

Contemporary research challenges in South East Asia

Edited by Stephen McCarthy

WORKSHOP PAPER SERIES

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Contemporary Research
Challenges in South East Asia

2017 Early Career Researchers Workshop

Edited by
Stephen McCarthy

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Introduction

Stephen McCarthy and Diego Fossati

In October 2017, the Griffith Asia Institute hosted a workshop in Phnom Penh, Cambodia, on the theme of Contemporary Research Challenges in South East Asia. The workshop was for early career researchers and PhD students working on the region to build collaborative linkages and research capacity in both Australia and Cambodia within their discipline. Participants included GAI members, Griffith University PhD candidates and early career researchers, senior academics and early career researchers from Northern Illinois University, Murdoch University, the Royal University of Phnom Penh, the Cambodia Development Resource Institute, as well as postgraduate scholars conducting research in country and based at the University of Sao Paulo and the University of Westminster, and at the University College of London. The workshop addressed a diversity of topics in the region including the political economy of South East Asia; research challenges in transitional settings; governance and foreign policy issues; rule of law and justice in South East Asia; regional environmental and transboundary governance; and human security. The short essays included in this collection are a sample of the research presented at the workshop which provided established scholars and early career researchers with an opportunity to seek feedback, develop their research further and to discuss future possibilities for collaboration and publication.

In the opening essay, Garry Rodan argues that Capitalist development in South East Asia has deepened inequalities and disrupted established patterns of social power and interest, generating new political challenges for both entrenched elites and those at the political margins. In response, these forces have moved beyond traditional authoritarian and democratic institutional and ideological paradigms, constructing or pursuing new political representation and other modes of participation. The forms this takes and outcomes resulting reflect the specific coalitions of interest and dynamic conflicts underlying the different ways that capitalism and state power are organised across the region. Analysis of new institutions and ideologies of political representation in Singapore, the Philippines and Malaysia demonstrates his general argument.

Andrew Selth believes that over the past 50 years, the ability of Myanmar-watchers to research and write about their specialist areas has changed dramatically. Before 1988, when Myanmar was a military dictatorship, it was almost impossible to conduct primary research. Foreigners were restricted to seven day visas, access to officials was restricted and documentary sources were unreliable, if they could be found at all. Even after 1988, when restrictions were eased by the State Law and Order Restoration Council, scholars and journalists found it difficult to travel around Myanmar, interview people and obtain reliable data. Even official agencies with access to special sources described Myanmar an intelligence black hole. As a result, Myanmar was little known and poorly understood. Speculation and gossip tended to dominate the field, rather than carefully researched, objective studies by professional analysts. After the 1988 popular uprising, when Myanmar was thrust into the world's headlines, it became a popular subject for study and commentary but, encouraged by a worldwide opposition movement, published works were often coloured by moral and political considerations. Scholars competed with politicians and activists to describe developments inside the country, and Myanmar's place in the international community. Myanmar is now a different place. A semi-democratic government has been installed in Naypyidaw and there is much greater freedom of movement, expression and association. Scholars, students and journalists have flooded into the country to conduct primary research. The flow of learned (and not so learned) publications has dramatically increased. The government has published useful data on almost all aspects of the country. There have also been detailed surveys of the population, the economy and civil society by respected international organisations. Even so, there are still some major gaps in our knowledge. Key areas of Myanmar society are still very difficult to study. A case in point is the armed forces (Tatmadaw), which is arguably still the most powerful political institution in the country. Until such gaps are filled, a comprehensive understanding of Myanmar and its internal dynamics will remain beyond our reach.

Sokphea Young and Kheang Un examine the strategic survival electoral strategies employed in the case of Cambodia. They note how Bueno de Mesquita and his colleagues argued that regimes survive because of their winning coalition—a set of people who select or vote for the leaders. To remain in office, the leaders of authoritarian and hybrid regimes have to dole out their private goods to placate the winning coalitions, and to ensure their loyalty while leaders of democratic regimes have to utilise public goods to placate a large number of

winning coalitions. Yet, the argument has not delved substantially into, on the one hand, how electoral authoritarian regimes generate goods or wealth to placate the winning coalitions, and how the regimes deal with challengers to survive, on the other. To fill this gap, their paper postulates that, in electoral and hybrid authoritarianism, to survive, not only do the rulers of the regimes award and protect its winning coalitions, who form patron-client networks, to extract rent from viable resources to cultivate political support, but it also circumvents and co-opts the challengers.

Mun Vong and Kimhean Hok examine the everyday politics of Facebooking among Cambodia's youth. Their paper takes the critical view of online activism as its point of departure and explores how Cambodian youth's activities on Facebook have spilled over into formal politics. Contrary to concerns that Facebook and other social media tools distract activists from more effective means of political participation, their paper suggests that Facebooking has contributed positively to offline political participation and more importantly how the petty acts of discussing and sharing information on Facebook have on occasions (given the magnitude and favourable political context) succeeded in triggering changes in government decisions and behaviours. In developing these arguments, they draw upon everyday political perspectives which provide the theoretical ground to qualify Facebooking as political and to make sense of their significance.

Lucy West argues that 'Substantive' or 'thick' definitions of the rule of law, which are prevalent in political science and in international rule of law indicators, reflect Anglo-American common law assumptions about judicial independence and largely ignore the civil law tradition. Her research suggests that civil law-derived legal systems located in non-liberal socio-political environments such as Cambodia are highly unlikely to deliver 'substantive' rule of law outcomes. Cambodia's current legal system is considered a hybrid of French civil law, Cambodian customs and common law influences resulting from foreign assistance. Her paper presents a historical review of, and delineates conceptual approaches to, the rule of law and judicial independence in Cambodia. She argues that substantive rule of law reform in Cambodia is challenged by socio-political foundations and bureaucratic capacities, and that these problems are amplified by the hybrid nature of Cambodia's legal system.

Andrea Haefner examines how regional organizations are increasingly challenged with, and need to respond to, transboundary and global environmental problems. Ever more frequently, environmental issues that begin as matters of national concern rapidly become transboundary in scope. For example, the current surge for large hydropower development projects on the Mekong River impact on water and food security across national boundaries. Similarly, transboundary haze pollution is an almost annual occurrence in South East Asia; haze originates from peat and forest fires mostly in Indonesia, with Malaysia and Singapore suffering the worst of its effects. Using a political science lens, her paper draws on original research in the Mekong region and South East Asia with a special focus on regional environmental governance and the role of ASEAN in dealing with the transboundary challenges of haze pollution and water management. Using Laos and Indonesia as case studies, her key findings include that economic interests dominate among the riparian states in the Lower Mekong, and that Laos and other countries tend to confine their cooperation to infrastructural development rather than to consultation or management of potential adverse transboundary impacts of upstream development. Although the regional nature of the haze has resulted in a concentration of haze mitigation activities at the Association of South East Asian Nations level, these initiatives continually fail to effectively mitigate haze. She argues that these failures are due to the ASEAN style of regional engagement that prioritizes the maintenance of national sovereignty as opposed to shared regional interests. Other challenges include a general lack of concrete instruments that are able to translate regional commitments at an ASEAN level into national policy implementation; patron-cliental relationships; imbalance within the government agencies; and a lack of consideration for the cost of a healthy environment.

Yenny Tjoe examines how the Indonesian government's approach to economic development and rural poverty reduction has encouraged the migration of young people in rural areas, shifting from traditional subsistence farming to modern cash employment in urban areas or overseas. The undereducated usually offer their labour as palm plantation or construction workers (for males), or as domestic housemaids (for females). One of the consequences of such development is the increased risk of human trafficking among Indonesian migrant workers. Her paper examines the worker-sending program in Indonesia to illustrate how economic growth can lead to increasing human trafficking and human rights violations. In 2004, the Megawati administration privatized the worker-sending sector. Since then, the number of villagers recruited for work abroad has increased drastically, and many have been underage, exploited and abused in their countries of destination. The regions with the highest number of trafficked persons in recent years are West Timor and the surrounding islands within East Nusa Tenggara Province; most victims are illegal female migrants from poor rural families. Her paper includes a case study of the

government's policy on subsistence farmers in West Timor, and it investigates the roles of various institutions involved in the granting of permits, training, and the sending of migrant workers overseas. It then examines the national and regional stance on human trafficking—particularly that of the Indonesian government and ASEAN.

These essays offer revealing insights on a region that has been marked by major economic and political transformations in recent years. Perhaps the most visible of these trends is a substantial erosion of the prospects for democratic advancements in many South East Asian countries due to factors such as the rise of populist movements, a surge in religious sectarianism, illiberal sentiments, and the entrenchment of unaccountable political elites. These troubling developments, combined with economic and technological transformations that are increasingly reshaping the political landscape in South East Asia and elsewhere, represent key areas of focus for scholars working on the region.

In many respects, doing research on South East Asia is now easier than it used to be: field sites are more accessible, travel is more convenient, information on the region is more easily available and establishing personal networks is less daunting. Yet it is precisely the rapid pace of economic and technological transformation to make it more challenging to investigate the economic, political and social forces that are reshaping the region. A common theme in the essays collected in this volume is that these new challenges can be fruitfully addressed by designing research that combines questions of broad theoretical interest with in-depth knowledge of specific empirical settings. The research presented here speaks to crucial questions in social science, ranging from the implications of capitalist expansion for political representation to the emergence of new transnational linkages and the consequences of technological change for civic engagement. What makes these contributions especially valuable, in the context of South East Asia, is that they remind us the importance of historical legacies and contextual factors to understand how social and political power relations arise, consolidate and change in this diverse and dynamic region.

Capitalism, Conflict and New Political Representation in South East Asia

Garry Rodan

Introduction

In this essay two simple propositions are made. First, the development of market capitalism with its deepening inequalities and its disruption of established patterns of social power and interest generates new political challenges for both entrenched elites and those at the political margins. Second, the struggles for power unleashed within these processes do not simply take the form either of elites ramping up the instruments of authoritarian control or of broader populations seeking to enforce and to extend existing models of representative democracy. Rather, both elites and their opponents are moving beyond these institutional paradigms to construct or pursue their own models of participation, representation, and democracy with vastly different objectives in mind. For many entrenched elites, these initiatives are designed as political instruments to enforce and consolidate deepening concentrations of power and wealth and to domesticate opposition. For those on the margins of power, they are intended as the political vehicles for these concentrations to be dismantled.

Highlighted here is the central paradox in this general institutional recalibration of politics; namely that expanded political representation—in both its democratic and nondemocratic forms—is serving more to constrain political contestation than enhance it. South East Asia presents as an excellent locus for this study not because it is distinctive or different. On the contrary, it can serve as a theoretical laboratory for understanding dynamics between capitalist development and political regimes in general.

The central propositions above fly in the face of entrenched theories that link democratization with a deepening of market capitalism or which explain seeming diversions as aberrations and hybrid regime political systems. However, it is argued here that this presumed link is not so clear. Capitalism may mature and flourish in a varied range of political institutions—including those that are authoritarian in nature. Nor, it is argued, do democratic or representative institutions naturally serve the values or goals of equality and accountability. These institutions take many and varied forms and can just as easily be the instruments of oligarchy and despotism.¹

To be sure, since Huntington's influential thesis on a "third wave" of democratizations accompanying capitalist globalization there has been a reassessment of the pace, scale, and prospects of such transitions.² However, it is one thing to declare the end of the democratic transitions paradigm—grounded in various conscious and unconscious assumptions about how liberal democracy constitutes "real" and "natural" political change—as Carothers did a decade and a half ago.³ It is quite another thing to develop an adequate theoretical and conceptual framework to better identify, understand, and explain regime diversity—especially the emergence of various new forms of political representation.

There has been no more influential concept in trying to grapple with the reality of regime diversity at odds with earlier modernization theory than that of the "hybrid regime," understood as a mixture of authoritarian and democratic elements.⁴ However, here the influence of the transition paradigm persists through evaluation of predominantly formal institutions against liberal democratic ideal types. This also diverts analysis from how wider political economy relationships and conflicts concerning the ownership, control, and distribution of resources help shape institutions.

A major limitation of the hybrid regime approach is that we learn much about what these regimes *do not* do, but much less about what they actually *do*. By contrast, the approach here poses more fundamental and open questions than those preoccupying hybrid regime theorists, namely: what forms of political participation and associated representation are emerging, why, and what does this mean for regime directions? Integral to such inquiry are the questions of who promotes, supports, or opposes specific initiatives in, or reforms to, political representation and why? We particularly need to understand the significance of new forms and ideologies of representation for the ways that political regimes set the boundaries of institutionalized conflict.

Precisely because institutions structure political participation, they invariably privilege some interests and conflicts over others.⁵ This includes whether independent collective organizations are incorporated or bypassed in favor of attempts to promote more individualized and/or seemingly less politicized forms of group representation. Indeed, what is fundamentally at stake everywhere in struggles over institutions of political participation and representation is not the democratic integrity or functionality of political institutions per se. It is instead which interests these institutions serve.

Taking Non-Democratic Representation Seriously

The distinctive theoretical approach here conceptualizes political regimes as comprising modes of participation (MOPs) shaped by the following fundamental interrelated dynamics: social conflicts over power and the interest coalitions that form around them under capitalist development; the institutional manifestations of these struggles as contending forces variously attempt to contain or expand the scope for legitimate political conflict; and the mediating influence of ideology shaping the conduct and outcomes of these struggles.

In sharp contrast with liberal pluralist understandings, the MOP framework views political institutions within the context of a wider exercise of state power inseparable from deeply rooted social conflicts. These conflicts of course vary in nature and intensity across and within countries. However, the framework emphasizes that tensions over, and coalitions of interest attached to, historically specific forms of capitalist development are pivotal in struggles over participation and representation. We cannot understand which conflicts emerge as most contentious, nor the key battle grounds over institutional and ideological responses to them, without this analytical emphasis.

Therefore, the MOP framework enquires into how and why institutional structures and ideologies shape the way different actors and conflicts are included or excluded from parliamentary and extraparliamentary politics. These modes condition who gets what, when, and how—the definitive questions of politics everywhere, according to Lasswell.⁶ They are pivotal to whether and how conflict over material inequalities, corruption, environmental degradation or human rights abuses, for example, is addressed, contained, or compounded. The MOP framework particularly highlights the rise of new state-sponsored or state-controlled modes that have emerged in both democratic and authoritarian regimes, and their fundamental importance to influencing these different possible outcomes.⁷

An especially original aspect of the MOP framework developed here is the introduction of two concepts of nondemocratic ideologies—consultative and particularist—alongside more established categories of democratic and populist ideologies. Consultative ideologies are imbued with a technocratic, apolitical notion of participation as problem solving, and eschew political competition. Particularist ideologies emphasize the rights to representation of discrete identities and communities based on ethnicity, race, religion, geography, gender, and culture. These ideologies loom large in elite strategies to foster depoliticization and the political fragmentation of their critics and opponents. Typically, the sorts of institutions that these two ideologies give rise to eschew independent class-based organizations, such as independent trade unions, or seek to dilute class conflict by fostering different bases of political representation, for example with region-based identities.

Consultative ideologies principally provide support for a wide range of state-based or state-sponsored advisory and public policy feedback bodies as well as local level participatory institutions established in conjunction with international aid agencies to address problems of social and economic development. These ideologies have a remarkably wide appeal and tactical political utility. Technocratic authoritarians, liberals, and leftist radicals alike have either embraced or sought to exploit consultative ideologies to reproduce or recast the institutional limits to political contests.

To be sure, consultative mechanisms or particularist affirmative action can serve as a complement, or an alternative, to democratic representation. Yet where various new modes of participation may fall short on democratic criteria this in no way diminishes their importance. They are vitally important precisely because in many instances they are integral to strategies by elites to perpetuate their rule and/or to intra-elite struggles that shape the boundaries of permissible conflict. These new modes can also have unintended consequences such as heightened scrutiny of, and pressures on, elite governance strategies, as some forces attempt to exploit official ideologies about opening up politics. Because specific sociopolitical coalitions of interest and ideology vary across models of capitalist development, though, so too do the forms and outcomes of different struggles over representation.

There are profound differences to the ways that capitalism is organized and the interests most benefiting from these arrangements. Consequently, there are variations in the nature and intensity of conflicts over the distribution of the benefits and costs of capitalist development in each country. Elite political strategies attempting to contain this conflict through new MOPs, and their effectiveness, also necessarily diverge. In particular, as specific concerns over rising material and social inequalities have mounted in each country, recourse to and the impact of consultative and particularist institutions and ideologies of representation is far from uniform. South East Asia demonstrates this point.

Inequality and Representation in South East Asia

Consultative ideologies resonate strongest with the interests of technocratic politico-bureaucrats under state capitalism and authoritarian rule in Singapore, where state-sponsored participation has most proliferated. In the Philippines, private concentrations of wealth and power by capitalist oligarchs enable these interests to exploit electoral institutions and ideologies of representation, sometimes fused with particularist ideological appeals. Yet acute oligarchic political dominance also periodically fuels coalitions of liberal technocratic elites and middle class NGO activists pursuing governance reform and community participation, variously embracing or tactically exploiting consultative representation ideologies. In Malaysia, particularist ideologies of ethnicity, race, and religion are pivotal to rationalizing a coalition of interests between ethnic Malay political, bureaucratic, and economic elites. The primacy of ethnic Malay political supremacy and related state patronage of a Malay bourgeoisie have rendered technocratic institutions and ideologies of consultative representation much more problematic for the Malaysian political regime.

Nowhere has it been more emphatically demonstrated that capitalist development and authoritarian rule can be viable partners than in Singapore. Yet the partnership has faced challenges and involved creative new elite strategies to contain conflict. Capitalist development combining economic globalization and state capitalism had, by the 1980s, resulted not just in extended resources and powers of politico-bureaucrats across economic, social, and political spheres. There was also significant expansion of the professional middle class. Meanwhile, competitive pressures on labour and domestic business associated with Singapore's niche in global manufacturing processes were exposing the limitations of established forms of political co-option. The People's Action Party's (PAP) therefore introduced new structures and ideologies of consultative representation to reduce the attraction of opposition parties and to bypass or control independent intermediary organizations in general. This was a project of expanding the political space of the PAP state, including through the introduction of nominated members of parliament (NMPs) and then on new mechanisms for policy feedback and suggestions by the public.

Introduced in 1990, Singapore's NMPs are appointed by a parliamentary committee after receiving public nominations meeting specified criteria. The scheme reflected PAP concerns about rising electoral support for opposition parties, a pattern that appeared to be subsequently arrested or contained. However, rising material and social inequalities and questions about the environmental sustainability accompanying capitalist growth would give rise to increased opposition electoral support by the turn of the century. NMPs nevertheless remain an integral and effective part of the PAP's broader and evolving strategy of consolidating political fragmentation in order to organizationally and ideologically contain political conflict through consultative representation.

That strategy includes the public policy feedback institution—the Feedback Unit, which was introduced in 1985 and renamed Reaching Everyone for Active Citizenry @ Home (REACH) in 2006—providing individuals and selected social groups opportunities for participation. Following the 2011 election, a new initiative in state-controlled public policy dialogue also emerged—Our Singapore Conversation (OSC)—in an attempt to bolster the avenues for, and appeal of, consultative representation. Government policy adjustments to arrest its electoral drift were depicted by PAP leaders as informed by OSC feedback—not a response to greater voter support for opposition parties. Interpreting a 9.8 percent swing back to the PAP at the 2015 polls as evidence of the success of these strategies, the PAP has projected more expansive and diverse forms of state-sponsored and state-controlled public feedback.

In postauthoritarian Philippines, oligarchic elites have sought not to consolidate a cohesive and tightly-controlled form of state power as in Singapore. Their challenge is instead how to blunt reformist forces critical of informal networks of oligarchic power over state power. The new MOPs that have emerged, though, are as much sites of

struggle *between* reformers of different ideological orientations as they are for attempts to rein in oligarchic powers.

Unlike in Singapore, the introduction in the Philippines of a Party-List System (PLS) of representation in Congress involved democratically elected rather than appointed representation. Yet the PLS was, and remains, an institutional initiative for both containing and expanding the extent and scope of permissible conflict under democratic politics: a compromise by elites in the face of popular disenchantment with the rapid reassertion of oligarchic elite power following the collapse of the Marcos administration and authoritarian rule. Elites looked to the PLS to contain the possibility of unpredictable populist alternatives amidst widespread popular concerns about acute poverty and corruption accompanying capitalist development in the Philippines. Moderate and radical reformist forces, by contrast, hoped to eke out some influence within Congress to air these concerns. Entrenched elite interests have generally prevailed in this struggle, exploiting the PLS to increase their representation and power in Congress. Meanwhile reformist forces have politically divided through multiple small parties and policy foci promoted by the PLS.

The tightened grip of oligarchic power over Congress and the limits this places on economic and social reform helps explain the emergence of new modes of extra-parliamentary participation in the Philippines. Poverty alleviation strategies of the World Bank and other multilateral aid agencies particularly struck a chord with select technocratic reformers in government and elements of the NGO community seeking opportunities for direct participation in development projects. With the 2010 election of Benigno Aquino III as president and the introduction of Bottom-up Budgeting (BUB), this direction was reinforced through popular participation in the selection of publicly funded local government projects to combatting corruption. However, BUB supporters differed over which civil society forces should be empowered, how much, and on what issues. Particularly contentious was the extent to which organizations representing workers and peasants and advocating radical reforms were encouraged or excluded from participation. Significantly, one of the first decisions in 2016 under the presidency of the Rodrigo Duterte was to abandon BUB. In Duterte's populist ideology, greater store is placed on his direct representation of the poor rather than on the building up of intermediary organizations, whether justified through democratic or consultative ideologies.

Significantly, in struggles over representation in both authoritarian Singapore and in the Philippines where there is more contested political space, consultative ideologies have been and remain integral to struggles over representation. This is despite the challenge elites face in both regimes of trying to manage or avert unintended consequences from promoting consultative ideologies and institutions of representation. In sharp contrast, though, these technocratic ideologies have not sat comfortably with the interests and racial rationale underlying economic and political regimes in Malaysia. Elites have thus been less adept at depoliticizing conflict through new MOPs. This has been exposed with increased urbanization, rising material inequalities, and intensified public concerns about state corruption accompanying capitalist deepening.

