin argues in his chapter, in legitimising ASEAN as a mini-lateral organisation. Worse still, for some observers, the AICHR provides a form of whitewashing of its members' domestic human-rights records, as do other associated bodies such as the ASEAN Civil Society Forum (Nandyatama 2021). Collins and Bon (2021) offer more positive assessment, arguing that the AICHR provides a participatory space for civil society groups; Duxbury and Tan (2019), too, see it as a work in progress.

At the least, this body, and other intra-regional bodies, provides a space to create intra-regional solidarities among civil society groups and, importantly, to normalise criticism of situations outside the physical borders of a member state. These practices can be further strengthened in inter-regional contexts such as the People's Forums that accompany biannual Asia-Europe Meeting (ASEM) summits (Gilson 2011). In a wider ASEAN-related context, organisations such as the Asia-Europe Foundation (ASEF), based in Singapore, also support a degree of continuity in exchanges between Asian and European CSOs. These exchanges tend to favour the Southeast Asian members, strengthening their legitimacy and expanding their space for action locally. Importantly, they also open the door to transnational financing.

### *Financing*

In noting the role of ASEF, I have touched upon the essential issue of financing and its impact on the space for civil society. Rosalia Sciortino (in this volume) demonstrates its salience for the space available for CSOs and the extent to which they are at the mercy of trends in multilateral funding.<sup>10</sup> Sciortino provides the example of Myanmar during the period of military rule, when what Western funding existed was for humanitarian purposes and channelled through CSOs. INGOs saw strengthening civil society as a way also to foster democratisation (BCN and TNI 1999). The hybrid-regime period (2011–2021), especially after the first democratic elections in 2015, saw a shift to funding through strengthening political institutions (Clapp 2016), which proved inadequate for the task (Strefford 2020). Since the coup, there has been a return to the status quo ante of financing local NGOs for humanitarian purposes. In other words, evolving domestic (local) boundaries between state/regime and civil society impinge on the international (global) contours of the financial space for CSOs.

As Sciortino argues, international donors have been reshaping their aid for a much stronger state-centric approach; that shift has been accompanied by Southeast Asian governments' strengthening their control of funding for CSOs. In the absence of increased philanthropy from local and international sources, multilateral funding tends to be directed to areas which are considered apolitical, especially economic development. Donors tend to channel funds through state or quasi-state agencies. Decentralised forms of assistance, like those of the German political foundations (Mohr 2010), or, in the experience of this author, of various French institutes and city-to-city cooperation schemes, do provide at least indirect financial support for CSOs. Various foreign cultural institutes can also provide physical space.

At the regional level in Southeast Asia, examining the less-than-transparent budget of the ASEAN Secretariat (estimated at US\$300 million in 2012), Sandra Destradi (2020) emphasises ASEAN's own reliance on external financing. The main external donors are the EU and Japan, with support also from Australia, New Zealand, Canada, and Germany. For example, the EU spent €250 million for cooperation with ASEAN between 2016 and 2020 and another €2 billion on bilateral assistance (EEAS website).

Engel and Mattheis (2020) estimate that in 2016 the ratio between donor and member contributions was 94 to 6, the highest of any regional organisation in the global south. Yet as ASEAN is an inter-governmental organisation, it is governments that determine the allocation of funding for civil society groups.

### **New questions: civil and uncivil society and the (un?)civil war in Myanmar**

Myanmar was meant to be the ‘good news story’ of this decade for demonstrating the inevitability of democratisation. Yet, despite mostly free and fair multi-party elections, like those in 2015 and 2020, analysts described Myanmar as having a hybrid (Stokke and Aung 2020) or tutelary (Bünthe 2021) regime and being a ‘caretaker democracy’ (Egretreau 2016) from 2011 to 2021. Nevertheless, during this period, as political space had opened up, some civil society activists entered parliament. Most ran under the National League for Democracy, but some, under ethnic parties. These former Myanmar civil society activists thus joined the distinctly undemocratic military officers who constituted a quarter of members of parliament. Both groups had to learn how to become lawmakers (Egretreau 2022).

With the coup d’état of 1 February 2021, Myanmar returned to military rule. After less than a month of tolerating peaceful protest, the military junta began a campaign of increasing repression leading to a descent into civil war,<sup>11</sup> a war whose results remain at this point inconclusive.

Yet the imponderables in this situation are not only military, but they also are social and political. In particular, they raise issues regarding civil society, and, as Joakim Kreutz (in this volume) argues, the space available to it. The same issues were being asked some ten years ago (Henry 2011). The coup and the repression of the military junta (with the Orwellian name, the State Administration Council) have both reduced and expanded the space for civil and uncivil society. On the one hand, with many NGOs now disbanded, in exile or functioning on reduced funding, the space for *structured* civil society groups, especially of an advocacy nature, has been reduced. As a consequence, activists have resorted to cyberspace as a space of contention (Ryan and Tran 2022). On the other, an amorphous Civil Disobedience Movement has emerged to challenge the junta and to take over functions such as health care and education the Myanmar state previously performed (Ostwald and Hlaing 2021). Moreover, in areas not controlled by the military, civil society groups have themselves taken on state administrative functions. In some areas, the space for civil society has thus been enlarged, albeit in dire circumstances. It is not unreasonable to argue that Myanmar is now in a revolutionary situation (Jordt et al. 2021), raising further questions about the space for civil society.