To be sure, Malaysia's *Barisan Nasional* (BN, National Front) governments have undertaken significant but failed experiments in consultative representation, most notably through the 1989–1990 and 1999–2000 National Economic Consultative Councils (NECCs). The NECCs incorporated a range of party-political, NGO, and civil society organization (CSO) actors to advise Cabinet on major development plans. However, Cabinet acted very selectively on NECC recommendations, eschewing governance reform proposals that could compromise the discretionary powers and patronage systems integral to the political supremacy of the BN lead party, the United Malays National Organization (UMNO), and promotion of an ethnic Malay bourgeoisie. By the end of the first NECC popular expectations and hopes for reform through this new mode of participation had diminished. The second NECC confirmed this. Thereafter, the institutional and ideological significance of consultative representation for engaging popular forces was substantially diminished, although it would retain some periodic importance for managing intra-elite conflict over economic governance. Technocratic administrative incorporation of select experts into state policy deliberations would also be explored under President Najib to try and contain wider conflict and structural problems of the capitalist development model, but with no greater success.

The failure of the NECCs increased the likelihood of alternative MOPs emerging to contest the limits of political contestation intended by the BN. This is exactly what transpired, and in such a way that it was doubly threatening for the existing authoritarian regime. Not only would reformers focus on the need to ensure the democratic integrity of electoral institutions, but mass demonstrations would also become an integral alternative MOP for advancing this agenda. Most alarmingly for the BN, when the independent civil society movement *Bersih* (*Gabungan Philihantaya Bersih dan Adil*, Coalition for Clean and Fair Elections), emerged in 2007 it comprised new

multiethnic coalitions of *BN* opponents and critics. There was also a push from various civil society and party political forces for the reintroduction of local government elections, discontinued in 1965 in favour of state-appointed councillors.

Yet both the *Bersih* movement and the local elections reform coalition contained their own contradictions that made it difficult to forge a sustainable ideological agreement on the purpose and content of democratic political representation reform. Focus on procedural reform to electoral and related institutions could not resolve underlying tensions between liberal emphasis of meritocracy and political liberties on the one hand, and concerns about social and material inequality on the other. In the absence of an alternative social redistributive reform agenda, ethnic Malay support for *Bersih*, as well as for the reintroduction of local elections, remained vulnerable to the appeal of particularist ideologies and ethnic-based affirmative action policies of the *BN* government. Consequently, *Bersih* fractured in 2015 at the very moment that a corruption scandal involving Prime Minister Najib and a state development company generated political crisis and polarization.

Conclusion

The emergence, reproduction, and attempts to change modes of participation within the state can only be understood in relation to wider social conflict over what interests should be advanced or blocked through political institutions. They also show that ideologies of political representation are integral to the struggle between competing social and political forces over containing or expanding the space and nature of conflict permissible within those institutions. In particular, these case studies shed light on how and why a range of nondemocratic institutions and ideologies often enjoy support from various forces—within and beyond elites. These institutions may appear to be dysfunctional from a “quality of democracy” perspective, but certainly not to the forces and interests instigating and/or defending them.

Ultimately, what matters is what conflicts are institutionally and ideologically possible through MOPs. This is what the struggle between different forms of representation is principally about: the scope for political contestation and whether or not this extends to scrutiny and reform of powerful interests or is limited to changes at the very margins.

Research Challenges for Myanmar-Watchers

Andrew Selth

Introduction

Before it was thrust into the world's headlines by the 1988 pro-democracy uprising, and became a popular subject for academic studies, activist polemics and stories in the international news media, Myanmar was little known and even less understood. For centuries, it was overshadowed in the public imagination by its larger neighbours. It also remained hidden behind a persistent veil of myths, misconceptions and misunderstandings. Even after three wars with the British, the fall of the royal capital of Mandalay, and the country's final annexation in 1886, the country remained a mystery.

Before the Second World War, even those who knew of Myanmar's existence rarely recognised it as a separate colony (which it became in 1937), let alone a country with its own unique history and culture. During the war, Myanmar played a critical role, but the Allied forces deployed to the 'China-Burma-India' theatre justifiably complained that they were 'the forgotten army on the forgotten front'.⁸ In 1957, the eminent historian Hugh Tinker observed that 'To the average Englishman Burma conjured up one poem and perhaps a short story by Kipling — Kipling, who spent three days in Burma'.⁹

Myanmar was just an occasional blip on the international radar screen. It would take a nation-wide protest movement in 1988, the emergence of a charismatic figure like opposition leader Aung San Suu Kyi and a global telecommunications revolution for Myanmar to regain the world's attention and, finally, become widely known. Even then, however, Myanmar-watchers and other researchers continued to encounter challenges.

Research Challenges

After Myanmar regained its independence from Great Britain in 1948, it began to recover from centuries of scholarly neglect, but progress was effectively halted by the advent of Ne Win's military government in 1962. For the next 25 years, visitors were only granted visas for short periods, access to officials and official records was restricted, and little confidence could be placed in government statements or statistics. The state-controlled news media published propaganda. The few foreign scholars granted access to the national archives were closely monitored. It was also difficult to travel around the country, large parts of which were declared out of bounds for security reasons. As David Steinberg wrote in 1978:

Burma could be considered *terra incognita* in the contemporary sense, where crucial statistics are often lacking, where available data are often contradictory, and where public distribution of material is controlled.¹⁰

As a consequence, research publications based on field work were rare.

Another characteristic of the Ne Win era was the division of Myanmar studies into 'research from within' and 'research from without'.¹¹ Under the colonial regime, and during the 1950s, there was a small but vibrant community of Myanmar scholars. However, under Ne Win, academic research was strictly controlled. One result of the demand for intellectual orthodoxy was a split between national and international research traditions. 'Research from within' tended to focus on Myanmar as a national entity, while 'research from the outside' focussed on specific aspects of Myanmar.

In addition, before 1988 Myanmar's political and economic status attracted little international attention. There were several notable exceptions, but academic research during this period was dominated by anthropologists and cultural historians. The country's long-running ethnic and ideological insurgencies were monitored by a select group of analysts and a few foreign correspondents, but due to the lack of information such issues rarely featured in the news media. Official agencies with access to special sources described Myanmar an intelligence black hole.

After 1988, a number of restrictions were eased by the State Law and Order Restoration Council (SLORC), but an accurate and balanced picture of developments in the country was still hard to obtain. David Steinberg outlined the situation in 2001:

Myanmar presents problems — problems of analysis and even data. Statistics are often whimsical, events are sometimes opaque, the complexity of the past clouds our thinking, information is filtered through skewed political lenses, propaganda is rife, and the future presents conundrums even for participants in this drama, let alone observers on the periphery.¹²

The travel writer Emma Larkin expressed similar views in 2010:

Given the regime's restrictions on information and association, it is difficult to form any public consensus or verifiable version of the truth. While certain events can be accounted for with certainty, there is much that remains unknown. Like those blind men in the parable [trying to describe an elephant from different vantage points], it has become impossible for anyone to see or fathom the beast in its entirety.¹³

A measure of the problems encountered by researchers during the post-Ne Win period can be gauged by the fact that this passage was written by a resourceful observer who spoke Burmese and was able to travel and speak to the local population more easily than most other foreign visitors.

Reporting Challenges

Most of these problems stemmed from the restrictions imposed by the military regime and the difficulty of reporting accurately on what was still an isolated and undeveloped country. After 2011, when the armed forces (Tatmadaw) handed over direct power to a moderately reformist government under President Thein Sein, conditions eased. This process was taken further by Aung San Suu Kyi's quasi-civilian administration, which took office in 2016. That said, students of Myanmar still need to beware of publications that do not meet the high standards expected of scholars and professional pundits.

By way of illustration, it might be helpful to look at a few past cases which, in different ways, demonstrate a lack of the required intellectual rigour.

One of the best known examples of inaccurate reporting was the claim that China had established military bases in Myanmar. This notion was first raised by a Japanese news service in 1992. The tale grew in the telling, with each subsequent reference including increasingly exaggerated claims. Before long, observers were treating as established fact reports that China maintained a large and sophisticated signals intelligence collection station on Myanmar's Great Coco Island. In 1998, even the Indian Foreign Minister referred to 'a massive electronic surveillance establishment' in Myanmar.¹⁴ Yet, in 2005, India's armed forces chief acknowledged that the story was a complete fantasy.

In another case, that of Myanmar's nuclear program, it is possible to see how a kernel of fact, plus some circumstantial evidence, gave rise to exaggerated claims and unsupported arguments. A good case could be made that Myanmar was interested in constructing a nuclear reactor, and was conducting small scale experiments relevant to a weapons program. Yet, these facts soon became inflated into a major threat. Before the story collapsed in 2011, claims were being made that Myanmar had built two reactors, and was well on the way to acquiring a nuclear weapon by 2014, and a 'handful of devices' by 2020.¹⁵ These claims were unsupported by evidence and have since been discredited.

In discussing Myanmar's nuclear status, the International Institute for Strategic Studies observed that 'Clouding the picture even further, Myanmar has long been at the centre of a highly politicised, and highly polarised, debate over the most effective way to deal with the repressive military government, ensconced since 2005 in Naypyitaw'.¹⁶ This statement points to another problem that has dogged Myanmar studies ever since 1988. Objective, evidence-based analytical studies have had to compete for attention with a host of stories and commentaries in the news media and online that can only be described as advocacy.

There have also been numerous reports that have lacked nuance, included sweeping generalisations or offered simplistic binary interpretations of developments. For example, during the so-called 'Saffron Revolution' in 2007 Myanmar's Buddhist monks were cast as the heroic representatives of popular opposition to the generals, while

the armed forces were cast as brutal villains. Few reports explained that the Buddhist hierarchy was divided over the protests, and many monks resented their demonstrations over cost of living increases and insults to the sangha being hijacked by pro-democracy campaigners.

All these problems have clouded the ability of observers, and members of the general public, to make accurate, balanced and sensitive appraisals of developments in Myanmar. To help understand such problems, it might be instructive to examine three case studies.

Case Study 1: Surveying Public Opinion

Given the restrictions imposed by the military regime before 2011, gauging the popular mood in Myanmar was always fraught with risk. Structured assessments of public opinion were largely forbidden. There were occasional household surveys and attempts by embassies and international organisations to sound out target groups about specific issues. However, access to all parts of the country was difficult and the regime's coercive apparatus was so pervasive that there was little prospect of gaining an accurate result.

As a result, Myanmar watchers were reliant on fragmentary information derived from small numbers of personal contacts, anecdotal sources and gossip. Whenever there was a major incident of any kind, the Yangon rumour mill went into overdrive, adding to the difficulties of sorting out fact from fiction. This did not prevent educated speculation about what people in Myanmar felt about certain issues, but such judgements lacked hard, empirical evidence. Since 2011, however, it has been possible to conduct comprehensive surveys that give more reliable views of public opinion.

Two surveys, conducted by US institutions with the support of foreign governments, stand out.

The first was published in April 2014 by the International Republican Institute (IRI), with the backing of the United States Agency for International Development. Entitled *Survey of Burma Public Opinion, December 24, 2013-February 1, 2014*, it canvassed the views of 3,000 adult men and women from 208 rural and 92 urban locations in all 14 states and regions of Burma.¹⁷ Not surprisingly, the survey showed that there was overwhelming support for democracy as the most desirable form of government, although peoples' understanding of what 'democracy' actually meant seems to have differed widely.

The second survey was also released in 2014. It was conducted by the Asia Foundation, with help from the Australian Department of Foreign Affairs and Australian Aid. Entitled *Myanmar 2014: Civic Knowledge and Values in a Changing Society*, it was conducted in May and June that year.¹⁸ It too sought the views of 3,000 respondents across all states and regions, once again through personal interviews. This survey was more comprehensive than the IRI exercise, and yielded more nuanced results. It found that there was limited knowledge about the structure and functions of Myanmar's central and regional governments, particularly at the subnational level.

None of these conclusions were surprising to those who followed Myanmar closely. Also, there was still a dearth of reliable information about many critical issues, such as the political views of the armed forces leadership. Another difficulty was the continued reluctance of people to speak publicly on controversial issues, such as the future role of the armed forces, the behaviour of the Myanmar Police Force and so on. However, these and other surveys, such as one conducted by the BBC in 2013, have provided the basis for more reliable judgements about the public mood, and the hopes and fears of the Myanmar population. Ideally, they should result in better informed policy decisions.

Case Study 2: Discussing Security Issues

Since 1988, Myanmar-watchers have paid close attention to security issues. Their efforts have highlighted the pitfalls that lie in wait for the unwary. For example, it has proven impossible to determine the actual size, budget, order of battle and military capabilities of the Tatmadaw. Nuclear and missile issues have also tended to generate more heat than light. This is perhaps to be expected, given the dearth of reliable information on these sensitive issues, the emotive nature of the subject matter and the fact that Myanmar-watching became highly politicised. Yet there may be another reason why the debate has at times been unproductive, and that is the nature of the language employed.

Academics and other professional analysts are under pressure to write deliberately, and to choose their words with care. They are encouraged to pay forensic attention to terminology. Reputations and important policy decisions can hang on questions of accuracy and balance. This emphasis on precision, however, is not usually characteristic of journalists and activists. There are exceptions of course, but the interests of these groups lie more in telling a good story or promoting a particular political line. Also, some Myanmar-watchers have not been familiar with the relevant technical issues, leading them — in the words of one former International Atomic Energy Agency inspector — to be ‘very loose with terminology’.¹⁹

The result has been a large number of articles and blogs which make casual and misleading references to quite specific issues. To a certain extent this is inevitable, and understandable. The news media demands concise stories written in simple prose that can be easily understood by non-specialists. Advocacy groups appeal to a mass audience that is more likely to respond to catchy phrases and dramatic claims. Even professionals sometimes resort to familiar terms and phrases in order to refer economically to complex issues, or to convey subtle arguments, particularly when writing for a public audience. At times, however, this can cause confusion and take the discussion in unhelpful directions.

For example, there have been many references to Myanmar’s ‘nuclear program’. Yet it is not always clear whether the author is referring to the country’s peaceful nuclear research program or a secret military program which some claim was launched by the military regime with North Korean help. Indeed, the term ‘program’ itself means different things to different people. To specialists, a program is a systematic plan to reach a specific goal, accompanied by the full panoply of political endorsement, bureaucratic oversight, budgetary allocations, dedicated infrastructure, assigned personnel and technical support. Myanmar’s interest in nuclear technology does not seem to have met these criteria.

To take another example, there have been numerous reports about Myanmar’s wish to acquire ‘missiles’. Yet it is rarely stated what kinds of missiles are being referred to. Myanmar has long had an interest in buying or manufacturing a wide range of such weapons, including surface-to-surface missiles, surface-to-air missiles, air-to-air missiles, anti-ship missiles and anti-tank missiles. Even when a reference is made to ballistic missiles, a distinction needs to be made between tactical, short-range, medium-range, long-range and inter-continental weapons. Each kind has quite different technical characteristics and more importantly different values as military and political weapons.

Raising issues of this kind will doubtless strike some as nothing more than academic pedantry, or a futile attempt to impose specialist criteria on the wider public discourse. However, it would not take much to raise the level of an important debate that demands accuracy and mutual understanding. Also, it is worth bearing in mind that discussions of this kind not only influence popular perceptions, but also consideration of official policy.

Case Study 3: Analysing Aung San Suu Kyi

Aung San Suu Kyi was once hailed as ‘the bravest and most moral person in the world ... the immaculate heroine who allows us all to feel a little better about human nature’.²⁰ When she took power in 2016, most thoughtful observers accepted that popular expectations were unrealistically high. Even so, few expected that she would fall from grace so quickly, or become the target of so much bitter invective, mostly from the same foreigners and foreign institutions which had once idolised her. Faced with this dramatic reversal in her reputation, the question is being asked; how did analysts (and others) get Aung San Suu Kyi so wrong?

For the 15 years she was a prisoner of conscience, the cult of personality surrounding Aung San Suu Kyi made her a household name and boosted her cause, but it had a downside. In journalistic and even academic circles she was rarely subjected to the same critical analysis as other world figures. When more objective Myanmar-watchers pointed out examples of her occasional poor judgement and tactical missteps, or suggested that, like everyone else, she had character flaws, they were subject to an avalanche of abuse. This silenced many commentators aware of her imperfections or who disagreed with her decisions. Even some professional analysts self-censored what they wrote about her.

Doubtless, in private counsels and confidential reports prepared for senior officials, diplomats and strategic analysts took a hard-headed approach and produced unvarnished assessments of Aung San Suu Kyi’s character, political skills and suitability for high office. Presumably, they also warned that she would not always be able to avoid controversial decisions by referring to broad principles and abstract concepts. However, the recipients of such

assessments were unlikely to share them with the public. Thus the net effect of the global campaign being waged on her behalf was to strengthen the popular image of her as being without fault or peer.

Particularly among human rights campaigners, there now seems to be a strong sense of loss, even betrayal. They feel badly let down by a figure who was once considered the custodian of their most treasured ideals, someone who was different from other politicians, someone in whom all people of goodwill could place their complete trust.²¹ Almost like spurned lovers, these former admirers now seem to be lashing out with extra force against someone once held dear, giving a particularly sharp edge to their comments.

Whatever may emerge from the future analysis of modern Myanmar, Aung San Suu Kyi's reputation as a champion of universal human rights has been irreparably damaged. Her extraordinary achievements over decades, both as a prisoner of conscience and an inspiration to millions in Myanmar and elsewhere, will be forever cast in shadow. She had so far to fall, however, because the international community raised her up so high. She was rarely judged against the same criteria as other world figures. Less journalistic hyperbole and more measured scepticism along the way would have resulted in a more accurate and balanced view of her natural strengths and weaknesses.

Conclusion

Since the 2010 elections, much has changed, and much has remained the same in Myanmar. Two quasi-democratic governments have been installed in Naypyidaw and there is now much greater freedom of movement, expression and association. Official bodies have published data that has filled gaps that had existed for decades. Scholars, students and journalists have flooded into the country to conduct research, or simply to travel and become more familiar with a country that for decades was cut off from mainstream academic studies. The flow of learned (and not so learned) publications on a wide variety of subjects has become a flood.

Even so, there are still areas of Myanmar society that pose research challenges. A case in point is the Tatmadaw, which is still the most powerful political institution in the country. Until such gaps are filled, a comprehensive understanding of Myanmar and its complex internal dynamics will remain beyond reach. Also, the harsh military crackdown against the Rohingyas in 2017 has aroused strong emotions around the world. Once again, Myanmar's government and armed forces are the targets of passionate denunciations in the press and online. Not all stand up to scrutiny. While her own administration has been guilty of peddling 'fake news', Aung San Suu Kyi was not entirely wrong when she pointed to 'an iceberg of misinformation' about contemporary issues.²²

In these circumstances, Myanmar-watchers still need to exercise caution in evaluating rumours, gossip and news reports about current developments. Despite all the changes inside the country over the past few years, the same high level of intellectual rigour is required to determine what is happening, why and with what consequences. This can only be done through balanced, objective and evidence-based research.

Strategic Survival of Electoral Authoritarian Regimes: The Case of Cambodia 1993–2016

Sokphea Young and Kheang Un

Introduction

For many years, scholars have debated the durability of hybrid or authoritarian regimes.²³ In their selectorate theory, Bueno de Mesquita, Smith, Siverson and Morrow postulate that leaders of a regime survive because of their winning coalitions, known as sets of people who support the rulers to remain in office or power.²⁴ In nondemocratic or hybrid regimes, the winning coalition is a group or a set of people who possess power to keep the leaders in office, and in democratic regimes, is a set of people who select or elect the leaders. Furthermore, Bueno de Mesquita et al. assert that to maintain office tenure by keeping the winning coalition loyal, the ruling parties have to design appropriate policies, especially concerning the distribution of private and public goods, to not only serve vested interests of the winning coalitions, but also to entice all of the electorate or society. In democratic regimes where the winning coalition is large, the regimes distribute public goods; however, in authoritarian or hybrid regimes where the winning coalition is small, the regimes distribute private goods to keep their supporters loyal. Despite being praised by a number of scholars²⁵, Bueno de Mesquita et al.'s conceptualization has raised two puzzles: (i) how regimes generate goods (wealth) to entice the winning coalition; and (ii) how the regimes deal with challengers, especially in hybrid regimes. As a contribution to resolving these puzzles, this paper draws upon evidence from the Cambodian case where a hybrid regime has survived over two decades.

This paper postulates that to survive, not only do hybrid regimes award and protect the rent extraction of its winning coalition's patron-client networks to cultivate political support, but also to suppress and co-opt the regime's challengers. This winning coalition includes the companies, business tycoons, politicians, government bureaucrats and military personnel who are close to Prime Minister Hun Sen and the ruling Cambodian People's Party (CPP).

Methodologically, this paper employs process tracing based on qualitative field research data conducted in a number of phases over the past three years and the existing literature including scholarly works and reports by government and non-governmental organizations. Given the political sensitivity of the research topic, our field research faced some difficulty at times in interviewing people, particularly government officials. However, such difficulties were eased by the co-authors' experience conducting research in Cambodia and their established relationships with government, NGO and community network personnel. All interviews were conducted in the Khmer language.

This paper consists of three parts. First, it reviews the selectorate theory of the logic of political survival and contends that Bueno de Mesquita and his collaborators have not delved substantially into how leaders of hybrid regimes generate goods, especially private goods, to entice the winning coalition to remain loyal, how they mobilise popular support, and how they deal with challengers. Second, the paper provides in-depth empirical analysis using the Cambodian case to trace how Prime Minister Hun Sen and the Cambodian People's Party (CPP) have been able to remain in power for over two decades through personal wealth accumulation and patronage handouts, and the employment of force and electoral manipulation. The conclusion suggests modification of the selectorate theory to include such variables as generation of public goods, and use of manipulative measures for it to have broader explanatory powers for cases of regime durability particularly those within the hybrid regime category.

Conceptualising the Logic of Regime Survival in Hybrid Regimes

Although the identification of the winning coalition in a regime can be difficult,²⁶ Bueno de Mesquita et al. contend that, to maintain office tenure, the rulers of a regime have to design institutional policies, especially in relation to

the handling of private and public goods in order to purchase continued support.²⁷ In democratic regimes, where winning coalitions are large, the rulers dole out public goods. In authoritarian or hybrid regimes, where the winning coalition is small, the rulers utilise private goods to maintain the loyalty of the winning coalition. However, their conceptualization does not explain the winning coalition's access to national resource rent that permit them to cultivate their personal wealth and to dispense patronage based public goods and personal gifts in exchange for electoral support.

Patron-clientelism politically motivates the distribution of favours that aim at promoting personal political interests. This form of favour of patron-client network is employed as a mechanism of rent extraction in various regimes. Drawing on works by Khan and Sundaram, and Dunning, this study defines 'natural resource rent' as a super-normal level of profit involving a particular type of natural resource extraction that accrues to not only firms but also political elites or winning coalitions who possess power over natural resource allocation in a specific sovereignty.²⁸

Although the argument on the relationship between rent-seeking and authoritarian durability are based on oil rent and mineral extraction, natural resource rents in this study include land for agricultural investment, water for hydropower development, pasture land and forests.²⁹ In Indonesia during the Suharto regime, and the Philippines during the Marcos regime, for example, the rulers awarded political elites, rents seekers, and foreign investors rights to extract rents from forest and timber.³⁰ Resource booms in these countries supported the rulers' survival and office tenure. In this study, rents also include proceeds from bribes extracted by government officials from firms and the general public and slush funds taken from the government budget.

In addition to resource rent extraction by the winning coalitions, the ruling party elites employ different mechanisms to survive. In hybrid regimes, the ruling party/elite also manipulate the electoral process to ensure their electoral victory, and repressive measures to ensure their survival.³¹

Cambodia's Electoral Authoritarianism and its Survival Strategy

Since 1979, Cambodia has undergone several phases of political and economic transition including from civil war to peace and from a planned economy to a free market economy. Since the 1993 internationally imposed multi-party elections Cambodian democratization has evolved into electoral authoritarianism wherein multi-party elections are present but the process surrounding the elections have been unfree and unfair, and civil and political liberties have been limited.³² The country, in other words, has been under the tight control of the CPP and its leader, Prime Minister Hun Sen.

This section argues that Cambodia's contemporary regime has survived because of four factors. First, Prime Minister Hun Sen/CPP entices the winning coalition's patron-client networks to extract rent from both natural resources and public goods. Second, access to rent permits the Prime Minister Hun Sen/CPP to cement unity within the winning coalitions and to extend their patronage to voters. Third, with strong support of the winning coalitions and their patronage networks, the regime manipulates the electoral institutions and process to ensure its electoral victory. Last but not least, to cling onto power, Prime Minister Hun Sen/CPP repress, when necessary, and co-opt, when possible, challengers such as opposition parties and civil society organisations.

Networks of the Winning Coalitions

In order to maintain domestic and international legitimacy, the ruling elites need to win elections with some credibility. To achieve this goal, the CPP has relied on party-working groups.³³ These groups operate based on patron-client networks linking village members/activists vertically to central patrons—Prime Minister Hun Sen and other top party-cum government officials. There are two types of working groups: one led by a politico-commercial elite, and another led by senior ranking government official-cum-party members.

These party-working groups, especially the chairs, play a crucial role in raising funds from internal and external sources for development projects in designated districts, communes and villages. Internally, each working group through its chair raises money from his/her clients who are government officials and businessmen. Externally, the party-working groups raise money from donors, including international NGOs and multilateral and bilateral donors, businessmen, and overseas Cambodians. Likewise, the money is used, not only to entice the local activists of the party, but also to improve or build infrastructure – roads, schools, ponds, wells, bridges, canals, and pagodas.³⁴

Usually, and especially before elections, the party working groups visit their areas quite frequently to distribute cash and other gifts (including rice; fermented fish and clothing) to activists and party members.³⁵

Pak provides a close examination of one district working group which is headed by a businessman and an advisor to Prime Minister Hun Sen.³⁶ Pak further points out that the working group chair distributed about US\$2,000,000 between 2003 and 2007 for various construction projects. The district is comprised of ten communes, and thus, each commune has received at least US\$200,000 during that period. This budget was spent on infrastructure projects, and other supports such as housing and wells. Another working group, which is headed by a high-ranking government official, regularly contributed about US\$150,000 to a commune across five years (2003–2008). This amount is three times larger than the commune's funds allocated by the central government's decentralization budget for that period.³⁷

Awarding and Protecting Winning Coalition's Rent Seeking

To mobilise the loyalty of the winning coalition, the central patron of the regime allows the winning coalitions' party-working groups to extract rent from both natural resources and public goods such as foreign aid, tax revenue, and state budgets. The patron also allows these working groups to engage in bribery in exchange for public services, licenses and contracts for personal enrichment and for party campaign activities.

Public goods manipulation and rentier

Evidence of manipulation of public goods in several service delivery institutions have been well documented. In public services, households and businesses need to pay bribes to receive services, licenses and permits. Not only has such corruption permeated public services, but it has also suffused into development aid projects. The World Bank has revealed that households also rated the courts, custom and tax administration, and traffic police at a poor level. In return for public services, 53% of urban households, 43% of rural households, and 68% of foreign businesses are reported to have bribed civil servants. In 2006, the World Bank discovered irregularities in procurement for its projects on land management, peri-urban water supply and sanitation, and provincial and rural infrastructure. After the World Bank suspended the disbursement for the projects, the government agreed to repay the missing funds, and pledged to improve efficiency and transparency in the implementation of the Bank's funded projects.³⁸

Widespread corruption is also found within the land management sector. Taxes constitute the largest portion of the cost of land registration. Tax officials manipulate the amounts to be levied on land needing to be registered. Between 60% and 70% of the transaction cost goes to taxes and tax officials, while the rest goes to cadastral transfer fees, and to various officials.³⁹ It is not surprising that Cambodia ranks very low on corruption perception indices. In its 2015 Corruption Perceptions Index, Transparency International ranks Cambodia 150 of the 167 countries surveyed, with a score of 21 out of 100 making it the most corrupt country in Asia.⁴⁰ The World Economic Forum's 2015–16 Global Competitiveness Report gives Cambodia a score of 2.9 out of 7.0 in the corruption and ethics category.⁴¹

Land and Forest

Leasers of the regime, the central patron in particular, awards its winning coalition's patron-client networks, especially members of party working groups and other pro-party elites, the rights to extract rent from natural resources in exchange for loyalty and financial contributions to the CPP's and Prime Minister Hun Sen's development funds.⁴² As a result of rent extraction, the total forest cover of the country has declined substantially from 74 % in the 1960s to 57.7 percent in 2010 and to 43.33 percent in 2013.⁴³ Civil society actors allege that even the protected areas such as national parks and protected community forests are fast disappearing because of illegal encroachment, and non-transparent and corrupt allocation to either domestic or foreign companies under the government's economic land or forest concessions schemes.⁴⁴

Thorough research into forest-related economic concessions reveals that most of the concessions have been granted to the winning coalitions' patron-client networks—a network Global Witness terms “kleptocratic elites.” In tandem with their tight political connections, these winning coalition's networks (e.g. the party-working groups) gain access to and own large arable areas. A recent study has revealed that of all land economic concessions 31% of land is owned by businessmen, 23% by high-ranking officials, 23% by *Okhna*,⁴⁵ 15% by military generals and 8% by parliamentarians (Oxfam GB, 2007). A good example is a concession granted to Pheapimex Company, a major sponsor of the ruling party. The company was awarded an economic land concession (ELC) equivalent to 7.4% of

the total land area in Cambodia.⁴⁶ A recent study claims that rent extracted from land concessions (for logging timber) is estimated to be about US\$100,000 per hectare, and one can extrapolate from this value for about 2.6 million hectares of land concessions.⁴⁷ This study likewise found that each concessionaire spent at least US\$5–6 million to acquire a plot for ELC. To process the documents, this amount was paid to local brokers or middlemen with powerful roles or good connections with senior party and government officials. In some cases these brokers served as local partners to protect the investments by foreign companies.

The foregoing evidence suggests that the current regime has survived because of the availability of rents extracted from both public goods and natural resources by the winning coalitions' patron-client networks. Rents generated were, on the one hand, utilised to cultivate political legitimacy by funding pork-barrel infrastructure projects and other needs of the electorate, and to cement the elite pact via individual wealth accumulation. Yet, this remains insufficient for the regime to survive if coercive and repressive strategies are not employed, as the next section will illustrate.

Elections: Coercive Vote-Buying and Disenfranchising

The survival of the current regime relies considerably on its ability to manipulate elections, vote-buying, and repressing the opposition and political activists.⁴⁸ As explained above, offering gifts and access to development projects is structured so as to be coercive. More than a decade ago, during membership campaigns, the ruling party offered gifts that were accompanied by oaths of loyalty. Those who received the gifts were asked to thumb print loyalty documents and take oaths of loyalty to the CPP in front of a Buddhist statue, or to recite an oath while drinking water from a glass containing a bullet. As Hughes 2006 explains clearly, these coercive tactics and politics of gift giving were implemented nationwide by the ruling party.⁴⁹ These gifts—including but not limited to access to development projects and other resources offered by the ruling party—were subject to careful monitoring by powerful local leaders. Gift giving also serves as a mechanism to classify voters as “us” versus “them” a practice that is threatening in a society where political categorization historically could mean life and death.⁵⁰ The CPP's coercive vote-buying tactics worked for a period of time. But more recently, demographic changes accompanying by rising political awareness, and higher expectations has meant that small handouts and “development projects” doled out by the CPP's working groups have not satisfied voters—as the 2013 election results showed. Leading up to these elections, the CPP was confident that they would win by a large margin. As it turned out, as Kheang Un explained elsewhere, voting patterns had changed:

Cambodian farmers still tend to be cautious, but many have become more tactically astute: While they might still express outward support for the CPP, many wanted change. When the party offered them gifts in exchange for a promise to vote for the CPP, they took the gifts and promised. But come Election Day, many cast their ballots against the ruling party.

If this election shows anything it's that Cambodian voters — once easy to manipulate in the name of stability — now expect much more from their leaders. Consequently, the CPP has shifted its strategy from exclusionary gift-giving to inclusionary pattern wherein the CPP's working groups offer \$50 dollars to any village households that have a newly born baby, a new wedding and a recently deceased member.⁵¹

Adding to vote-buying and gift-giving strategies, the electoral system has been designed to ensure rigging in favour of the ruling party. The system, especially the National Election Committee (NEC), has been much criticized. Since 1998 elections, the CPP has control over NEC whose senior leaders were also senior CPP members. Comparative analysis of electoral system in South East Asian countries ranked Cambodia's system the poorest.⁵² A report by an election watch group documented the ruling party's unfair campaigns practices and irregularities indicating that voter registration process resulted in the disenfranchising of approximately 1.25 million voters.⁵³ Anecdotal evidence suggests that names of some voters who were identified as potential supporters of the opposition party were deleted from the voter lists on the Election Day.

Coercion and Co-optation of Civil Society and Opposition Parties

To survive, the regime also represses the opposition parties when necessary and co-opts them when possible. In spite of the initial boycott of the National Assembly by the royalist FUNCINPEC after the 1998 and 2003 elections, the ruling party co-opted the royalists to form coalition governments. In 2004, Mr. Sam Rainsy accused Prince

Norodom Ranariddh, then his ally as an “Alliance Democrat,” of accepting a bribe in the sum of US\$ 30 million from Hun Sen in exchange for the Prince Ranariddh’s agreement to join a coalition government led by Prime Minister Hun Sen.⁵⁴

The CPP was able to co-opt FUNCINPEC because of the party’s poor leadership and fractionalization. However, the CPP has found it hard to co-opt leaders of CNRP who are more idealistic and united. After the 2013 elections, the CNRP organized mass protests and boycotted the National Assembly over alleged electoral fraud. The CPP then took repressive measures against the CNRP.⁵⁵ The ruling party using its control of the judiciary to arrest and prosecute CNRP parliamentarians and opposition party activists who protested against the 2013 election results and were critical of the Prime Minister. These activists and members of parliament were accused of instigating violence and vandalising public property. Given that pressure, the CNRP later compromised with the ruling party, and agreed to end its boycott of the National Assembly.

Politicization of the Military

Control of the armed forces has been centralized under Prime Minister Hun Sen; however, the security forces also operate under the rules of patronage and corruption. Securing loyalty through promotions has led to a bloated military security sector which is often characterized as a “reverse pyramid”. Despite the government efforts at military reform, factional politics and the regime’s goal of maintaining electoral authoritarianism, this reverse pyramid structure lives on. By 2010, it was reported that the Royal Cambodian Armed Forces had over 2,200 generals of all ranks (some 1,500 more generals than in the entire U.S. military!) and in 2014, the government promoted an additional 29 officers to Four Star Generals.⁵⁶

As the military is structured based on patronage and personal loyalty, it has been neither professional nor neutral. The military has been found to be involved in a range of human rights abuses and other illegal activities such as logging and land grabbing. Furthermore, the politicization of the armed forces is evidenced by the rise of the Prime Minister Bodyguard Unit. Following a 1994 failed coup against him—allegedly organized by his own party comrades—Hun Sen has built a well-equipped, well-funded and well-fed bodyguard unit numbering between 2,000 to 3,000 soldiers and a reserve unit known as Unit 70. Prime Minister Hun Sen’s Bodyguard Unit was created to protect the Prime Minister and his government and is answerable only to him. For instance, investigation by human rights groups and the US Federal Bureau of Investigation implicated Hun Sen’s Body Guard Unit in the grenade attacks that killed 16 people and injured over a hundred Sam Rainsy Party’s supporters. This bodyguard unit played a leading role in the 1997 violence that toppled Prince Norodom Ranariddh, then his co-Prime Minister, and ongoing harassment and suppression of opposition party.⁵⁷

Prime Minister Hun Sen has repeatedly stated that there are no other institutions or individuals who can control the armed forces other than himself. Consequently, his removal either by legitimate elections or other means would plunge Cambodia into civil war. Senior military officers openly declare their allegiance not to the state but to the CPP and Prime Minister Hun Sen. They have even gone as far as to identify themselves as an organ of the CPP and threatened to crackdown any individuals or political parties who attempt to organize a “color revolution” against Hun Sen/CPP.⁵⁸ Hun Sen’s blackmail and the military’s open support for Hun Sen greatly suppress the democratic aspirations of Cambodians, many of whom are genocide survivor, who do not want to risk instability and potential violence by supporting opposition parties.

Suppressing Civil Society Organisations

The number of civil society organizations (CSOs) has increased markedly from a few in the early 1990s to more than 3,492 in 2010.⁵⁹ A large number of CSOs have been working on service delivery funded by foreign aid. For example, out of US\$12.13 billion in aid to Cambodia from 1992 to 2011, 9.2% was channelled through (local and international) NGOs. Annual overseas development assistance to Cambodia through NGO aid increased significantly from US\$104 million in 2005 to US\$220.4 million in 2010.⁶⁰ The works of these CSOs have had significant impact on human rights, land rights, rights to natural resources, freedom of expression, good governance, political participation, corruption, labour rights, democracy, and transparency and accountability.⁶¹

However, the government has, since 2003, actively threatened and suppressed CSOs when necessary, and co-opted them when possible.⁶² Co-optation is more likely to occur with CSOs whose work aligns well with government development policies. Meanwhile, those CSOs—whose work focuses on human rights, natural

resource management, democracy, transparency, election reform, corruption and other sensitive areas—are accused of being pro-opposition parties and instigators of violence and social instability. CSOs are often threatened by the government, including Prime Minister Hun Sen. Concerning land disputes, Prime Minister Hun Sen warns land victims not to seek assistance from NGOs and opposition party. He once categorised involvement of NGOs and political parties in land dispute as “political land disputes.”⁶³ Prime Minister Hun Sen also warned these NGOs not to overstep their boundaries by involving in political issues such as demanding to have a consultative role in the drafting of the NGOs laws. Prime Minister Hun Sen stated:

“Don't demand things beyond what's within your rights. You should be ashamed of yourselves, and just enjoy the rights that are given to you as NGOs.”⁶⁴

The government's attempt at suppressing CSOs culminated in the passage by the National Assembly of the *Law on Associations and Non-Governmental Organizations* and the *Law on Trade Unions*. It is widely believed to affect the constitutional rights to freedom of association for non-government organizations and trade unions. Of critical concern for NGOs is a requirement for the compulsory registration of all NGOs and vague provisions that could provide for the selective denial of registration applications. In addition, there is a reporting requirement which could have potential negative effects on NGOs whose work focuses on sensitive issues like human rights violations, human trafficking, and legal aid that require confidentiality. The law is meant to restrict and suppress NGO, and other group activities which have worked to promote grass-roots political awareness and protests against human rights particularly, land grabbing and rampant deforestation even in protected community forests.

As a result of excessive rent extraction by the regime, since the early 2000s, about 770,000 people (including indigenous communities) encountered indirect or direct adverse impacts and forced evictions (ADHOC, 2014). These have provoked movements by a number of affected grassroots communities to resist against such exploitation. According to ADHOC, in 2012, 232 people were arrested in relation to land and housing issues.⁶⁵ As of 31 December 2012, 38 activists and victims were imprisoned and 50 remained at large. In responding to political activism following the 2013 elections, the government has intensified its crackdown on human rights activists and union leaders including the arrest of an election official and four human rights defenders (from ADHOC) whom the government accused of engaging in bribery in connection to the government's ongoing investigation into Kem Sokha—the CNRP deputy president—for alleged love affairs.⁶⁶

Conclusion

The paper contends that Bueno de Mesquita and his collaborators have not delved substantially into how leaders of regimes, especially the electoral authoritarian one, generate goods, especially private goods, to entice the winning coalition to remain loyal, how they mobilise political support, and how they deal with their challengers. As a contribution to these gaps, the paper has conceptualised how regimes survive based on selectorate theory, patronage networks, resource rent extraction and repression. The paper then examines the empirical evidence of how Cambodia's contemporary regime has survived.

Cambodia's contemporary hybrid regime has successfully survived because of rent extraction from both public goods and natural resources by the winning coalitions' patron-client networks (known as party-working groups), and the regime's ability to co-opt and suppress its opponents. To entice the winning coalition, as well as to cultivate private wealth to mobilise political (electoral) support, the regime allows and protects its winning coalitions' patron-client networks to extract rent from public goods and natural resources. Rent extracted from these sectors is utilised by their winning coalitions' patron-client networks, through the party-working groups, to fund local development projects, and to acquire gifts for rural voters aimed at influencing their votes. Initially, due to low levels of education and the fresh memories of past violence and civil war, a large percentage of the Cambodian electorate supported the ruling party, legitimizing the electoral authoritarian regime. Furthermore, the ruling party, manipulated the electoral system to its advantage to magnify this support. Moreover, the regime co-opts opposition parties and civil society organizations when possible and suppresses them when necessary. For instance, the ruling party has, since the 1997 coup, co-opted and later destroyed the royalist and other parties. Likewise, the regime represses civil society organizations whose work focuses on corruption, the environment, human rights, and democracy which the regime believes has aided opposition parties. As opposition parties become united and Cambodian public turned more active politically, the CPP has accelerated its suppressive tactics through enactment of restrictive legislature aiming at curbing civil and political liberties.

This has suggested that, to ensure long-term survival of a regime which has similar characteristics to Cambodia, Bueno de Mesquita and his colleagues' selectorate theory should not be limited to the notion of a winning coalition, and private and public goods. To understand the survival of such regimes it is imperative to analyse how a regime employs its winning coalitions' patronage networks to extract rent for personal enrichment and for mobilizing political support from the grassroots. It is also imperative to take into account how the regime co-opts and circumvents its challengers to survive. In such electoral authoritarianism or a hybrid regime, rent extraction should be placed in the heart of political survival although winning coalitions (as suggested by selectorate theory) are important. Without its ability to extract rent from natural resources and public goods, the durability of such regime might be in question. These propositions are also plausible to explain those regimes in African and South East Asia whose leaders (previously) secure their tenure and power in this way.

Facebooking: Youth's Everyday Politics in Cambodia⁶⁷

Mun Vong and Kimhean Hok

Introduction

This paper explores political activities on Facebook by young Cambodians, which has become ubiquitous since the 2013 parliamentary election. An impressive feat of these new behaviours is how they have drawn attention and engagement from the government. The explosive growth of Internet connection and smartphone penetration provides the infrastructural mechanisms for the rise of this new form of civic engagement, but the more critical factor is the political opening following the ruling Cambodian People's Party's (CPP) electoral disappointment. Having seen its parliamentary seats reduced from 98 to 66 among a total of 123, the CPP's setback in the 2013 election is a watershed in Cambodia's political development given the party's past landslide victories and monopoly of political power. The outcome points to the unravelling of the electoral base that the party had controlled through a sophisticated combination of coercion, co-optation,⁶⁸ material development and appeals to historical memory. The electoral change propelled the CPP government to adapt its political strategy by introducing a series of reforms.⁶⁹ A spotlight of the revised strategy is the way the government espouses Facebook as a means to connect with society. The initiative was formalised in October 2015 when Prime Minister Hun Sen endorsed a Facebook page that had long been thought to belong to him. Following the official entry, the Prime Minister has integrated Facebook into the conduct of government business by encouraging people to convey to him their grievances or requests. He also instructed government ministries to form "Facebook working groups" to monitor people's comments on his Facebook page and address them accordingly.

The government's strategic turn has been capitalised upon by young Cambodians who had already been active on Facebook, although for many this was primarily for entertainment and social networking purposes. The social media platform has become a site of political contestation between supporters and critics of the government as well as contentions over everyday issues involving the publicly nonpartisan. From another perspective, however, Cambodian youth may have fallen into the trap of "slacktivism." As politics-oriented online activities expand, there is an on-going debate about the role of social media in civic participation. Critics call these activities slacktivism: "a feel-good online activism that has zero political or social impact ... for a lazy generation."⁷⁰ This view calls into question the effectiveness of online activism in demanding change, and at the same time, argues that it derails attention away from the traditional conception and practice of citizen engagement. This line of argument is predicated upon the fundamental assumption that effective political activism requires centralized leadership, real-time participation and constant confrontation with the state. This assertion is challenged by proponents of online activism, who tend to prize decentralized leadership and loose nature of online activism and its efficiency in mobilising support for social and political activism.