As a result, as Kristian Stokke shows in this volume, the relationship between the majority Bamar civil society and that of the ethnic minorities is being transformed (see also Thawngmung and Khun Noah 2021) in ways that strike at the notion of who is civil (i.e. citizens) in a given nation (Bertrand 2021). Ambitions for a federal democracy that will include the previously excluded, such as the Rohingya, within its borders have implications for the space for civil society (Htet Min Lwin 2021). As the opposition to the junta seeks to develop a united front, the space for ethnic groups and minorities Jacques Bertrand and Cheng Xu describe in this volume of this handbook has become enlarged to encompass their civil and uncivil elements. On the contrary, the space in Myanmar for business associations such as those Ryan Tans describes (in this volume) has been significantly reduced because of the economic sanctions imposed

on the military regime, the withdrawal of foreign investment, and the ascendancy of military-controlled conglomerates.

On a more conceptual level, one could ask: does a civil war situation call into question the distinction between civil and uncivil society? In ethnic-minority areas, some local NGOs, for self-protection, have become even closer to ethnic armed organisations. In Bamar-majority areas, anti-junta armed groups, known as People's Defence Forces (PDFs), have emerged with differing levels of allegiance to the NUG. The NUG, in exile both physically and virtually (Saengkrai 2021), was constituted from the majority elected in the November 2020 elections. It declared a 'defensive war' against the junta on 7 September 2021, legitimising the resort to armed resistance (ICG 2021). While, for the military junta, PDFs and ethnic armed organisations are 'terrorist groups', they can be seen as civil or uncivil society organisations, given their resort to what they would argue are legitimate forms of coercion and violence. The question is pertinent given that their uncivil action is being conducted within the boundaries of a space determined by a rival quasi-'state' authority, the NUG.<sup>12</sup>

## Conclusion

It may appear a little unfair to my fellow authors to have rounded off this state-of-the-art handbook with a series of questions. But that is indeed the point. For, as noted in the introductory chapter, the study of civil society is in its infancy. Southeast Asia – with its extraordinary diversity in terms of ethnicity, class, religion, regime type, state structure, diasporas, etc. – will continue to provide a rich and fascinating object of study. At the crossroads of the invention and diffusion of norms, influences, and practices, a globalised Southeast Asia will continue to be at the forefront of developments in civil and uncivil society worldwide.

## Notes

- 1 I use Roudometof's definition of 'glocalization': 'the refraction of globalizations through the local. The result is glocality – a blend of the local and the global' (2016a, 403; further developed in 2016b).
- 2 It is important to highlight the use of the term 'people' as an adjective and not in the possessive form, as if the 'power' were intrinsically the 'people's' whether 'they' were present or not. It is highly questionable, also, to use the term 'revolution' given that the result was a change of elite and the maintenance of the presidential regime (Claudio 2013).
- 3 Indonesia limits presidents to two terms of five years, and the Philippines, to one term of six years. Another peculiarity of the Philippines' system is that the president and vice president are elected separately. During the Duterte presidency, his Vice President, Leni Robredo, was the leader of the opposition.
- 4 In 2010, however, the INC backed Liberal Party candidate Benigno 'Noynoy' Aquino III.
- 5 The online campaign against those opposed to Duterte, loosely linked to the Liberal Party and thus dubbed as 'yellowtards', discredited the party and its campaign colour (yellow). In 1986, Cory Aquino's wearing of yellow as the standard bearer for the Liberal Party was a symbolic act of defiance.
- 6 In the Philippines, the predominance of political dynasties – from which for example, two-thirds of members of Congress hail – provides cases of male politicians, such as 'Noynoy' Aquino and 'Bongbong' Marcos, who benefit from that same familial status. But the phenomenon extends beyond such heavily dynastic polities, as with Singapore's Lee Hsien Loong or Malaysia's Najib Razak.
- 7 I remember a conversation with a then-EU ambassador in Vietnam in 2018 who declared: 'When we criticize officials for human rights abuses in the country, they reply: look, on gay rights we are more advanced than a number of European countries'.

- 8 Ceylon (today's Sri Lanka), where the British had based their South East Asia Command during World War II, was in 1967 slated as a possible member, although this was never pursued. Today, Timor-Leste, independent since 1999, has its membership pending.
- 9 Uhlin (2016) also addresses civil society interactions with the Asian Development Bank. Future research might examine how Southeast Asian CSOs interact – or not – with the Asian Infrastructure Investment Bank founded in 2016.
- 10 I remember the joke in Jakarta in 2000 shortly after the Reformasi movement led to the fall of President Suharto, about creating one-member NGOs to obtain foreign funds.
- 11 So far, there has been little study of civil society in a civil war context, other than Henry (2011) and Barter (2014).
- 12 Previously in Myanmar, the ethno-nationalist Ma Ba Tha movement had justified the use of violence against Muslims as necessary to 'defend Buddhism', by reference to a higher authority.

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