This paper aims to contribute to this debate from the perspective of everyday politics. Drawing on experience of subaltern social groups, everyday politics emphasises quotidian, spontaneous behaviours without structured organisation and clear leadership. From peasants' everyday resistance and modification,⁷¹ to quiet encroachment by the urban poor,⁷² to the electoral impact of local discourse,⁷³ analyses of everyday experience have proposed a rethinking of what counts as political activity, and how seemingly mundane actions can be politically consequential or significant. Everyday politics conceives political activities as a continuum in which each spectrum has its own logic while the boundaries between them can overlap.⁷⁴ Cast in this light, the relationship between online activism and offline political participation is not a zero-sum one in which people withdraw from one sphere at the expense of another. Furthermore, the main thrust of everyday politics is that subtle acts without obvious revolutionary intent can over time exert important influence on political life. Scott, for instance, uses the example of desertions of peasant conscripts from the Tsarist army to illustrate how petty acts by self-interested soldiers led to the disintegration of the Russian state's repressive apparatus and ultimately triumph of the Russian Revolution.⁷⁵

The rest of the paper develops this two-fold argument in the Cambodian context. The next section reviews more in-depth the debate between detractors and advocates of online activism. It is followed by the elaboration of

everyday politics to qualify the political nature of Cambodian youth's Facebook activities. The empirical sections then provide data and examples of Facebook's constructive role in promoting conventional political participation and inducing government responses to public criticism. We also hypothesise the demographic and institutional origins of greater government responsiveness.

The Debate

Critics of social media activism contend that not only is it ineffective in producing political change, but it also derails citizens' attention away from offline political participation, the engagement paradigm that is more efficacious in furthering political preferences. Sceptics refer to social media activism as "slacktivism" whose main function is to make those engaged in it feel useful and important.⁷⁶ In the same vein, White coins the notion of "clicktivism" which perpetuates a false consciousness that by simply clicking 'like' or signing petition online would solve the world's problems.⁷⁷ Criticism of the ineffectiveness of slacktivism is premised on two assumptions. The first assumption is that impactful political activities have to be carried out by highly centralized and organized collective actors who are committed to the cause and aware of the political significance of their actions.⁷⁸ These qualities, or lack thereof, can be determined by the process through which the group is formed and sustained. As Morozov argues, genuine revolutions champion centralization and "require fully committed leaders, strict discipline, absolute dedication, and strong relationships based on trust."⁷⁹ Given digital intervention, the deep commitment required to form collective spirit can hardly attain. The second assumption is that only through physical confrontation, entailing protest on the street and expecting life-threatening danger and arrest, can the activism affect political decision-making and succeed in inspiring further movement. Morozov questions the ability of slacktivists or 'narcissistic campaigners' whether they have what it takes to make sacrifices that political life requires, especially in oppressive states, due to the lack of mechanisms to cultivate personality and commitment. By degrading such form of activism, online activism transforms individuals from being participants to spectators, and real political activism to "an act of passive, harmless personal entertainment."⁸⁰

Proponents of social media activism, on the other hand, have come up with new evidence and arguments to highlight social media's constructive function in public life. For example, Landman argues that slacktivists can be well-meaning people who search for an easy way to feel that they are making a difference, which is in itself a positive thing.⁸¹ As Christensen puts it, the Internet at worst is a harmless fun and at best can help invigorate citizenship.⁸² Khamis and Alwadi discuss the relevance of social media to the rise of protests and pro-change movements in the Arab world.⁸³ From Egypt to Bahrain, the use of social media to mobilise and organise protesters was significant. Contrary to critics' assertion that decentralized leadership as embedded in the structure of online activism lacks the organization and discipline necessary for effective street protests, Kavada counters that such characteristic actually facilitates the development of transnational, diverse, and loosely connected activist networks that are now able to organize protests and wage campaigns "without a formal membership base, physical headquarters, or identifiable leaders."⁸⁴ Golkar concurs that online activism's function is to replace hierarchy with network, which accelerates the process of group formation.⁸⁵ With regard to political impact, Shirky warns that "attempts to yoke the idea of Internet freedom to short-terms goals—particularly ones that are country-specific or intended to help particular dissident groups or encourage regime change—are likely to be ineffective on average."⁸⁶ In other words, pursuing a short term perspective vis-a-vis social media politics risks trivialising micro activities that take time to accumulate before their significance becomes visible.

What can be concluded from this brief review is that the concern over the distractive and corrosive effects of social media on traditional forms of civic engagement is overstated. As the experience of the Arab Spring shows, social media was applied with great effect to mobilise and coordinate social protests that led to the collapse of repressive political regimes. What is less established in the literature, however, is how social media *in itself* can exert influence on political decision making. Existing studies focus on its intervening role in feeding into social mobilisation. Outside such context of social protest, its political significance is underexplored. Therefore, what we want to achieve in this paper is to study how Facebook activities lead to changes in government responsiveness. In doing so, we argue that Facebook use can engender a political dynamic of its own which is best assessed from the lens of everyday politics, the topic we turn to next.

Facebooking as Everyday Politics

Underlying the criticism of slacktivism is a macro worldview of politics. By this, we mean a view of politics that prioritises organised activities such as interest group lobbying and civil society advocacy that is aimed at influencing

government policies. More critically, it is a view of politics concerned with structural or revolutionary changes—the social change *par excellence*⁸⁷—achieved through contentious mass movements, where participants are willing to risk their safety or life for a common cause. For example, Morozov comments that “significant political change requires an embrace not only of conventional politics but of its most hyperactive and brutal element ...”.⁸⁸ Politics so conceived, however, emphasises explicitly political individuals and organisations; namely politicians, bureaucrats, activists, interest groups or non-governmental organisations while excluding the vast majority of society and hence a wide array of quotidian and subtle political behaviours.⁸⁹ Drawing upon Scott’s earlier research, Kerkvliet broadens the scope of politics to encapsulate informal and everyday practices of discussion, complaint, gossip and criticism revolving around the control, distribution and use of resources.⁹⁰ Walker comments that the novelty of this approach derives from its emphasis on “the localised day-to-day debates ... rather than the more exceptional cases of mobilisation under the banner of civil society organisations.”⁹¹ In exploring everyday politics in a village in Northern Thailand, he goes a step further by blurring the distinction between everyday politics and formal politics since, he contends, the permeation of formal politics, such as election-related matters within the populace, is so far-reaching that a clear-cut separation of the two spheres are not very meaningful. Bridging the two arenas, Walker argues that “... discussions about ‘elections,’ ‘candidates,’ ‘policies,’ and ‘campaigns’ are a regular feature of day-to-day life. Electoral contests are embedded in local social relationships, and values that relate to the day-to-day politics of the village readily spill over into the electoral arena.”⁹²

The Facebook phenomenon in Cambodia exemplifies an expressive form of politics. Although the social media platform was introduced in the country as early as 2008, it only gained widespread popularity in the lead-up to the 2013 parliamentary election. The surge was fuelled partly by the opposition CNRP’s strategy to carve out an alternative medium from traditional media which has been the most important information source for Cambodians⁹³ but in the meantime saturated with government-related news and deprived of critical or ordinary voices. The opposition’s online mobilisation has centred on the Facebook page of Sam Rainsy, its former president,⁹⁴ which (with its number of ‘likes’) was the most followed of any Cambodian politician at that time. During the election campaign period, the page was frequently updated with the opposition leaders’ campaign activities, speeches and messages reminding youth to go to vote.⁹⁵ It was in this critical period that Facebooking took a political turn. Surveying 401 new media users between 18 and 34 in Cambodia, Chan finds that expressing politically oriented opinions is the most common practice on Facebook and the Internet in general, which encompasses a plethora of social and political issues: border disputes, the repression of political opposition, violations of traffic rules, the suffering of the weak, crimes, land conflicts, poor public services, personalisation of public properties and so forth.⁹⁶ The expression of political views involves liking, discussing and most importantly sharing contents such as commentaries, photos and videos, causing these contents to go viral as they reach wider and wider audiences.

The everyday politics on Facebook unfolds without structured organisation or clear leadership. Rather, central here are ‘amplifiers.’ These are Facebook pages closely followed by a large number of people which in turn become a conduit for the rapid transmission of information. Many of these pages are operated by anonymous individuals or groups some with more obvious opposition leaning than others, as well as supporters of the ruling party who apart from countering the opposition’s online political campaigns are also willing to expose misbehaviours within their own ranks deemed detrimental to the party’s reform effort and electoral prospect. These amplifiers supply sensitive and hard-to-obtain information that can easily tap into the emotions of their followers and the wider audience.⁹⁷ Some of these information become themes of everyday talk and newsworthy headlines picked up by online and traditional media.

Applying the lens of everyday politics, this section sought to accentuate the political dimension of Facebook use in Cambodia. Contrarily to the contentious portrayal of politics, politics as it transpires on Facebook represents everyday practices perpetuated by ordinary men and women or “micro-activists” amplified by more resourceful social and political activists.⁹⁸ The core characteristic of these practices is the propensity to operate at the discursive level by expressing opinions on a variety of politics-related issues that emerge on a daily basis; rather than a deliberate focus on advancing an instrumental end such as social and political changes. For this reason, Marichal argues that instead of holding them to the standard of traditional activism these “expressive political performances” should be conceived as “micro-activism” where participants are neither fully-fledged activists nor passive citizens.⁹⁹ Emphasising politics as an omnipresent everyday experience, Kerkvliet contends that politics “is not a place or activity that people can opt into or out of.”¹⁰⁰ Although one may not be conscious of it, everyday politics is often ingrained in the routines of making a living, raising families, coping with daily problems and interacting with others.¹⁰¹

Facebooking and Offline Activism

Similar to earlier studies, there is evidence pointing to the positive role of Facebook in promoting youth's conventional political activities in Cambodia. In a web-based survey with 105 Facebook users between the age of 18 and 30, Thun indicates that Facebook use had promoted their participation in the election and to a lesser extent post-election street protest in 2013.¹⁰² Because Cambodian law does not allow exit polls we do not have the official data about youth voter turnout in the 2013 election. However, an election watchdog points to a growing interest in voting among youth with an estimate from a number of provinces that more than 70 percent of youth who had registered to vote went to vote in 2013.¹⁰³ From qualitative interview and group discussion with about 15 youth in rural Cambodia, Heng et al. confirm youth's generalizable interest in voting.¹⁰⁴ Although Thun's evidence shows that Facebook use motivated more participation in protest activities in 2013, most of the surveyed youth had not done so. But it was not because of reasons given by critics of online activism. According to the study, most of the respondents are employees of local and international NGOs and foreign embassies, who, despite their willingness to join protests, were regulated by internal organisational policy. Also, some are government officials who avoided opposition-led protests out of concern for their job security.

More than organisational barriers, the debilitating political atmosphere plays a more critical role in impeding protest activities. An illustrative example is the recent 'Black Monday' campaign launched by civil society groups to advocate for the release of human rights activists imprisoned for their alleged role in a sex scandal involving opposition CNRP's president, Kem Sokha. The campaign appealed to sympathisers of the imprisoned activists to wear black shirts every Monday, and to protest in front of the prison until they are released. The call to protest was answered by a group of about 70 social activists, but in the face of political suppression the protest was short-lived. The campaign was, however, livelier online with some young activists changing their profile pictures with the campaign's banner and posting photos of themselves wearing black on Mondays. This example suggests that the retreat from street protest was not driven by the "wrong impression"¹⁰⁵ that Facebook is an adequate substitution, but is necessitated by unfavourable political conditions, where open and direct confrontations are dangerous.¹⁰⁶ In short, instead of being a "lazy generation," these young people are politically engaged, but pragmatic and risk-averse.

Spillover Effects of Facebooking

Both critics and supporters of social media activism conceive of its efficacy with respect to its instrumental role. This paper takes a different tack to capture political effects that arise directly from Facebook use. One of the best examples of the power of Facebook involves the traffic. The issue was heavily talked about in the beginning of 2016 when the new Land Traffic Law took effect. The new law is a response to pervasive traffic accidents that injure and kill thousands of Cambodians every year. To curb this deadly phenomenon, the Law puts in place stricter regulations requiring motorists *inter alia* to hold driving license, a provision that affects millions of unlicensed drivers. The problem, however, was the high cost incurred by motorbike drivers in obtaining licenses. The Prime Minister initially ordered a significant fee reduction. He declared in a Facebook post:

I have received comments from people through Facebook requesting help to reduce driving license fees ... I have ordered the Minister of Public Work and Transport to suspend the process ... I have also ordered the Minister of Economy and Finance to discuss with other relevant Ministers to reduce fees and stamp out people's expense that wastes their money ... I hope that the reduction of driving license fees will cut down significantly people's expense especially youth in great need of driving licenses ...

The Prime Minister later decided to amend the Law altogether to waive the license requirement for drivers of motorbikes with engines of 125cc and under. He explained in a Facebook post that the decision was in response to complaints from "*fellow citizens, especially youth and students*."¹⁰⁷

Apart from policy-related issues, criticism lodged on Facebook has stimulated changes in leadership behaviour. In June 2016, thousands of Facebook users pointed out during a Facebook live stream that the Prime Minister broke the traffic law when he was riding a motorbike without a helmet during a visit to the province. Responding to these comments, the Prime Minister wrote:

Thank you for commenting on the issue of not wearing helmet. It is so true that if we drive we must put on a helmet to avoid traffic accidents. Thanks for all the good comments.

He was subsequently given a fine by a local traffic police officer. In a public speech when he returned to Phnom Penh, asking people not follow his “bad example,” the Prime Minister apologised and announced that he would pay the fine which he did the next day at a police station in the capital.¹⁰⁸

Similarly, the government on a few occasions was compelled to make clarifications in response to public complaints. An example concerns public reaction to a rumoured attempt to personalise public property. The Minister of Land Management announced on his Facebook page in June 2016 the planned development of four beaches in Preah Sihanouk province. The Facebook post featured images of the architectural designs of the planned improvements. One image showed the famed Ochheuteal Beach being referred to as ‘Samdech Techo Sen Beach,’ named after the Prime Minister’s abbreviated official title. Many, including the Prime Minister’s son, voiced their disapproval on Facebook over the rumoured name change. A few days later the provincial government as well as the national committee responsible for the development cleared up the confusion by issuing public statements to confirm that there was no plan to rename the beach.

... The Preah Sihanouk administration would like to inform people living in Preah Sihanouk province as well as the public, national and international tourists that recently there is news being shared on Facebook that there is a name change from ‘Ochheuteal Beach’ to ‘Samdech Techo beach.’ The Preah Sihanouk Administration would like to clarify that the royal government of Cambodia, the national and provincial committees for the management and development coastal areas in Cambodia as well as the Preah Sihanouk Administration do not have a plan to change the name of this beach ...

By the standard of critics, the changes described above are trivial but it is less so when put into Cambodia’s historical context in which a recurring pattern of social hierarchy, distance between state and society, and deference and obedience to authority has been part and parcel of the Khmer state-society relations.¹⁰⁹ Although the stickiness of these cultural traits remains strong, subtle yet important changes in attitude have emerged among adult and youth alike. For example, Øjendal and Kim point to shifts in everyday expressions in rural Cambodia with regard to public authority.¹¹⁰ Nearly a decade later, insights from field discussions with young people in rural areas reinforce the above argument with regard to a “discursive paradigm shift.” Heng et al. observe that youth’s new discourse surrounding local authority features benign terms like ‘*neak dohsray pa’nhaha*’ (problem solvers) and ‘*neak domnang*’ (representatives) in addition to still popular hierarchical words of ‘*mae ol*’ (parents) and ‘*ana pyeabal*’ (custodians).¹¹¹ Some elements of these values are reflected on Facebook when youth show disapproval, for example, of government officials’ abuse of their privileges or when youth advocate for government officials’ moral imperative to serve. The ascendancy of Facebook has opened up a space where values embedded in everyday discourse can be channelled, and reinforced when they succeed in influencing political decision-making. The development of this pattern should be considered a transformation in itself.

Conclusion

This analysis drew inspirations from the literature on everyday politics, which provides the theoretical ground to qualify Facebook activities as political and make sense of their relevance. By incorporating everyday discourses around public good as a form of political performance, the approach simplifies and normalises politics. Confining real politics to contentious politics and structural change, we argue, unfortunately exclude subtle yet important activities that aggregate to make such desirable political behaviours and goals possible in the first place. Recalling Scott’s simile, these micro activities are like “millions of anthozoan polyps [that] create, willy-nilly, a coral reef” that can wreck the ship of state.¹¹² But, Scott observes, “whenever ... the ship of state run aground on such reefs, attention is usually directed to the shipwreck itself and not the vast aggregation of petty acts that made it possible.” Following this lead, this paper accounted for the petty acts of commenting or clicking ‘share’ on Facebook and how they have succeeded in forcing the ship to change course. The bottom line is that the everydayness of political Facebooking is fostering youth’s political awareness and creeping into the government’s political equation. In democratic elections, youth have the institutional means to impose the cultivated values on the political agenda in regular intervals. So unlike historical peasants, Cambodian youth have the opportunities to shorten the time their everyday politics takes to exert major impact.

The Limits to Rule of Law Reform in Cambodia: Challenges to Judicial Independence

Lucy West

Author's Note

Judicial reform in Cambodia has always been packaged within international assistance efforts and is a core feature of the international community's good governance agenda. Cambodia has been the recipient of generous judicial reform packages, but the country has yet to witness the blossoming of a rule of law culture. Cambodia frequently ranks low on international rule of law datasets. In particular, the country's domestic judiciary is plagued with corruption and political interference.

Despite constitutional guarantees, empirical evidence shows that both a lack of adherence to formal judicial practices, and a lack of political will to ensure that courts and judges are impartial and free to exercise judgement without undue judicial interference, hamper judicial independence and the rule of law. In Cambodia, the lack of judicial independence and cases of judicial corruption have resulted in low public trust of the judicial system and a weak rule of law culture.

Cambodia's rule of law absence has been a constant feature of its judicial landscape, from its colonial experience to the ambitious state-building agenda undertaken by the United Nations Transitional Authority in Cambodia (UNTAC) and present reforms. This paper situates the Extraordinary Chambers in the Courts of Cambodia's (ECCC) rule of law mandate as one of the most substantive rule of law reform efforts in the post-UNTAC period. It argues that there is a disconnect between the conditions present at the ECCC and what can realistically be transferred into the national courts, and that the rule of law mandate does not consider the broader socio-political environment in which the domestic judiciary operates.

Much like earlier attempts at judicial reform in Cambodia, the tribunal is impacted by Cambodia's historical legacies and political culture. Therefore, the ECCC's mandate to strengthen judicial independence in Cambodia's local courts is compromised by a lack of bureaucratic capacity and the political will to ensure that the judiciary operates independently of the executive.

Introduction

Rule of law objectives have assumed an integral role in post-Cold War state-building operations. This is the result of rule of law discourses being intimately connected to democratisation and good governance initiatives. Legal and judicial reform efforts have been centre-stage in such operations, being both a key feature of foreign aid programmes and donor agendas. In the case of Cambodia, judicial reform efforts have been at the centre of development assistance since UNTAC (1992–1993). Multiple judicial reform programs have been implemented to improve the country's judicial system and weak rule of law culture, but have produced mixed and somewhat disappointing results. The most recent and comprehensive exercise in judicial reform is seen in the rule of law mandate set by ECCC. While the ECCC is better known for its capacity to hold senior Khmer Rouge officials accountable for crimes committed under Democratic Kampuchea (1975–1979), the hybrid tribunal also has an explicit rule of law mandate and expectation to create a rule of law legacy through achieving a positive spillover effect into Cambodia's domestic judiciary. The international hybrid tribunal, operating on Cambodian soil, is intended to create a demonstration effect whereby Cambodian judges and legal personnel can observe international standards of justice and transfer that into the local legal environment.

This paper evaluates major judicial reform efforts in contemporary Cambodia. It primarily addresses the rule of law mandate set by the ECCC and explores colonial and cultural legacies which impede Cambodia's domestic judiciary

operating independently from the government within the current political environment. To make any meaningful evaluations of the tribunal's prospects to positively impact the local judiciary, the challenges facing the judiciary as an institution must be contextualised within Cambodia's historical-political evolution and current socio-political environment. The paper argues that there is a disconnect between the conditions present at the ECCC and what can realistically be "transferred" into the national courts, and that the rule of law mandate does not consider the broader socio-political environment that the domestic judiciary operates within.

The paper suggests that the ECCC's mandate to strengthen judicial independence in Cambodia's local courts is challenged by two main factors: a lack of bureaucratic capacity and the political will to ensure that the judiciary operates independently of the executive. Cambodia's bureaucratic capacity remains compromised as the result of its turbulent political history. The national courts and local legal personnel lack access to the knowledge, resources and facilities available to those in the ECCC, therefore making any rule of legacy challenging if not impossible. The domestic judiciary serves as an indispensable tool for the current regime to exert the law as a political weapon, and political commitment to strengthening judicial independence remains weak and rhetorical.

Colonial and Cultural Legacies of Failure

In order to evaluate the prospects for judicial independence in contemporary Cambodia it is first necessary to trace the evolution of Cambodia's legal system under the country's historical political arrangements.

French involvement in Cambodia marked the beginning of Cambodia's experience with a French-style formal legislative and judicial system. Under the French, all of Cambodia's formal legislation originated from France, modelled after the civil law system, but was somewhat customised to suit local conditions. Despite France formally exercising its protectorate over Cambodia in 1863, it was not until 1884 that the administration of justice was affected. Historical accounts of Cambodia's colonial experience detail how early courts were largely unsuccessful due to the inexperience of the judges with the new system, in addition to the absence of written laws which could be applied.¹¹³ Due to the poor functioning of the legal system, control of the judicial organisation was delegated to a French officer in December 1912.¹¹⁴

Under the French, Cambodia's judiciary was hardly considered to operate independently. Recent examples of Cambodia's legal practice arguably reveal the real legacy of the authoritarian colonial tradition in Cambodia, where the distinction between the government and the judiciary is "blurred".¹¹⁵ In the context of the judicial and legal system it is widely held that the French made no substantial attempt at reforming existing structures. In an account of French colonial rule in Cambodia, it is stated that the French sought to protect their own nationals from the "erratic indigenous judiciary".¹¹⁶ It was widely assumed that "Oriental judiciaries were run at the whim of mandarins less interested in justice than in kickbacks [and]... verdicts were, this viewpoint held, based on payments and caprice rather than investigations and legal codes".¹¹⁷

In colonial Cambodia, much like the government, the Cambodian judiciary drew authority from personal relationships with the king or his representatives. These connections were established and reaffirmed through kinship, service, rituals and gifts. During this period the government was not strictly defined and different governmental organs were not in charge of distinct portfolios. This arrangement supported a bureaucratic environment where state apparatuses could overlap and individuals were not insulated from executive influence.

French concerns with the Cambodian judiciary primarily related to the absence of independence and impartiality, and the slowness to render verdicts. Cambodia's traditional patronage system was a cultural practice that the French disliked in the context of judicial matters. The practice of giving gifts to judges and senior officials strengthened the relations of patronage between the office-holder and their client. The French noted that Cambodian judges were not unaccustomed to actions of corruption and bribery, with rulings often determined through a price. Given these perceptions and concerns from Cambodia's colonial masters, the French condemned the existing judicial system for its "disorderliness, inefficiency and corruption".¹¹⁸

While the French were highly critical of the state of the Cambodian judiciary, they failed to nurture a rule of law culture in their colony. Local Cambodians were marginalised from the legal process, reinforcing attitudes that it was best to settle disputes outside of a formal legal context. In an overall sense Cambodians' experience with the legal system under the French was mostly in the context of the law exploiting the poor, with the legislation being applied mostly to exploit natural resources, state activities or private enterprise.¹¹⁹ In the context of the legal

system the French withdrew from Cambodia without leaving behind an established and well-functioning legal structure.

Rule of law absences continued throughout the Sihanouk years (1953–1970), which like the colonial period saw no blossoming of democratic values. When Khmer Rouge forces overthrew the US-backed Lon Nol regime on 17 April 1975, the country was reverted back to what would be referred to as ‘Year Zero’. In the darkest chapter of Cambodia’s history, under Democratic Kampuchea nearly all traditional, social and political structures were dismantled, including the customary conciliation structure. The Khmer Rouge did not replace any of the pre-existing legal structures, and the state existed with no written legal laws or courts. The Khmer Rouge regime deliberately set out to destroy all educated Cambodians – judges and lawyers were especially targeted. The majority of legislators, prosecutors, judges, law professors and legal personnel were killed, severely compromising the state’s legal capacity for decades to come.¹²⁰

When the Vietnamese established the People’s Republic of Kampuchea (PRK) on 10 January 1979, there were as few as ten law graduates, five of which were judges, remaining in the country.¹²¹ In addition to the depletion of legal personnel, few if any legal records survived the Khmer Rouge period. Vickery argues that it was likely that “no set of prewar law texts [were] available within the country”.¹²² The PRK faced a monumental task in rebuilding Cambodia. The state lacked nearly all economic, social and government institutions and the necessary personnel to establish and administer new ones. The few laws enacted under the PRK reinforced the state’s socialist agenda and the courts it created “bore the imprint of Soviet concepts of socialist legality”.¹²³

The first courts under the PRK were established by decree in May 1980 and styled as People’s Revolutionary Courts. The PRK Constitution enacted in June 1981 formalised the role of the judicial system. Both the constitution and the judicial model bore a strong resemblance to their communist counterpart in neighbouring Vietnam.¹²⁴ In a manner consistent with the communist model, the judiciary functioned as an instrument to serve the interests of the party-state and to uphold the policies of the government. The appointment of judges was made through local party and government committees in consultation with the Ministry of Justice. Judicial staff and civil servants were poorly paid, leaving them susceptible to financial and political influence. Judges were not tenured, and therefore were highly vulnerable to removal if they did not adhere to the orders of the Party.

Short courses in legal training were offered to court officers and public servants. Training instructors were Vietnamese legal experts and university lecturers provided by the Vietnamese socialist government. The legal system was further challenged because those who had survived the Democratic Kampuchea regime had no knowledge of the socialist legal system. Those entering the new socialist system had been educated and trained under the Monarchy or Republican system with “insufficient knowledge of, if not a built-in antipathy to, socialist legal thoughts and ideology”.¹²⁵ The judiciary under the PRK was subservient to the party and state – trial proceedings and legal outcomes were not determined by law, but by powerful elites and the party. This legacy continues to have resonance today under the Cambodian People’s Party (CPP) rule despite the proliferation of externally-driven judicial reform agendas.

Following the withdrawal of Vietnamese troops from Democratic Kampuchea in 1989, and the creation of the State of Cambodia (SOC) (1989–1992), overlap between the executive and judicial branches of government persisted with the judicial branch continuing to be subordinated to the party. The new SOC Constitution did not increase judicial independence or provide for executive or legislative review. In the early 1990s it was reported that seventy to ninety trained judges were now working in the country. Despite this increase in trained legal personnel, Cambodia was still suffering from limited resources and an overall disregard for the law and its relevant institutions. Despite some improvements, these historical patterns of a lack of capacity in the legal system and political interference have persisted throughout the reform efforts of recent decades that are canvassed in the following sections.

UNTAC and the Cambodian State-building Experience

On 23 October 1991 the Paris Peace Agreements (PPA) were signed by the UN Security Council and the warring Cambodian factions. The PPA sought to guarantee a comprehensive settlement that would restore peace, through a constitution that enshrined “liberal democracy on the basis of pluralism”.¹²⁶ In order to meet the requirements of the PPA’s ambitious mandate, Cambodia was placed under a UN protectorate known as UNTAC. In the immediate post-Cold War period, UN peacebuilding interventions of this nature sought increasingly to “support, build or

strengthen the institutions of state”.¹²⁷ As a part of this, rule of law objectives have assumed an integral role in peacebuilding and state-building operations since the early-1990s.

The UNTAC mandate sought to transplant a liberal rule of law culture into an environment which had scarce foundational elements for it to take root.¹²⁸ Prior to the UN’s ready-made democracy package, the country had never experienced a peaceful transition of power. There was little understanding of what constituted tolerance of a political opposition, and this notion challenged the traditional “winner takes all” model that was dominant in pre-French Cambodia, in addition to traditional ideas about absolute monarchical power.¹²⁹ Interest in Cambodia’s democratisation emanated from abroad, as Cambodian actors historically had avoided a representative system of government, which some go as far to argue was alien to traditional Khmer culture and politics.¹³⁰ At the core of the democratisation mission was a more intrinsic normative agenda– the establishment of a liberal order: “in economic terms, the liberal order spells reconnection to the international economy in concert with already introduced market-orientated reforms ... in political terms [it] spells democratisation and the establishment and maintenance of human rights”.¹³¹

In the context of the justice sector, UNTAC expressed that it was not its intention to create a new judicial institution to replace existing bodies. It is argued that UNTAC’s position was due to the difficulty of justifying such a clause in the PPA and the even more complicated task of implementing such changes. The UNTAC mandate sought to administer Cambodia’s political transition from authoritarian rule through the installation of democratic elections. Despite this liberal agenda, the rule of law was not explicitly a part of the actual UNTAC mandate – however those behind the PPA recognised the rule of law as constitutive of the political environment they intended to cultivate in Cambodia.

The PPA recognised that political violence and lawlessness were the greatest threats to UNTAC’s “primary democratisation objectives”, which included conducting free and fair elections and safeguarding civil and political rights from state abuse.¹³² One of the most significant shortcomings of UNTAC was the lack of an explicit rule of law mandate. This meant that “[j]ustice was viewed not as a discrete operational area, but through the prism of UNTAC’s three primary operational concerns: the restoration of security, the holding of elections and economic reconstruction”.¹³³ UNTAC focused its efforts on more visible state-building demands, such as democratic elections, at the expense of developing the more fundamental institutional building blocks.

Despite the lack of an explicit UNTAC mandate, the judiciary did however experience some significant reforms during this period. For example, improvements were seen to trial processes where human rights defenders would act as counsel for the accused.¹³⁴ According to Adams, “[t]he participation of the defenders was bitterly opposed by the Ministry of Justice and most judges who did not understand their role and felt threatened by this alien presence”.¹³⁵ Despite political resistance to the program, UNTAC pushed forward and while the presence of the defenders “improved the stage setting” somewhat, it made no substantial difference to the judiciary’s 100 per cent conviction rate.¹³⁶

Judicial Reforms in the Kingdom of Cambodia

Since the UNTAC mission ended in 1993, international donors and foreign governments have continued to extend assistance to the Cambodian Government in an effort to strengthen judicial capacity. The impetus for judicial reform has largely been in response to an increasing demand for accountability, access to justice and good governance. Legal reforms were increasingly linked to the democratisation agenda and rule of law institutions were considered “the backbone of social and economic development”.¹³⁷ Cambodia has been the recipient of multiple programmes aimed at strengthening the capacity of the judicial system, judges, prosecutors and legal personnel.

In an effort to address the lack of training and competence of judges, the Judicial Mentor Program (1996-1998) was implemented to assist the Cambodian judiciary in a comprehensive overhaul. The program was an initiative of the Human Rights Component of UNTAC and sought to aid Cambodian courts and legal personnel in “understanding the role of an independent and professional judiciary, implementing Cambodian law in conformity with international human rights standards, and improving coordination among the courts, prison officials, police, military, and provincial authorities”.¹³⁸ The program saw judges and lawyers with experience in developing countries offer practical advice and counsel to Cambodian judges and prosecutors. Assessments of the program’s outcomes and achievements were mixed. It was observed that technical improvements were made in terms of reducing trial delays and many provinces saw increased access to legal counsel; in addition many judges reported that they

encountered less instances of interference from local authorities. The program had significantly less success with the judiciary operating independently of interference from the Ministry of Justice and the CPP.

The Cambodian Court Training Project (1995–1997) was another large-scale judicial reform project, launched following the UNTAC period. This three-year, \$3 million project was conceived by the International Human Rights Law Group and funded by USAID.¹³⁹ The program mainly focused on developing teaching curricula and delivering ad hoc training to judges, prosecutors and court personnel. The majority of the ‘trainers’ were young American lawyers with little to no understanding of Cambodia’s hybrid civil law system and the difficulties faced by a judiciary in a developing country with a turbulent political history. While the training was almost entirely undertaken by these outside experts over short periods, it was noted that “these persons tended to teach at a high and esoteric level with no basis in the reality faced by the Cambodian judiciary”.¹⁴⁰ Overall the program had no institutional impact and was considered a disappointment given the funding allocated to it.

On 16 July 2014, a further series of long-awaited judicial reform laws were signed into effect by the Cambodian King. Two of the three laws were envisaged in the 1993 Constitution and the 2014 amendments were supposed attempts to rectify problems that were created, or otherwise left unaddressed from the initial legislative framework. The reform laws were passed after decades of “foot-dragging” and long promises to donors and the international community to improve the independence of the courts.¹⁴¹ Like earlier efforts at strengthening judicial capacity, these recent reforms were primarily driven by external demands for increased judicial independence and transparency.

The reforms received strong criticism from opposition parties and civil society. It is argued that the three new laws impact adversely on the independence of the judiciary and could allow for excessive executive control.¹⁴² Critics also cited that the laws were pushed through the National Assembly and the Senate with no amendment or review, at a time when the Cambodian National Rescue Party (CNRP) opposition party was absent.¹⁴³ The three laws are argued to undermine the independence of the judiciary and place excessive power and privilege within the Ministry of Justice (MoJ).

The laws include the Law on the Organisation and the Functioning of the Supreme Council of Magistracy (the ‘Law on the SCM’); the Law on the Status of Judges and Prosecutors (the ‘Law on Judges and Prosecutors’); and the Law on the Organisation and Functioning of the Courts (the ‘Law on the Courts’). The amendments to the law on the SCM place the Supreme Council of Magistracy (SCM) under the firm control of the Minister of Justice.¹⁴⁴ The Minister is now authorised to represent the SCM, draft royal decrees on behalf of the SCM, and to determine the pursuit of any disciplinary claims against judges and prosecutors. This allows judicial matters, which should be dealt with in the purview of the judiciary itself, to now fall within the authority of a member of the executive.

The inclusion of executive members and the National Assembly on the SCM undermines the principle of separation of powers. The Law on Judges and Prosecutors grants the Minister of Justice authority to appoint and promote judges. The primary criticism of this law is that it relates to the standards applied to judicial promotion and discipline. There is concern that this law would generate incentives for judges to decide on issues in favour of the MoJ. In accordance with democratic principles, such decisions should be made entirely separate from the executive power. Finally, under the Law on the Courts, the Justice Minister has been granted power to oversee the judiciary’s financial budget and administrative matters.

These highly contentious reforms were deemed “inconsistent” with many international standards that aimed to guarantee and safeguard the rule of law and the independence of the judiciary.¹⁴⁵ Despite Cambodia’s constitutional guarantees of the separation of powers between the executive, legislative and the judiciary, the new laws are argued to further aid the ruling party’s powerful grip on state institutions and further compromise judicial independence. There is concern that because Cambodia’s socio-political context is constructed around patrimonial relations, the content and structure of the long-awaited ‘judicial reform’ laws will have no real impact on the country’s deep-rooted culture of impunity and corruption that runs rife throughout all state institutions, most notably within the judiciary.

The Rule of Law and the Extraordinary Chambers in the Courts of Cambodia

Cambodia’s most substantive, lengthy and expensive rule of law reform initiative can be seen in the mandate of the ECCC. The ECCC, better known as the Khmer Rouge Tribunal, is a hybrid tribunal model of transitional justice responsible for holding accountable the senior and most responsible leaders of the Khmer Rouge for crimes

committed under the Democratic Kampuchea (1974–1979) regime.¹⁴⁶ Operating in parallel to this is the tribunal's explicit rule of law mandate which states that:

by judging the accused in fair and open trials and by punishing those most responsible, the trials will strengthen the rule of law and set an example for people who disobey the law in Cambodia and for cruel regimes worldwide.¹⁴⁷

The tribunal's rule of law mandate is embedded in the post-Cold War phase of transitional justice that coincided with Huntington's *Third Wave of Democratization*. This phase of transitional justice focused on addressing past human rights abuses through retributive justice, with the assumption that legal accountability would promote a liberal rule of law culture in post-conflict or post-authoritarian states.¹⁴⁸

The main impetus for the ECCC's hybrid structure was the absence of a functioning domestic judiciary following the Khmer Rouge era. The tribunal's hybrid nature has a predominantly national component with a strong presence and influence of international jurists drawn from outside Cambodia. The tribunal was initially anticipated to create a spillover effect, whereby Cambodia's domestic judiciary could mimic examples of fair justice, as set by international standards and enforced through the hybrid court. Indeed in 2010, then UN Secretary General, Ban Ki-Moon, stated that the purpose of establishing the ECCC "[included] the strengthening of the local judicial system".¹⁴⁹ Previously Secretary General, Kofi Annan also expressed that the ECCC would leave a rule of law legacy in Cambodia, "as it will result in the transfer of skills and know-how to Cambodian court personnel".¹⁵⁰

Hybrid tribunals like the ECCC are usually established when the state's domestic judiciary is severely lacking and international jurisdiction is required to remedy the problem. Hybrid tribunals are intended to combine the benefits of both ad hoc tribunals and local prosecutions.¹⁵¹ Hybrid tribunals serve to be "less divisive, more meaningful to victim populations, and more effective at rebuilding the local judicial systems".¹⁵² In terms of the rule of law, hybrid tribunals are argued to be more successful in cultivating a democratic rule of law culture because they encourage a higher degree of participation from national actors. They are also better placed to influence wider public perceptions of justice and can foster rule of law norms within a society.

Legacy building in the ECCC has been discussed both in the context of national reconciliation and strengthening the rule of law in Cambodia.¹⁵³ While the tribunal is hailed as a model court, assessments of its ability to leave a rule of law legacy highlight corruption and political interference in Cambodia's domestic judiciary, and the country's institutional constraints and absent political will. It is argued that these socio-political realities envelope the judicial landscape in Cambodia and "shape the contours of the justice system in which the ECCC operates".¹⁵⁴

While hybrid tribunals are intended to achieve a complementary balance between international and domestic ownership, the ECCC is a complex two-tiered court.¹⁵⁵ Rulings are made based on unanimity or a supermajority.¹⁵⁶ This formula requires that at least one international judge needs to agree with the ruling. Backing from the international community and the UN provides the court with the necessary funding and legitimacy to operate.

Although the court is structured as a hybrid model, the Cambodian component is vulnerable to political manipulation due to a lack of impartiality and independence from the CPP regime. Indeed, rather than the ECCC influencing the local legal system in a positive direction, the evidence suggests quite the opposite – that Cambodia's national courts have impacted on the quality and integrity of the hybrid tribunal. There have been two main concerns in this respect: that Cambodian standards of justice affect the tribunal's quality and credibility; and secondly, that Cambodian judges and legal personnel serve as a channel through which the ruling party can exert its political influence over the tribunal.¹⁵⁷

A study of Cambodian judges found that judges and prosecutors "expressed little optimism about the possibility of spillover effects because of the politicised nature of Cambodia's judiciary".¹⁵⁸ This has largely been discussed in the context of Cambodia's patron-client culture – there is an "endemic system of patronage and corruption that is the norm for Cambodia's judiciary and law enforcement".¹⁵⁹ In 2009 the Open Society Justice Initiative released a scathing report about the ECCC's failure to cultivate a rule of law culture in Cambodia.¹⁶⁰ The report attributed blame to both the unsustained efforts from senior court officials and the political will from the government.

The lack of judicial independence in Cambodia has widely been attributed to the prevailing culture of impunity. This follows decades of political violence and chronic problems within the legal system and administration of justice. De facto impunity also extends to the state's security apparatus – the military, police and armed forces. Often cases

involving high-ranking or well-connected officials don't make it to court, are thrown out or result in very lenient sentences. This reflects the historical patterns identified above that have persisted throughout the UNTAC period, and despite recent externally-driven judicial reform efforts, continue to the present day.

Conclusion

The ECCC's rule of law mandate is not sensitive enough to the broader socio-political environment that the domestic judiciary operates within. The ECCC's mandate to strengthen judicial independence in Cambodia's local courts is compromised by a lack of bureaucratic capacity and the political will to ensure that the judiciary operates independently of the executive. This is consistent with historical patterns that have persisted throughout the UNTAC period and the judicial reform efforts of subsequent decades.

For now the ECCC continues to work through cases 003, 004 and 004/02 - although their fate is heavily dependent on funding to ensure they reach trial.¹⁶¹ Regardless of the outcome of these cases, the ECCC's exit from Cambodia will be assessed closely in terms of what rule of law legacy it leaves behind. Like earlier judicial reform efforts in Cambodia, it is an unlikely prospect that the ECCC can deliver substantively on its rule of law mandate.

This paper suggests that Cambodia's political culture has had spillover effects on the efficacy of the tribunal, compromising any meaningful rule of law legacy. The paper concludes that internationally-driven judicial reform efforts that are not sensitive to historical legacies and socio-political culture cannot deliver the rule of law outcomes intended.

Regional Environmental Governance in South East Asia: Challenges of compliance and effectiveness

Andrea Haefner

Setting the Scene

The Association of Southeast Asian Nations (ASEAN) comprises ten countries including Brunei, Malaysia, Singapore, the Philippines, Thailand, Vietnam, Indonesia, Myanmar, Cambodia and Laos situated in the south-eastern part of Asia. Regional environmental issues and environmental degradation in Southeast Asia are occurring mainly due to the industrialisation of Asia into the world economy. Main drivers are changing political economy, urbanisation, growth in population and change in lifestyles.¹ Key environmental challenges include deforestation, logging, air pollution, climate change, landslides, over fishing, the threat of pandemics, illegal wildlife trade, illegal hunting and discarding of risky wastes.² The region has changed to 'dirtier, less ecologically diverse and more environmentally vulnerable' practices.³ The region is also affected by climate change resulting in increasing floods and droughts throughout Southeast Asia.

Regional organisations are increasingly challenged with, and need to respond to, transboundary and global environmental problems. Ever more frequently, environmental issues that begin as matters of national concern rapidly become transboundary in scope. Water deserves special attention because of its three key characteristics: it has no substitute; it cannot be secured in sufficiently large quantities through long-distance trade deals; and due to the interconnectivity of the hydrological system, the actions of one country in its water management have a direct bearing on the interests of neighbouring countries.⁴ While freshwater is fundamental to all ecological and societal activities, such as energy and food production, industrial development, transportation, health and employment, it is often unequally distributed within a region or even within one country.⁵ For instance, transboundary water relations are complex and all basins are different because water resources allocation, terrain, and even more importantly, institutional infrastructure, are different.⁶ Conflict between and within states over freshwater resources poses an interesting challenge for scholars and policymakers due to competing claims over water and the concept of territorial sovereignty, which is broken by transnational rivers. Similarly to water, air and air pollution (also called haze) is also transcending traditional borders impacting not only on the national population and interests but also into neighbouring countries, providing similar transboundary challenges as water.

Post-Cold War security has a more local and regional focus, and therefore places more emphasis on transnational threats and transboundary cooperation. Jens-Uwe Wunderlich argues that the regional level gained importance throughout the 1990s because of the worldwide globalisation process and a stronger interconnection between states and regions.⁷ This assertion is also supported by Barry Buzan, who argues that the collapse of the Cold War order, a bipolar system, and the subsequent decentralisation of the international system have strengthened regionalism.⁸ The removal of superpower rivalry has encouraged multipolarity and contributed to a system in which regional agreements can have greater importance. Thus, through the emergence of globalisation, regionalism has gained in significance and is currently the focus at both water and air resource management theory and policy.⁹

Role of ASEAN in Dealing with Regional Environmental Issues

Southeast Asian countries have been challenged over time by various environmental issues including deforestation, logging, air pollution, climate change, landslides, over fishing, the threat of pandemics, illegal wildlife trade and discarding of risky wastes. In regards to environmental cooperation among its member states, ASEAN introduced the ASEAN Expert Group on the Environment in 1978.¹⁰ In general, environmental cooperation in ASEAN can be divided into three phases which started with a non-formal web of soft law declarations, resolutions and action plans avoiding non-binding agreements; followed by an emphasis on environmental protection, collective responses and commonalities later expanding to subsidiary bodies including the Environmental Ministers meeting

and the ASEAN Secretariat. Early key focus areas included the management of shared natural resources regarding biodiversity and pollution control, mainly referring to haze pollution through forest fires to acquire agricultural land.¹¹

This paper will address two of these regional environmental issues: water allocation and air pollution (haze). Both, water resources and air pollution epitomize the dilemmas surrounding common pool resources, when the use by one party diminishes the potential benefits to others. Further, transboundary rivers and transcending air pollution are both transboundary challenges in nature, where the concept of territorial sovereignty is broken.

Haze pollution has been a yearly occurring happening in Southeast Asia which peaked in 1997/1998. Large scale land and forest fires, predominantly in Indonesia, lead to frequent smoke and pollution periods within ASEAN, especially affecting Indonesia, Malaysia and Singapore. While some fires are started due to natural lightning strikes, there exists incontrovertible evidence that the problem in Indonesia was and is largely man-made.¹² Burning is the easiest and cheapest method to clear undergrowth and logging waste after the removal of valuable tropical timber, often used to create plantations. Today, Indonesia is the world's largest producer of palm oil.¹³

In June 2002 in Kuala Lumpur, ASEAN member signed a historic regional agreement, the ASEAN Agreement on Transboundary Haze Pollution to tackle the challenges of regional haze pollution. This was the first regional proposal in the world which aimed to mitigate and prevent haze pollution through regional cooperation. And as argued by ASEAN representatives, dialogues on the haze agreement addressed for the first time serious differences among its member states.¹⁴ However, there are two major main dilemmas with the agreement, namely that Indonesia, the main emitter did not ratify the agreement until 2015 and second, that the agreement has a weak mechanism for the settlement of disputes and punishing non-compliance.¹⁵

Analysing the issue of water usage, the Mekong River is used as a regional example within ASEAN, flowing through six countries (China, Myanmar, Laos, Thailand, Cambodia and Vietnam), of which five countries are part of ASEAN. Overall, the ASEAN region has in general sufficient water however some countries experience seasonal scarcity, and freshwater resources are under increasing pressures due to rapidly rising demand from industrial activities, agricultural use, and a growing population. The Mekong is covering nearly 4900 kilometres from the Tibetan plateau before ending in the South China Sea. It is the largest river in Southeast Asia and the eighth largest¹⁶ in the world, which has enormous economic and ecological resources as well as political significance extending to the six riparian countries.¹⁷ The Mekong Subregion is an important subregion in the Asia-Pacific due to its significance for more than 70 million people living directly on the river banks and the unique wide range of ecological diversity in a significant ecological system.

Currently, ASEAN environmental cooperation includes water management through the ASEAN Cooperation on Environment. To ensure equitable access and sufficient water quantity of acceptable quality, the ASEAN Socio-Cultural Community (ASCC) Blueprint promotes regional cooperation on integrated water resources management. Recognising the importance of freshwater resources, ASEAN formed the AWGWRM in 2002. Following the endorsement of the ASEAN Long Term Strategic Plan for Water Resources Management in 2003 by the ASEAN Environment Ministers, ASEAN adopted the ASEAN Strategic Plan of Action on Water Resources Management 2005 which aims to promote the sustainability of water resources to ensure equitable accessibility and sufficient water quantity of acceptable quality.¹⁸

Key Challenges in Dealing with Regional Environmental Governance: Politics of Power, Corruption and a Lack of Institutional Capacity

Some of the environmental challenges faced by ASEAN are linked to its culture and principles of non-interference and non-binding decision-making. Other problems include the general lack of concrete instruments that are able to translate the regional commitments on an ASEAN level into national policy and its implementation.¹⁹ While ASEAN is an umbrella for the subregion, environmental matters and guidelines do not influence the subregion strongly as these procedures and guidelines are often implemented slowly and not monitored thoroughly. Additionally, ASEAN is related to trade, and national views and territorial claims are still dominant. As a result, ASEAN is a rather loose and less focused institution with no ambition to become anything more. This is in stark contrast to for instance the European Union which has a strong focus on environmental standards and guidelines which are enforced within the member countries.²⁰

However, to understand the two highlighted environmental challenges, it is important to understand the key players at hand and the key drivers of decision making, not just on the regional level but also at a national level as this drives the behaviour and implementation on the regional level. In regards to haze pollution, Indonesia is central to this as the country is the main source of large scale land and forest fire which as a results contributes to the majority of the pollution. In regards to water allocation and management on the Mekong, Laos plays a pivotal role as the landlocked country is increasing building and approving hydropower dams and will be the first country in the Lower Mekong River to have a dam on the mainstream of the Mekong River.

Patron-Client Relationships

Relationships between politically and economically powerful patrons and a weaker client play a large role in Southeast Asia and are at the heart of relations in the Southeast Asian culture. Especially in regards to natural resources management, this plays a central role. In the case of haze fire in Indonesia, satellite images taken during the 2013 haze period showed in the jurisdiction of Riau on the island of Sumatra, that fires were occurring within large agro-commercial plantations. However, the agro-commercial communities strongly denied this, pointing to small scale local farmers near the plantations for the fires.²¹ For instance, after the 1997-1998 fires in Indonesia, 176 plantation and logging companies and transmigration area originators were inspected by the government for illegal burning, but because of a lack of institutional capacity and corruption no one was sentenced.²² Generally, in countries like Indonesia officers within the government can be bribed by rich plantation corporations to balance out any offences committed. Also, often the companies which log land and then convert degraded land into cash crop plantations are one and the same or a parent or sub-company.²³

In general, the very structure of the Indonesian land and forest land use policies encourage large scale plundering of natural resources by politically connected commercial interests with often little consideration for sustainability. Although estimates vary and are hard to measure, estimates show that the total forest cover loss in Indonesia over the 32 years of Suharto rule came up to at least 40 million hectares.²⁴ Patron-client relationship are widespread and it is common that the sector supports numerous direct relationships of politicians in office to the plantation benefits. Sometimes, retired senior bureaucrats act as intermediaries with the state and perform advisory and brokerage function on behalf of a company.²⁵ As a result, these conditions promote elites to support measures that safeguard regional and domestic political economic stability and market access to these natural resources.²⁶ It also meant that many political parties in power have direct links to these plantation interests.²⁷ According to Varkkey²⁸, the 'ASEAN style of regional engagement has enabled political elites to shape ASEAN initiatives to preserve the interests of their clients, while the public continues to suffer annually as a result of haze'.

Similarly, the same can be said about developments of the Xayaburi hydropower dam in Laos, which is currently under construction and will be the first mainstream dam on the Lower Mekong.²⁹ The Finnish engineering company Pöyry's carried out the Environmental Impact Assessment (EIA) for the dam and then became the lead engineer of the project. In a similar manner to other hydropower developments in the region, this provides a 'conflict of interests', which meant that a company has an advantage by making certain statements and approving projects independently of possible social and environmental impacts again showcasing linkages and direct benefits between private companies and decision making through patronage linkages.

Imbalance within the Government and Lack of Political Will

Another big challenge in regards to environmental governance is often the imbalance within the government structures and the power of individual agencies both across sectors and within different levels of governance. Government departments do not have one position; often, there are several drivers behind the decision-making process. In regards to the haze agreement, there were until 2015 two major ministries in Indonesia, the Environment Ministry and the Forestry Ministry, which had different tasks and functions in regards to the agreement. The Environment Ministry was responsible for the negotiation of agreements in the environmental area and pushed for parliamentary ratification to the agreement. However, this was prolonged in parliament and the discussion was transferred from one year to another. The Forestry Ministry was a key player in this as the ministry was closely linked with the key players on the ground and wanted to 'keep their interest'. This ministry has a superior workforce, mandate and budgetary means compared to other ministries and is highly responsible for the misuse of business licensing of the forest to private firms.³⁰ Or as argued by Nguitragool and Syarif³¹ the Environment Ministry remains a junior ministry within the Indonesian government, with no powers to force these other government ministries to comply with any requirement or expectations, to enforce domestic law. Both ministries merged in 2015 creating the Ministry of Environment and Forestry. As an agrarian studies expert, Noer Fauzi

Rachman, recently expressed [when talking about the personnel transfer holdovers from the previous administration], 'this is not a sign of change'.³² However, overall it is too early to say if this merger has a positive impact on the raised issues or not.

Besides the challenges across several sectors, another key hindrance is the institutional capacity on all levels of governance including national, provincial and local levels. As argued by Nazeer and Furuoka³³, 'the main obstruction was and continues to be the insufficient standard of administration and governance at both the local and national levels in Indonesia. This includes the county's deficiencies in environmental governance, land tenure, forestry management and decentralization of power and institutional capacity to combat fires and haze pollution effectively.'³⁴ Besides the various government actors, lobby groups also had an impact on the hindrance of the ratification, especially the Indonesian Palm Oil Association and the Indonesia Sustainable Palm Oil Commission as highlighted previously, which often influence parliamentarians for their own interests and individual benefits.³⁵

National laws are existing however implementation and enforcement is lacking, which is often linked back to the lack of institutional ability.³⁶ Similarly to the national level, on an ASEAN level, the Agreement on Haze pollution is also weak as it lacks enforcement mechanism and sanctions which can be imposed on countries which do not adhere to the policy. This is traceable back to ASEAN's principle of non-interference and consensus. Above all, lack of political will plays an important role. For instance, as seen in the case of Indonesia, the country did not ratify the Haze Agreement for 12 years. Also, on a local level, capacity and means to fight fires on the ground are often not existing which makes law enforcement difficult.

In regards to hydropower developments in Laos, imbalances between government ministries are also visible. For instance the relatively new established Ministry of Natural Resources and Environment lacks capacity at the national, district and provincial level, whereas the Ministry of Energy and Mines is a very powerful ministry driving the representation of the Lao government in regards to hydropower developments at a national and international level. In regards to hydropower projects, the sphere is dominated by the Lao Deputy Minister for Energy and Mines, Viraphonh Viravong, stating that hydropower is important because it is clean, cheap and renewable, further affirming that 'hydropower contributes something like 33% to the natural capital of the wealth of Laos. And if Laos wants to leave behind its least developed country status by 2020, this is our only choice'.³⁷

Lack of Considering Environmental Cost

Another key aspect when talking about environmental issues and impacts is that there is a lack of including environmental cost for a healthy ecosystem for instance budgeting clear air in a cost-benefit-analysis or when conducting impact assessments for new infrastructure projects. Haze has already caused and will cause in the future more economic damage. Fires in Indonesia damaged almost 10 million hectares of forest and grassland, affecting approximately 300 million people through the ASEAN states.³⁸ The total cost of fires may never be known but estimates for losses range between 4.5 billion USD to around 9.3 billion USD internationally 'just' for the 1997 fires.³⁹ Economic damages arose mainly from the destruction of crops and timber, decline in tourism and foreign investment and health care costs. Health related costs were estimated around 164 million USD.⁴⁰ It is further estimated that the cost to control Indonesian forest fires is approximately 1.2 billion USD.⁴¹ Overall, according to Elliott⁴² 'Indonesia's main concern, is that the value of the natural resources (land and forests) is considered more critical than protection of the environment'.

Similarly in the Mekong region, economic interests enjoy remarkable primacy, and the development of the river basin's resources tend to be regarded by governments mainly in terms of resource exploitation to advance national economic growth.⁴³ Or as often stated by the Lao Vice-Minister for Energy and Mines, Dr. Viraphonh Viravong, hydropower is important because it is clean, cheap and renewable. According to the Lao government, the Xayabouri Dam is expected to bring 130 million USD a year in royalties and taxes.⁴⁴ However, costs in regards to environmental and social impacts are not available or considered by the government in any cost-benefit-analysis.

Estimated impacts of the Xayabouri Dam include the loss of biodiversity, a change in the ecosystem, and the reduction of fish. A highly controversial point is the use of fish ladders on the Xayabouri Dam, as proposed in the first draft of the dam. Fish experts argue that these ladders would not work due to the high diversity of fish in the Mekong, including different sizes and high number of fish, and the height of the dam.⁴⁵ It is estimated that around 2,100 people would be resettled by the project and that more than 202,000 people living on the river banks in close proximity to the dam site would be affected through loss of income and food security, including loss of agricultural land, loss of opportunities of gold panning and lack of access to forest products. Besides the

contribution to fisheries, river dependent agriculture brings around \$4.6 billion in rice paddy grow and up to \$574 million in riverbank gardens per year.⁴⁶ Besides the impact on biodiversity, fish stocks and food security, another problem of the proposed dam is that the actual cost of the already existing revenues from a 'healthy' Mekong River is not counted and social and environmental damages as well as the necessary money for mitigation and compensation are missing from any calculations. This means that the actual cost is unknown and cannot be weighed against the income generated through the dam investment. Another key issue is that the costs and benefits will be unevenly distributed between the people within Laos, but also between the riparian countries in the Lower Mekong.⁴⁷ This means that the main beneficiaries in Laos will be the elite, politicians and private companies, whereas the burden will be at the local level where income is reduced due to less fish stocks, reduced agricultural productivity and hardship due to relocations.

Conclusion

Regional organizations are increasingly challenged with, and need to respond to, transboundary and global environmental problems. Ever more frequently, environmental issues that begin as matters of national concern rapidly become transboundary in scope. For instance, the current surge for large hydropower development projects on the Mekong River impact on water and food security across national boundaries. Similarly, transboundary haze pollution is an almost annual occurrence in Southeast Asia; haze originates from peat and forest fires mostly in Indonesia, with Malaysia and Singapore suffering the worst of its effects.

Using a political science lens, this article highlighted that although there is a regional agreement to deal with haze pollution on the ASEAN level, which is not existing for transboundary water management, the key challenges remain the same as it was demonstrated on the challenges in the two case studies Indonesia and Laos. Real challenges in both cases are: patron-client relationships; imbalance within the government agencies and across all levels; and a lack of considering the cost of a healthy environment. Key findings include that economic interests dominate among the riparian states in the Lower Mekong, and that Laos and other countries tend to confine their cooperation to infrastructural development rather to consultation or management of potential adverse transboundary impacts of upstream development. Likewise, the regional nature of the haze has resulted in a concentration of haze mitigation activities at the ASEAN level; however, these initiatives continually fail to effectively mitigate haze.

Overall, the article argues that these failures are due to the ASEAN style of regional engagement that prioritises the maintenance of national sovereignty as opposed to shared regional interests. Some of the environmental challenges faced by ASEAN are linked to its culture and principles of non-interference and non-binding decision-making. Other problems include the general lack of concrete instruments that are able to translate the regional commitments on an ASEAN level into national policy and its implementation.⁴⁸ While ASEAN is an umbrella for the region, environmental matters and guidelines do not influence the member countries strongly as these procedures and guidelines are often implemented slowly and not monitored thoroughly.

The Social Costs of Development in East Nusa Tenggara: How Economic Growth Promotes Human Trafficking among Subsistence Farmers

Yenny Tjoe

Introduction

In the era of globalisation, economies have become increasingly interdependent and interconnected. With the advancement of technology to speed up transactions and drive down cost, the liberalisation of markets becomes a norm to promote economic growth. In international development, it is often argued that the liberal market system encourages economic growth which leads to development that encompasses human security and promotes the human rights of all people. The promotion of the liberal market system is supported by most industrial policies in Western states and is always promoted in the development agendas of international organisations. Indeed, while economic liberalisation has brought economic growth to parts of the Western world and Northeast Asia, this claim cannot be made of the Southeast Asia region, where many people have no access to safe drinking water, poor families have their children drop out of school to work as street beggars or in factories, and migrant workers are exploited and abused within the region. Although Southeast Asia has achieved economic growth, that growth has not led to development or improvements in human rights.

Development has meant different things in different eras. In the post-WWII period, development was about rebuilding nations, raising incomes, and reducing extreme poverty. Development required a structural change from small-scale subsistence agricultural practices to a more modern large-scale production economy. Government intervention in the economy was needed to promote industrialisation and modernisation of production methods which proved to strengthen a nation's stability, raising income and driving growth. In the 1970s, development was understood as the improvement in the quality of life, where development covered not just jobs and incomes but also the provision of public services for all people so they could meet their basic human needs (safe food and water, clothing, shelter, sanitation, and education). In the 1980s, the idea of development shifted to a free market (neoclassical) approach, which advocated free markets and contended that a society will benefit and attain successful development under a market-friendly system.

During Suharto's centralised regime, development goals were achieved through structural change in agricultural production and the promotion of export industries. Poverty and unemployment rates were drastically reduced, but the quality of lives in many regions remained poor. Under the current decentralised regime, the privatisation of the worker-sending sector in 2004 marked Indonesia's neoclassical approach to development—where private labour agencies could recruit workers from the open pool of the rural population, while workers' wages were decided by the agencies and worker-receiving parties. Privatising the worker-sending sector has increased the efficiency of worker recruitment and placement, but it again undermines the critical objective of development—improving the quality of lives and human rights of the rural poor.

Indonesia's Approach to Development, 1945–1998

In the post-independence era between 1945 and the mid-1960s, under the Sukarno administration, development and poverty reduction in Indonesia were hampered because the domestic political situation was still very unstable. Many of its regions were under the former Dutch colonial government (the Netherlands Indies Civil Administration, or NICA) and the state priority of development focused more on strengthening the unity of the nation. Entering the 1960s, the economy became even worse as economic activity was paralysed. The domestic supply of rice and other basic necessities was very limited, while the state did not have the ability to import them. During the first

two decades of independence therefore the country experienced a scarcity of basic necessities, hyperinflation, and increased poverty.

In the mid-1960s, the Suharto administration began to emphasise the need for economic growth and stability to improve the welfare of the people. The state intended to intervene in the domestic economic system, aiming for a stable and predictable growth pattern for the medium and long term. In 1966, the state reorganised its economic system through the *Program Stabilisasi dan Rehabilitasi Ekonomi* (Economic Stabilisation and Rehabilitation Program), and at the end of 1960s the state prepared its national development plan for the period 1969–1994, also known as the *Pembangunan Jangka Panjang I* (Long term Development Plan I). This long term development plan set goals and strategies to achieve growth which was broken down into the five terms of *Repelita* (5-year development plan). The five terms of *Repelita* under Indonesia's Long Term Development Plan I (1969–1994) are:

Repelita I (1969–1974) - Presidential Decree No. 319/ 1968

Target and policies: Improvement of agricultural production through:

- Revolusi Agraria (Agrarian Revolution)
- Research, selection and distribution of superior seeds to farmers
- Infrastructure improvement (roads, irrigation, marketplace)
- Transmigration from Java to less populated regions.

Repelita II (1974–1979) - Presidential Decree No. 11/ 1974

Target and policies: Expansion of employment and development in the outer islands through:

- Transmigration
- Creation of labour-intensive industries

Repelita III (1979–1984) - Presidential Decree No. 7/ 1979

Target and policy – Boosting exports by promoting labour-intensive industries

Repelita IV (1984–1989) - Presidential Decree No. 21/ 1984

Targets and policies:

- Attaining national food self-sufficiency (particularly rice) through development of agricultural production.
- Boosting exports of non-oil and gas commodities
- Promoting labour-intensive industries, especially industries that processed raw materials into intermediate or finished goods.

Repelita V (1989 – 1994) - Presidential Decree No. 13/1989

Targets and policies:

- Economic deregulation
- Creating new jobs and industries.
- Maintaining agricultural production to sustain food self-sufficiency.

The literature suggests that the central focus of Suharto's Long Term Development Plan was for economic growth to catch up with the other states in the Asian region, while poverty eradication was merely a by-product.¹⁶² The development, during the Suharto administration, in the form of increased employment and incomes of the poor, was achieved through the employment of farmers and low skilled workers for the production of food and commodities. The agrarian revolution throughout the 5 *Repelita* which seemed to immediately benefit the farmers was in fact driven by a command system. Rather than facilitating empowerment and learning to the farmers, production and marketing decisions were more in the form of receiving top-down instructions. Consequently, this shaped a culture among farmers where they "wait for direction and aid from the top". The state created Bimas (*Bimbingan Masyarakat*) or Community Guidance groups, across the villages to distribute superior seeds, fertilisers and agricultural tools to farmers. To increase agricultural productivity, farmers were directed to replace their traditional production methods with state-distributed superior seeds, fertiliser, and other modern agricultural tools to yield abundant harvests within shorter planting times (harvesting 2 – 3 times a year).

Moreover, Suharto's Long Term Development Plan I has been criticised as state propaganda to expand and cultivate the Javanese culture in the outer islands.¹⁶³ For example, the ambition to attain food self-sufficiency in *Repelita IV* promoted chiefly the production of rice, the staple food of the Javanese society which is viewed as a superior culture in the country. In 1984, Indonesia attained food self-sufficiency and in 1986 the FAO presented two medals to

Suharto—one of them showed a farmer planting rice and reading "From Rice Importer to Self-Sufficiency", acknowledging Suharto as a symbol of international agricultural development. In contrast, the increased production of other foodstuffs such as corn, yams, cassava, and sago—the main commodities and staple foods of the Eastern region (Kalimantan, Maluku, NTT and Papua)—received little attention.

One of the criticisms of the Suharto administration is that it neglected development in the Eastern region and its development agenda was not pro-poor.¹⁶⁴ The majority of provinces in the Java Islands with major trading centers and a high demand for output have been outperforming other provinces, particularly in the East, because Java constantly received attention from the central government in the form of development policy, tax-discounts for investors, bidding on government projects opened to foreigners, and so on. Provinces in the east and far from Java Island which are isolated and lack the resources to support productivity have been overlooked in the central decision-making process. This has resulted in income disparities between the West and the East¹⁶⁵, and has prolonged the problems of poverty in the Eastern region.

In sum, from the 1960s to the 1990s, Indonesia's approach to development was one of structural change in agricultural production, modernisation of production methods, and the promotion of export industries. Although poverty and unemployment rates were drastically reduced, the quality of lives in the outer islands, particularly the Eastern region, hardly improved. Nevertheless, throughout the Long Term Development Plan I, Indonesia experienced rapid economic growth. The sustained growth was due to a consistent macroeconomic policy that controlled inflation and improved the state budget, and investor-friendly industrial policies that promoted labour-intensive production and created jobs for low-skilled workers.¹⁶⁶ National incomes increased, and poverty fell from 50.6 % in 1970 to 11.3% in 1996.¹⁶⁷ Economic growth was perceived as the engine to reduce poverty and continued to be the principal objective of the development programs in the country.

Privatisation of the Worker-Sending Sector – A Case Study of NTT Subsistence Farmers

The Placement and Protection of Indonesian Migrant Workers

In 2004, during the Megawati administration, Law No. 39/2004 (on Placement and Protection of Migrant Workers) was passed. This law effectively promulgated the mechanism of recruitment, training and placement of migrant workers to be carried out by the private sector. The main objective of this law was to promote the migration of workers overseas as a means to facilitate employment for the country's large labour force population.

All matters relating to labour development, market and protection fall under the umbrella of the Ministry of Manpower (*Kementerian Ketenagakerjaan*). While the Ministry of Manpower acts as the policy maker, the implementation of policy is the responsibility of the BNP2TKI (National Board for the Placement and Protection of Indonesian Migrant Workers), including the evaluation of the effectiveness, placement and protection of migrant workers. BNP2TKI deals directly with the private labour agencies, granting permits to the labour agencies to undertake the preparation of the migrant workers, including their recruitment and training, matching workers with overseas employers, and finally sending migrant workers to the countries of destination. The BNP2TKI has regional offices (BP3TKI, LP3TKI, and P4TKI) in the major cities across the country and works in partnership with the police, Ministry of Social Affairs, and Ministry of Foreign Affairs.

The recruitment process and applicant minimum requirements are regulated under Articles 35, 36 and 37 of Law No. 39/2004. An individual who is interested in becoming a migrant worker must first register themselves with the state institution of Manpower at her/his respective regional government. Private labour agencies can only recruit and train registered individuals who meet the minimum requirements, including being:

- i. at least 18 years old;
- ii. healthy and psychologically fit (not pregnant for female applicants), and
- iii. meeting the minimum educational attainment of SLTP (Junior High School or equivalent).

Labour agencies also must only arrange overseas placement for candidates who are at least 21 years old¹⁶⁸, have undertaken proper training, and have passed the training assessments and the pre-employment medical examination. The labour agencies also prepare an employment agreement. The employment agreement serves as

a legal document as regulated in Law No. 39/2004, Article 52, Verse 2, which clearly lists the roles and obligations of the labour agency and the migrants during the employment period. Among these are:

- i. the rights and duties of the labour agency and migrant must be agreed upon by the prospective overseas employer;
- ii. the labour agency must provide a guarantee to the migrant in the event that the overseas employer does not fulfil her/his obligations under the terms of the employment agreement;
- iii. the amount of placement fees that must be borne by the migrant and the payment method; and
- iv. the conditions and requirements that the migrant must agree on, such as the work schedule (number of working hours), wages and the payment method, the rights for taking leave and taking a rest from work, and the facilities and social security the TKI will provide.

Candidates are then required to provide a consent letter from her/his parents or spouse and sign the employment agreement prepared by the labour agency. All documents are re-checked during the *Pembekalan Akhir Pemberangkatan* (BNP2TKI's final briefing for migrant workers before departure).

The privatisation of the worker-sending sector has indeed promoted the migration of Indonesian workers, particularly from the rural population. The economic gains from this privatisation have benefited both the Indonesian state and overseas employers. Indonesian migrant workers have been a steady source of export revenues, contributing to at least 1% of the annual GDP. The mainstream revenues are generated from the Middle East (40%), Southeast Asia (33%), and also Northeast Asia (22%). From 2010 to 2016, the three top importers of Indonesian workers were Saudi Arabia, Malaysia, and Taiwan.

Table 1. Remittance of Indonesian migrant workers, from 2010 to 2016¹⁶⁹

Year	Overseas Placement (# people)	Remittance (USD Millions)	By Regions in 2016 (USD Millions)		By Countries in 2016 (USD Millions)	
2010	575,804	6,735	SEA	2,848	Malaysia	2,501
2011	586,802	6,736	NEA	(33%)	a	(29%)
2012	494,609	7,018	Middle	1,874	Taiwan	832
2013	512,168	7,415	East	(22%)	Saudi	(9.6%)
2014	429,872	8,345	US and	3,457	Arabia	2,914
2015	275,736	9,418	EU	(40%)	US	(33.6%)
2016	234,451	8,672	AUS and	439	AUS	346
			Oceania	(5%)		(4%)
				33		25
				(0.4%)		(0.3%)

The neighbouring worker-receiving countries such as Malaysia and Singapore, with relatively higher GDP per capita, are constantly in need of female migrant workers from Indonesia and the Philippines to help alleviate the shortage of local maids. The attributes of domestic house workers and caregivers include doing repetitive, boring and unskilled jobs that pay low wages—types of job that are willingly performed by imported overseas migrant workers who are from poor families and are less educated.¹⁷⁰ It has also been argued that the state has designed policies to valorise the skills of migrant workers.¹⁷¹ This indicates that social subordination in Southeast Asia has been upheld by states to meet the needs of their wealthier social groups as countries experienced economic growth.¹⁷²

There are two implications from the privatisation of the worker-sending sector. Firstly, the Indonesian migrant workers who do not meet the minimum requirements are practically illegal migrants, and thus their entitlement to overseas legal protection is likely to be disadvantaged. In many occasions, the migrant workers, especially female, were never registered with the relevant state institution in Indonesia; many of them did not complete Junior High School; and were under 21 when they commenced their overseas employment. Secondly, labour agencies performed overseas placement of unregistered and unqualified individuals—this indicates that the sector has facilitated the illegal movement of persons from Indonesia across borders, thus increasing the risk of human trafficking among Indonesian migrant workers.

While the economic growth of this liberal labour market may have led to a better quality of life for migrant workers in Indonesia, the growth has also led young people in rural areas to prefer migration, shifting from traditional subsistence farming to modern cash employment overseas. However, the following case study of East Nusa

Tenggara shows that the subsistence-based households in the region are increasingly being targeted for illegal worker recruitment and overseas placement.

NTT Subsistence Farmers

The Eastern region of Indonesia is home to the poorest provinces, namely Papua, Maluku, and East Nusa Tenggara (NTT). The majority of the poor live in remote areas which are accessible only by boat, on foot or by small plane. Among the poorest provinces, NTT is often described as prone to drought and food shortages. Despite the economic boom during the Suharto regime, this region never enjoyed the prosperity of the country. The Central Bureau of Statistics reported that in 1990, nearly 40% of villages in this province were living under the poverty line.¹⁷³ Due to isolation and dryness, this province has been under-developed for many decades; its per capita GRDP (regional-GDP) was ranked the lowest of all provinces, only 40% of the national GDP.¹⁷⁴ Just before Indonesia began its reform and decentralization program, NTT was still very poor and appeared at the top of the provinces in terms of poverty incidence and infant malnutrition.¹⁷⁵ In 2016, NTT was ranked the third poorest province in the country, with 22%¹⁷⁶ of its population living on less than Rp 11,550 a day, an amount equivalent to AUD1.15.

Almost all households in rural NTT practise subsistence farming.¹⁷⁷ The rural people's way of life also possesses the characteristics that may be identified as tribal or indigenous; they are closely attached to ancestral territories and the natural resources in the region, loyal to ancestral heritage values and customary social and political institutions, and preserve some form of subsistence farming.¹⁷⁸ For instance, the *Atoin Meto* people in West Timor¹⁷⁹ live within a societal structure that resembles a clan system where land, water and other resources are protected by *adat* (customary) laws.¹⁸⁰ West Timor is categorised as a semi-arid region, its annual total rainfall varies among districts between 900 mm and 2500 mm, with a unimodal rainfall pattern (one rainy season per year) occurring between December and February/March.¹⁸¹ Thus, the region does not support rice production that requires wetland farming. Rural West Timorese earn some cash by selling their harvest in the farmer's market and also from the sale of cattle (small animals like chicken or dog are sold at roughly Ro 200,000 (20 USD) while cows can sell at Rp4 million (400 USD) if they are lucky). They usually leave their villages for 2 days to sell their produce, or for 3 months to work and generate sufficient cash before returning home.

A recent study finds that modernisation has brought some positive changes in the rural society of West Timor; particularly among women who have increasingly participated in education and the informal sectors.¹⁸² Boys and girls are equally encouraged by their farmer parents to pursue higher education as educational attainment is now considered important for modern cash employment, improving living standards and social status.¹⁸³ Education is one of the main expenses of the subsistence farmers in West Timor; some of them are also willing to sell their land to help their children pay entrance fees into university or college.¹⁸⁴ Those who cannot afford higher education usually migrate out, either to the local cities or overseas, temporarily to offer their labour as construction workers (for males), or as domestic housemaids (for females). The clan also allows the women to temporarily leave the family and community to help meet the family's financial needs. However, the existing social issue within the village societal structure also seems to push people towards migration. Many of the young people who are capable of, and dedicated to, serving the community are either not recruited as personnel in village government or are forced to leave the village for cash-employment to support their family needs.¹⁸⁵

NTT Migrant Workers

Since 2004, the number of rural people from NTT recruited to become migrant workers has increased. Initially, migrant workers from NTT were dominated by males who were sent to Malaysia to work for palm plantation companies. This may be partly due to the increasing expansion of palm oil companies in Malaysia since 2007¹⁸⁶, which pulled Indonesian workers into the country. Another factor causing the increasing number of NTT migrant workers is the increasing number of private labour agencies established since the worker-sending sector is privatised in 2004.

The migrant workers from NTT come mostly from West Timor, Sumba, and Flores and they are recruited by private labour agencies, known as *Perusahaan Jasa Tenaga Kerja Indonesia* (PJTKI) in the region and are sent to Jakarta or Batam before they depart to Malaysia. The male migrant workers from NTT are placed in plantation or construction

sites and the number has been decreasing over time. On the other hand, the number of female migrant workers is increasing and they are placed in residential areas to work as domestic workers or caregivers.

Compared to Java and NTB, the number of migrant workers from NTT per year was merely 1% of the total migrant workers from Indonesia, but this region recorded a steady high incidence of complaints every year (see Table 2). The number of migrant workers from NTT who were sent back to Indonesia due to problematic issues has been increasing and many of the issues are related to abusive¹⁸⁷ treatment from the overseas employers. The region also continued to have the highest number of trafficked women.¹⁸⁸ The brutal experiences of NTT migrant workers were also featured in the international media, which openly criticised the Indonesian government as failing to protect its migrant workers.¹⁸⁹

Table 2. Migrant workers by region, average value from 2011 - 2016¹⁹⁰

Region	Supply of migrants	Minimum education	No. of complaints filed / Total TKI from the region	Employing Countries
West Java	24.03%	Elementary	1.79%	Taiwan, Saudi Arabia, UAE
Central Java	21.40%	Junior High School	0.56%	Taiwan, Malaysia, Singapore
East Java	18.56%	Junior High School	0.52%	Taiwan, HK, Malaysia
NTB	14.06%	Elementary	0.92%	Malaysia, Saudi Arabia, UAE
NTT	1.25%	Elementary	5.28%	Malaysia, Singapore, HK
Indonesia	422,273 (Junior High School	1.24%	

Table 3. Top problems that caused NTT migrants to return to home country¹⁹¹

Problems	2011	2012	2013	2014	2015 (Per April)
Fail to depart	2	0	3	5	211
Passed away	1	11	18	31	54 (2016 data)
Did not received wages	6	17	17	44	22
Communication disconnected	13	21	19	27	12

The most common problems and complaints reported by returning NTT migrants is the issue of wages. To recruit rural women, the labour agents often promised the women that the job would pay them large amount of wages. However, after commencing the overseas employment, they found that the first 6 to 10 months of their salary went towards paying the agent for arranging the flights, visa, accommodation and employment. Fearing that they might be harassed or their family at home might be harassed by the agent, many female migrants stayed and worked with the same employer without receiving wages to pay off their debt; the debt also compelled them to work in abusive conditions.

Civil society groups have alleged that the female migrant workers from NTT who passed away overseas were the victims of forced labour.¹⁹² Although their bodies were returned to their families by the employing labour agency, the common reason provided for their death was that the migrant committed suicide.¹⁹³ Their corpses were enclosed in coffins and upon opening the coffin, the families often found stitches around their eyes and waists. Despite the obligation for employing labour agencies to attach a parental/family consent letter before sending workers overseas, the families of victims often were unaware that the victims had travelled overseas for work. This is an indication that the region is prone to human (and organ) trafficking.

It is estimated that about 11,000 people have been trafficked from NTT since 2009.¹⁹⁴ Whether the victims were sent abroad to work as domestic workers or plantation workers, their real status was unknown by the officers in Indonesia and in the worker-receiving countries, thus making these vulnerable people very unsafe and open to exploitation.

Indonesia and ASEAN's Stance on Protection of Migrant Workers

Indonesia is currently still categorised as Tier 2 in the Trafficking in Persons Report¹⁹⁵, which means that the country has not fully complied with the minimum standards for the elimination of human trafficking. However, in 2002, Indonesia co-chaired a forum with Australia, known as the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime. Although all member states of ASEAN were part of the Bali Process, this forum did not produce any binding agreement, indicating the members' lack of interest on the topic.

Within Indonesia, the protection of migrant rights seems to be a low priority for the government. The regulatory mechanism through Law No. 39/2004, the Ministry of Manpower and the BNP2TKI, is geared towards the "placement" of workers rather than the "protection" of workers. The BNP2TKI has been criticised as a regulatory body established to build a good International image of Indonesia's worker-sending sector, including its role in monitoring the placement agencies and worker training standards.¹⁹⁶ Hence, the main focus of liberalising the labour sector remains one of economic gains, rather than improving the quality of life and well-being of the workers.

At the regional level, ASEAN has so far shown its interest in the promotion of human rights through the ASEAN Charter of 2008 and the ASEAN Political-Security Community (APSC) Blueprint of 2009. There are also subregional bodies such as the ASEAN Intergovernmental Commission on Human Rights (AICHR) and the ASEAN Commission on the Promotion and Protection of Women and Children's Rights (ACWC). In particular, the ASEAN member states have adopted the APSC Blueprint that uses words such as "people-oriented", "promoting tolerance", "comprehensive security", and "respect for diversity and equality", however the concept of "responsibility to protect (R2P)" has not been explicitly adopted.¹⁹⁷ This implies that these regional agreements' main purpose is to prevent conflict and enhance regional cooperation; whereas protecting migrant rights might inhibit their activities. In addition, subregional arrangements for the promotion of human rights could be limited because the Charter also reaffirmed that ASEAN's guiding principles are based on non-interference and consensus.¹⁹⁸ Thus, it is difficult to claim that ASEAN has made significant progress in defining its regional policy for the protection of migrant workers.

ASEAN, as a regional institution, plays a critical role as it defines meaning for member states and may influence the policy of member states. The role of ASEAN also includes internalising norms and values to members, consequently shaping and altering member states' identities and interests.¹⁹⁹ For Indonesia and the Philippines, as worker-sending states, their domestic policies have less bargaining power; hence these states receive pressure from both the regional and domestic levels²⁰⁰ and face difficulties in enforcing the norms of human rights protection in ASEAN forums.

To enforce the protection of human rights in ASEAN, a number of challenges need to be addressed, particularly to empower the established human rights bodies. Firstly, a limited budget and lack of human resources are the main constraints facing these bodies which inhibits their activities to promote human rights protection in the ASEAN region. Secondly, the ASEAN way of non-interference and consensus does not give the established human right bodies the mandate to exert pressure on member states or impose sanctions against erring members. Considering the low level of democracy and rule of law in the region, these bodies may continue to be limited by these guiding principles. Another challenge is the human rights issue within each member state. For states to recognise the existing problems would require an acknowledgment that they had in fact violated human rights, whereas most states are reluctant to do so.²⁰¹

Conclusion

Does economic growth promote development for all humanity? Does it promote human trafficking? The case study of East Nusa Tenggara shows that the current free market approach to development carries expensive social costs. Firstly, the worker-sending program has encouraged monetisation and modernisation of rural life. Growth is now perceived by the rural people as having the ability to earn cash and experience the modern way of life by going overseas as migrant workers. Illegal agencies can easily attract young members from subsistence farming families who wish to earn sufficient cash for higher education—an essential attribute for improving living standards and social status.

Secondly, there are increased abuses on migrant workers and trafficking of persons, particularly from the rural NTT. Two decades of the privatised worker-sending program has undermined the critical objective of development because the economic gains have not been allocated to improve the mechanism for the protection of migrant workers. The regulatory body must start to take serious consideration and action on the issue of migrant workers' rights and security.

Further research, including field data, is needed for this paper to provide a better understanding of Indonesia's stance and approach to the illegal recruitment and human trafficking of its migrant workers.

Notes

- 1 Robison, R, and Hadiz, VR, 2004, *Reorganising Power in Indonesia: The Politics of Oligarchy in an Age of Markets*, Routledge, London.
- 2 Huntington, SP, 1991 *The Third Wave: Democratization in the Late Twentieth Century*, Norman: University of Oklahoma Press, Oklahoma.
- 3 Carothers, T, 2002, 'The end of the transitional paradigm,' *Journal of Democracy*, vol. 13, no. 1, pp. 5–21.
- 4 Case, W, 1996, 'Can the "halfway house" stand? Semidemocracy and elite theory in three South East Asian countries', *Comparative Politics*, vol. 28, no. 4. pp. 437–64; Case, W, 2002, *Politics in South East Asia: Democracy More or Less*, Curzon, London; Levitsky, S, and Way, LA, 2002, 'The rise of competitive authoritarianism', *Journal of Democracy*, vol. 13, no. 2, pp. 51–65; Levitsky, S, and Way, LA, 2010, *Competitive Authoritarianism: Hybrid Regimes After the Cold War*, Cambridge University Press, New York; Schedler, A, 2002, 'Elections without democracy: The menu of manipulation', *Journal of Democracy*, vol. 13, no. 2, pp. 36–50; Schedler, A, 2006, *Electoral Authoritarianism: The Dynamics of Unfree Competition*, Lynne Rienner, London; Ottaway, M, 2003, *Democracy Challenged: The Rise of Semi-Authoritarianism*, Carnegie Endowment for International Peace, Washington DC; Croissant, A, and Merkel, W, 'Introduction: Democratization in the early twenty-first century', *Democratization*, Vol 11, No. 5, pp. 1–9; Merkel, W, 'Embedded and defective democracies', *Democratization* Vol 11, No. 5, pp. 33–58.
- 5 Schattschneider, EE, 1975, *The Semi-Sovereign People: A Realist's View of Democracy in America*, Wadsworth, Boston MA; Mair, P, 1997, 'EE Schattschneider's "The semisovereign people"', *Political Studies*, vol. 45 no. 5, pp. 947–54.
- 6 Lasswell, H, 1936, *Politics: Who Gets What, When and How*, Whittlesey House, New York.
- 7 Jayasuriya, K, and Rodan, G 2007, 'Beyond hybrid regimes: More participation, less contestation in South East Asia', *Democratization* vol. 14, no. 5, pp. 773–94.
- 8 Ziegler, P, 1985, *Mountbatten: The Official Biography*, Collins, London, pp. 252–3.
- 9 Tinker, H, 1957, *The Union of Burma: A Study of the First Years of Independence*, London: Oxford University Press, p. 351.
- 10 Steinberg, DI, 2001 *Burma: The State of Myanmar*, Georgetown University Press, Washington DC, p.xxx.
- 11 Zollner, H-B, 2008, 'Die langen schatten der politik – zum stand der Birma-Forschung' (The long shadow of politics – research on Burma'), *Internationales Asien Forum: International Quarterly for Asian Studies*, vol. 39, nos. 1–2, pp. 55–79.
- 12 Cited in Steinberg, DI, 2001, *Burma: The State of Myanmar*, Georgetown University Press, Washington DC, p.xxv.
- 13 Larkin, E, 2010, *Everything is Broken: The Untold Story of Disaster Under Burma's Military Regime*, Granta, London, pp. 251–2.
- 14 Bakshian, D, 1998 'China-Burma-India intelligence', *Voice of America*, 21 May 1998, at: <https://fas.org/irp/news/1998/05/980521-prc3.htm>
- 15 McDonald, H., 'Revealed: Burma's nuclear bombshell', *The Sydney Morning Herald*, 1 August 2009, at <http://www.smh.com.au/world/revealed-burmax2019s-nuclear-bombshell-20090731-e4fw.html>
- 16 IISS, 2009, 'Myanmar', *Preventing Nuclear Dangers in South East Asia and Australasia*, IISS Strategic Dossiers, London, at <https://www.iiss.org/en/publications/strategic%20dossiers/issues/preventing-nuclear-dangers-in-southeast-asia-and-australasia-7e31/sea-07-myanmar-b270>
- 17 International Republican Institute, 2014, 'Survey of Burma Public Opinion, December 24, 2013– February 1, 2014', International Republican Institute, at http://www.iri.org/sites/default/files/flip_docs/2014%20April%203%20Survey%20of%20Burma%20Public%20Opinion,%20December%2024,%202013-February%201,%202014.pdf
- 18 The Asia Foundation, 2014, *Myanmar 2014: Civic Knowledge and Values in a Changing Society Summary Report*, San Francisco, CA.
- 19 Kelley, R and Fowle, A, 2010, 'Nuclear related activities in Burma', *Democratic Voice of Burma*, at <http://www.washingtonpost.com/wp-srv/world/documents/060410.pdf>
- 20 Parry, RL, 2012, 'West has no simple way to treat the lady', *The Australian*, 21 June 2012, at <http://www.theaustralian.com.au/news/world/west-has-no-simple-way-to-treat-the-lady/news-story/5139830ea1ceb9cceafdfc249e91b0d3>

- 21 van Teeseling, I, 2017, 'Aung San Suu Kyi: Our assumptions versus her reality', *Australia Explained*, 18 April 2017, at <http://www.australia-explained.com.au/opinions/aung-san-suu-kyi-our-assumptions-vs-her-reality/>
- 22 AFP, 2017, 'Aung San Suu Kyi slams "iceberg of misinformation" over Rohingya', *Indian Express*, 6 September 2017, at <http://indianexpress.com/article/world/aung-san-suu-kyi-slams-iceberg-of-misinformation-over-rohingya-4831598/>
- 23 Geddes, B, Wright, J, and Frantz, E, 2014, 'Autocratic breakdown and regime transitions: A new data set', *Perspectives on Politics* vol. 12, pp. 313–31.
- 24 Bueno de Mesquita, B, Smith, A, Siverson, RM, and Morrow, JD, 2003, *The Logic of Political Survival*, The MIT Press, Cambridge, Massachusetts.
- 25 Gallagher, M, and Hanson, J, 2015, 'Power tool or dull blade? Selectorate theory for autocracies', *Annual Review of Political Science* vol.18 pp. 367–85.
- 26 Ibid.
- 27 Bueno de Mesquita, B, Smith, A, Siverson, RM, and Morrow, JD, 2003, *The Logic of Political Survival*, The MIT Press, Cambridge, Massachusetts.
- 28 Khan, MH, 2000, 'Rent-seeking as process,' In MH Khan and JK Sundaram (eds), *Rents, Rent-seeking and Economic Development: Theory and Evidence in Asia*, Cambridge University Press, Cambridge, UK, pp. 70–144; Dunning, T., *Crude democracy: Natural resource wealth and political regimes*. New York: Cambridge University Press, 2008.
- 29 Khan, MH, 2000, 'Rent-seeking as process,' In MH Khan and JK Sundaram (eds), *Rents, Rent-seeking and Economic Development: Theory and Evidence in Asia*, Cambridge University Press, Cambridge, UK, pp. 70–144;
- 30 Ibid.; Ross, ML, 2001, *Timber booms and institutional breakdown in South East Asia*, Cambridge University Press, Cambridge, UK; Sundaram, JK, and Gomez, ET, 2000, 'The Malaysian development dilemma', In MH Khan and JK Sundaram (eds), *Rents, Rent-seeking and Economic Development: Theory and Evidence in Asia*, Cambridge University Press, Cambridge, UK, pp. 274–303.
- 31 Davenport, C, 2007, 'State repression and political order', *Annual Review of Political Science*, vol. 10, pp. 1–23; Escribà-Folch, A, 2013, 'Repression, political threats, and survival under autocracy', *International Political Science Review* vol. 34, pp. 543–60; Goldstone, JA, and Tilly, C, 2001, 'Threat (and opportunity): Popular action and state response in the dynamics of contentious action', in R. Aminzade, JA Goldstone, D McAdam and E Perry (eds), *Silence and Voice in the Study of Contentious Politics*, Cambridge University Press, New York. pp. 179–94.
- 32 For discussion of electoral authoritarianism see Andreas Schedler, *Electoral Authoritarianism: The Dynamics of Unfree Competition*, New York: Rienner, 2006.
- 33 Craig, D, and Pak, K, 2011 'Party Financing of Local Investment Protects: Elites and Mass Patronage', in C Hughes & K Un (eds), *Cambodia's Economic Transformation: Historical and Theoretical Frameworks*, Nordic Institute of Asian Studies Press, Copenhagen, pp. 1–26; Pak, K, (2011, 'A dominant party in a weak state: how the ruling party in Cambodia has managed to stay dominant' (unpublished doctoral dissertation), Australian National University, Canberra.
- 34 Ibid.
- 35 Eng, N, 2014, *The politics of decentralization in Cambodia: the district level*, unpublished doctoral dissertation, Monash University, Melbourne; Hughes, C., 2003, *Political Economy of the Cambodian Transition*, Routledge, London.
- 36 Pak, K, 2011, *A Dominant Party in a Weak State: How the Ruling Party in Cambodia has Managed to Stay Dominant*, Australian National University, Canberra.
- 37 Craig, D, and Pak, K, 2016, 'Party financing of local investment protects', in C Hughes and K Un (eds), *Cambodia's Economic Transformation*, Nordic Institute of Asian Studies, Copenhagen.
- 38 The World Bank, 2007, *The World Bank lifts suspension of projects*, The World Bank, Phnom Penh; Moore, M, 2006, 'In need of aid: Cambodia's corruption troubles', *Harvard International Review*, vol. 28, no. 7.
- 39 So, S, 2009, *Political economy of land registration in Cambodia*, (unpublished doctoral dissertation), Northern Illinois University, DeKalb, Illinois.
- 40 Transparency International, Corruption Perceptions Index, 2015, <http://www.transparency.org/research/cpi/>
- 41 World Economic Forum, 2015, *The Global Competitiveness Report 2015–2016*, World Economic Forum, Geneva.
- 42 Billon, PL, 2002, 'Logging in muddy waters: the politics of forest exploitation in Cambodia', *Critical Asian Studies* vol. 34, pp. 563–86; Global Witness, 2007, *Cambodia's Family Trees*, Global Witness, USA.

- 43 Worrell, S, 2013, 'Can't see the forest...', *The Phnom Penh Post*, 12 December 2013, available at: <http://www.phnompenhpost.com/national/can't-see-forest>
- 44 Ibid.; Cambodian Human Rights and Development Association, 2013, *A Turning Point? Land, Housing and Natural Resource Rights in Cambodia*, ADHOC, Phnom Penh.
- 45 An honorific title granted by the King, by recommendation of the Government, to those contributing US\$100,000 or more to national development. Over time, this title connotes a kind of symbiotic relationship between businessmen/women and the ruling party.
- 46 Global Witness, (2007), *Cambodia's Family Trees*.
- 47 Milne, S, Pak, K., and Sullivan, M, 2015, 'Shakled to nature? The post-conflict state and its symbiotic relationship with natural resources', in S Milne and S Mahanty (eds), *Conservation and Development in Cambodia: Exploring Frontiers of Change in Nature, State and Society*, Routledge and Earthscan, New York, pp. 28-50.
- 48 Human Right Watch (HRW), 2015, *30 Years of Hun Sen: Violence, Repression, and Corruption in Cambodia*: HRW, USA.
- 49 Hughes, C, 2006, 'The politics of gifts: tradition and regimentation in contemporary Cambodia', *Journal of South East Asian Studies* vol. 37, pp. 469-489.
- 50 Ibid.
- 51 Un, K, 2013, 'Cambodia in 2012: towards developmental authoritarianism?', *South East Asian Affairs*, vol. 1, pp. 71-86.
- 52 Asian Network for Free Elections (ANFREL), 2013, *Transparency and impartial investigation needed to repair lost confidence in Cambodian elections*, 5 August 2013 Asian Network for Free Elections, available at: <http://anfrel.org/transparency-impartial-investigation-needed-to-repair-lost-confidence-in-cambodian-elections/>; Gromping, M, 2015, 'South East Asian Election Worst in the World', *New Mandala*, 19 February 2015, available at: <http://asiapacific.anu.edu.au/newmandala/2015/02/19/South-East-asian-elections-worst-in-the-world/>
- 53 The Committee for Free and Fair Elections in Cambodia (COMFREL). *2013 National Assembly Elections: Final Assessment and Report* (Phnom Penh: COMFREL, 2013).
- 54 Vong, S, 2005, 'SRP lawman stands by allegations of corruption', *The Phnom Penh Post*, 9 September 2005, available at: <http://www.phnompenhpost.com/national/srp-lawman-stands-allegations-corruption>
- 55 Human Right Watch, 2015, *30 Years of Hun Sen*.
- 56 Radio Free Asia, 2015, 'Cambodian PM Promotes 29 to Four Star General' available at: <http://www.rfa.org/english/news/cambodia/promotion-02052014165509.html>
- 57 Human Rights Watch, 2009, 'Cambodia: 1997 Grenade Attack on Opposition Still Unpunished: Suspects in Attack Have Been Promoted Instead of Prosecuted' available at: <https://www.hrw.org/news/2009/03/30/cambodia-1997-grenade-attack-opposition-still-unpunished>
- 58 Radio Free Asia, 2015, 'Cambodia's Armed Forces "Belong" to the Ruling Party', Radio Free Asia, 29 July 2015, available at: <http://www.rfa.org/english/news/cambodia/military-07292015145855.html>
- 59 Cooperation Committee for Cambodia (CCC), 2012, *CSO Contributions to The Development of Cambodia*, CCC, Phnom Penh.
- 60 Royal Government of Cambodia (RGC), 2011, *Aid Effectiveness Report 2011*, Royal Government of Cambodia, Phnom Penh.
- 61 Blue, R, Blair, H, and Mitchell, L, 2008, *Political Competitiveness and Civil Society Assessment*, USAID, Phnom Penh.
- 62 Hughes, C, and Un, K, 2007, *Cambodia Country Governance Analysis*, DFID and Embassy of the United Kingdom, Phnom Penh.
- 63 Radio Free Asia, 2012, 'Hun Sen Walks Back Criticism', 16 November 2012, available at: <http://www.rfa.org/english/news/cambodia/land-dispute-11262012182616.html>
- 64 Radio Free Asia, "Hun Sen warns NGOs not to interfere with Judicial Reform Legislation," 8 April 2014 available at: <http://www.rfa.org/english/news/cambodia/laws-04282014172126.html>
- 65 Cambodian Human Rights and Development Association (ADHOC), 2013, *A Turning Point?*
- 66 Titthara, M, 2014, 'Political' arrests abound: org', *The Phnom Penh Post*, 19 November 2014, available at: <http://www.phnompenhpost.com/national/'political'-arrests-abound-org>; Narim, K 2016, 'No Activists Arrested on Eighth "Black Monday"', *The Cambodia Daily*, 28 June 2016, available at: <https://www.cambodiadaily.com/news/no-activists-arrested-on-eighth-black-monday-114713/>
- 67 Data for this study were drawn from existing surveys, news reports, Facebook status updates and comments, and semi-structured interview. Stories of Facebook-induced government changes examined here were selected from those widely reported by the media. Facebook keyword search was then performed to gather

user discussions around those stories. A main source of Facebook data is Prime Minister Hun Sen's Facebook page <https://www.facebook.com/hunsencambodia/>. Interviews were conducted with three young activists who can present representative view through their experience engaging with peers. Their views were sought for the argument with regard to the role of Facebook in political participation. We are grateful to Ehito Kimura, Benjamin Lawrence and Benedict Kerkvliet for their valuable comments.

- 68 Craig, D and Pak K, 2011, 'Party financing of local investment projects: elite and mass patronage', in Hughes C and Un K (eds) *Cambodia's Economic Transformation*, NIAS Press, Copenhagen, pp. 219–44; Hughes, C, 2006, 'The politics of gifts: Tradition and regimentation in contemporary Cambodia,' *Journal of Southeast Asian Studies* vol. 37, no. 3, pp. 469–89; Un, K, 2005, 'Patronage politics and hybrid democracy: Political change in Cambodia, 1993–2003', *Asian Perspective*, pp. 203–30.
- 69 They range from younger, reform-minded ministers; to policy concessions; to the Prime Minister's tour of provinces to get in touch with the reality of everyday life and deliver 'solutions' along the way.
- 70 Morozov, E, 2009, 'From slacktivism to activism', *Foreign Policy*, 5 September 2009.
- 71 Kerkvliet, BJ, 2009, 'Everyday politics in peasant societies (and ours)', *The Journal of Peasant Studies*, vol. 36, no. 1, 227–43; Scott, JC, 1985, *Weapons of the Weak: Everyday Forms of Resistance*, Yale University Press, New Haven.
- 72 Bayat, A, 2013, *Life as politics: How ordinary people change the Middle East*, Stanford University Press, Stanford.
- 73 Walker, A, 2008, 'The rural constitution and the everyday politics of elections in Northern Thailand', *Journal of Contemporary Asia* vol. 38, no. 1, pp. 84–105.
- 74 Kerkvliet, BJ, 2009, 'Everyday politics in peasant societies (and ours)', *The Journal of Peasant Studies*, vol. 36, no. 1, pp. 227–43.
- 75 Scott, JC, 1986, 'Everyday forms of peasant resistance', *The Journal of Peasant Studies*, vol. 13, no. 2, pp. 5–35.
- 76 Morozov, E, 2009, 'From slacktivism to activism', *Foreign Policy*, 5 September 2009; Morozov, E, 2011, 'The net delusion: The dark side of internet freedom', *Public Affairs*, New York.
- 77 White, M, 'Clicktivism is ruining leftist activism', *The Guardian*, 12 August, 2010.
- 78 Morozov, E, 2011, 'The net delusion: The dark side of internet freedom', *Public Affairs*, New York.
- 79 Ibid. p. 196.
- 80 Ibid. p. 202.
- 81 Landman, A, 2008, 'Corporate-sponsored "slacktivism": Bigger and more dangerous than the urban dictionary realizes', *PRWatch*, Center for Media and Democracy, available at <https://www.prwatch.org/news/2008/06/7403/corporate-sponsored-slacktivism-bigger-and-more-dangerous-urban-dictionary-realize>
- 82 Christensen, HS, 2011, 'Political activities on the internet: Slacktivism or political participation by other means?', *First Monday*, vol. 16, no. 2.
- 83 Khamis, S and Alwadi, N, 2015, 'Cyberactivism and ongoing political transformation,' in I. Epstein (ed), *The Whole World is Texting: Youth Protest in the Information Age*, Sense Publishers, Rotterdam, pp. 45–60.
- 84 Kavada, A, 2010, 'Activism transforms digital: The social movement perspective', in M Joyce (ed), *Digital Activism Decoded: The New Mechanics of Change*, International Debate Education Association, New York, pp. 101–18, p. 104.
- 85 Golkar, S, 2015, 'Student activism, social media, and authoritarian rule in Iran', in I. Epstein (ed), *The Whole World is Texting: Youth Protest in the Information Age*, Sense Publisher, Rotterdam, pp. 61–79, p. 63.
- 86 Shirky, C, 2011, 'The political power of social media: Technology, the public sphere, and political change,' *Foreign Affairs*, pp. 28–41, p. 29.
- 87 Bayat, A, 1997, 'Un-civil society: The politics of the "informal people,"' *Third World Quarterly*, vol. 18, no. 1, pp. 53–72.
- 88 Morozov, E, 2011, 'The net delusion: The dark side of internet freedom', *Public Affairs*, New York, p. 199.
- 89 Kerkvliet, BJ, 2009, 'Everyday politics in peasant societies (and ours)', *The Journal of Peasant Studies*, vol. 36, no. 1, pp. 227–43; Scott, JC, 1985, *Weapons of the weak*.
- 90 Kerkvliet, BJ, 2002, *The Huk Rebellion: A Study of Peasant Revolt in the Philippines*, Rowman & Littlefield Publishers, Lanham; Kerkvliet, BJ, 2005, *The Power of Everyday Politics: How Vietnamese Peasants Transformed National Policy*, Cornell University Press, Ithaca.
- 91 Walker, A, 2008, 'The rural constitution and the everyday politics of elections in Northern Thailand,' p. 87.
- 92 Ibid.
- 93 In 2016 Facebook surpasses TV to become the most accessed source of information. See Phong, K., Srou, L. and Sola, J., *Mobile Phone and Internet Usage in Cambodia 2016* (Phnom Penh: Open Institute, 2016).

- 94 Sam Rainsy resigned from the party on 11 February 2016. He was succeeded by the party's vice president, Kem Sokha.
- 95 Greenwood, F, 2013, 'Social media drives youth involvement in Cambodia's national elections,' *TechPresident*, Available at: <http://techpresident.com/news/wegov/24223/rising-social-media-use-drives-youth-involvement-cambodias-national-elections> (accessed 9 March 2017).
- 96 Chan, S, 2015, 'New media and political participation: Cambodian citizens' use of the internet for participatory democracy,' *Cambodian Communication Review 2015*, pp. 32–46; The Asia Foundation, 2015, *Facebook Cambodia CIVIC Insights*, Asia Foundation, Phnom Penh.
- 97 Berger and Milkman, 2012, identify high-arousal emotions like anger, awe and sadness as determinant of virility of online contents.
- 98 Marichal, J, 2013, 'Political Facebook groups: Micro-activism and the digital front stage,' *First Monday*, vol. 18, no. 12.
- 99 Ibid.
- 100 Kerkvliet, BJ, 2009, 'Everyday politics in peasant societies,' p. 240.
- 101 Ibid. p. 232.
- 102 Thun, V, 2014, 'Youth political participation in Cambodia: Role of information and communication technologies (ICTs)', Unpublished Masters Thesis, DeKalb: Northern Illinois University.
- 103 COMFREL, 2013, *2013 National Assembly Elections Final Assessment and Report*, COMFREL, Phnom Penh.
- 104 Heng, S, Vong, M and Chheat, S, 2014, *The Enduring Gap: Decentralisation Reform and Youth Participation in Local Rural Governance*, CDRI, Phnom Penh.
- 105 Morozov, E, 2011, *The Net Delusion*, p. 201.
- 106 Interview with three young activists on 15/02/2017, 04/03/2017 and 06/03/2017.
- 107 Kuch, N and Ouch, S, 'No licenses needed for most motorists, Hun Sen declares,' *The Cambodia Daily*, 7 January, 2016. Available at: <https://www.cambodiadaily.com/news/no-licenses-needed-for-most-motorists-hun-sen-declares-104644/> (accessed 13 March 2017).
- 108 Mom, K, 'PM fined for breaking traffic law,' *Khmer Times*, 24 June, 2016. Available at: <http://www.khmertimeskh.com/news/26490/pm-fined-for-breaking-traffic-law/> (accessed 9 March 2017).
- 109 Mabbett, IW, and Chandler, DP, 1996, *The Khmers*, Silkworm Books; Ovesen, J, Trankell, I-B, and Öjendal, J, 1996, *When Every Household is an Island: Social Organization and Power Structures in Rural Cambodia*, Department of Cultural Anthropology, Uppsala University.
- 110 Öjendal, J, and Kim, S, 2006, 'Korob, Kaud, Klach: In search of agency in rural Cambodia,' *Journal of Southeast Asian Studies*, vol. 37, no. 3, pp. 507–26.
- 111 Heng, S, et al., 2014, *The Enduring Gap*, p. 18.
- 112 Scott, JC, 1985, *Weapons of the Weak*, p. 36.
- 113 Michael Barry Hooker, 1978, *A Concise Legal History of South-East Asia*, Clarendon Press, Oxford, p. 166.
- 114 Under direction of French officials, a number of texts were promulgated, including a Civil Code (1920) and texts on Judicial Organisation and a law on the Control of the Judiciary.
- 115 John Tully, 2002, *France on the Mekong: A History of the Protectorate in Cambodia, 1863–1953*, University Press of America, Lanham MD, pp. 488–9.
- 116 Gregor Muller, 2006, *Colonial Cambodia's 'Bad Frenchmen': The Rise of French Rule and the Life of Thomas Caraman, 1840–1887*, Routledge, London, p. 105.
- 117 Due to the increase of crimes being committed by European merchants in Phnom Penh (c. late 1860–1870s), French officials sought to modify and redefine the rights and duties of European representation in legal matters. In 1873 the law changed and crimes committed by Europeans, even if involving Cambodians, were removed from the jurisdiction of Cambodian judges. Such cases were only to be dealt with by the colonial authorities; Muller, *Colonial Cambodia's 'Bad Frenchmen'*, p. 105.
- 118 Ibid. p. 109.
- 119 Siphana Sok and Denora Sarin, 1998, *The Legal System of Cambodia*, Cambodian Legal Resources Development Center (CLRDC), Phnom Penh, p. 18.
- 120 Donovan, DA, 1993, 'Cambodia: Building a legal system from scratch', *The International Lawyer*, vol. 27, no. 2, p. 446.
- 121 Sok and Sarin, *The Legal System of Cambodia*, p. 20.
- 122 Vickery, M, 1987, 'Criminal law in the People's Republic of Kampuchea', *Journal of Contemporary Asia*, vol. 17, no. 4, p. 508.
- 123 Donovan, DA, 1993, 'Cambodia: Building a legal system from scratch', *The International Lawyer*, vol. 27, no. 2, p. 446.

- 124 Kathryn Neilson, K, 1996, *They Killed all the Lawyers: Rebuilding the Judicial System in Cambodia*, p. 2, available at:
https://www.uvic.ca/research/centres/capi/research/researchpublications/papers/Neilson_Killed_Lawyers.pdf
- 125 Kuong, T, 2011, 'Legal education in Cambodia: Shunning the course of history'. In S Steele and K Taylor (eds.), *Legal Education in Asia: Globalization, Change and Contexts*, Routledge, London, p. 285.
- 126 United States Institute of Peace (USIP), 2000, *Agreement on a Comprehensive Settlement of the Cambodian Conflict, 23 October 1991*, available at:
https://www.usip.org/sites/default/files/file/resources/collections/peace_agreements/agree_comppol_1023_1991.pdf, Annex 5: Principles for a New Constitution for Cambodia, Article 4.
- 127 Ibid. p. 2.
- 128 UNTAC was established by Security Council Resolution 745 (1992) of 28 February 1992, to ensure the implementation of the Agreements on a Comprehensive Political Settlement of the Cambodia Conflict, signed in Paris on 23 October 1991.
- 129 Downie S and Kingsbury, D, 2001, 'Political development and the re-emergence of civil society in Cambodia', *Contemporary Southeast Asia*, vol. 23, no. 1, p. 52.
- 130 Öjendal, J, 1996, 'Democracy lost? The fate of the un implanted democracy in Cambodia', *Contemporary Southeast Asia*, vol. 18, no. 2, p. 194; and Thion, S, 1993, *Watching Cambodia: Ten Paths to Enter the Cambodian Jungle*, White Lotus, Bangkok, p. 135.
- 131 Ibid., p. 194.
- 132 Bull, C, 2008, *No Entry Without Strategy: Building the Rule of Law Under UN Transitional Administration*, United Nations University Press, Tokyo, p. 76; Hooker, MB, 1978, *A Concise Legal History of South-East Asia*, Clarendon Press, Oxford, p. 166.
- 133 Ibid.. p. 76-7.
- 134 Brad Adams, "UN Human Rights Work in Cambodia: Efforts to Preserve the Jewel in the Peacekeeping Crown", in *Honoring Human Rights from Peace to Justice*, ed. Alice H. Henkin (The Hague: Kluwer Law International, 2000), p. 358.
- 135 Adams, "UN Human Rights Work in Cambodia: Efforts to Preserve the Jewel in the Peacekeeping Crown", p. 358.
- 136 Ibid.
- 137 Bull, C, 2008, *No Entry without Strategy: Building the Rule of Law Under UN Transitional Administration*, United Nations University Press, p. 5.
- 138 Adams, B, 2001, 'UN Human Rights Work in Cambodia: Efforts to Preserve the Jewel in the Peacekeeping Crown', in A Henkin (ed) *Honouring Human Rights*, Brill, Nijhoff, p. 359.
- 139 Ibid. p. 360.
- 140 Ibid.
- 141 Morris, C, 2017, 'Justice inverted: Law and human rights in Cambodia', in Katherine Brickell and Simon Springer (eds), *The Handbook of Contemporary Cambodia*, Routledge, London, p. 33.
- 142 International Bar Association's Human Rights Institute, 'Justice versus corruption: Challenges to the independence of the judiciary in Cambodia', September 2015, p. 7.
- 143 From 28 July 2013 to 22 July 2014 Cambodia had been in a state of political deadlock between the CCP's Hun Sen and his main political opponent Sam Rainsy from the CNRP over the 2013 election results. For more on this discussion see Vannarith, 'Cambodia breaks political deadlock, at last'.
- 144 Refers to body designated with the responsibility for appointing disciplining and potentially dismissing judges and prosecutors.
- 145 International Commission of Jurists, 'Key concerns over three judicial reform draft laws in Cambodia'.
- 146 In 2001 the Cambodian National Assembly passed a law to create the tribunal and in 2003 an agreement was reached with the UN detailing how the international community would assist and participate in the Extraordinary Chambers.
- 147 Extraordinary Chambers of the Courts of Cambodia (ECCC) 2011, 'Why are we having Trials Now? How will the Khmer Rouge Trials benefit the People of Cambodia?', Accessed August 16, 2017.
<https://www.eccc.gov.kh/en/faq/why-are-we-having-trials-now-how-will-khmer-rouge-trials-benefit-people-cambodia>.
- 148 Marie Balasco, LM, 2013, 'The Transitions of Transitional Justice: Mapping the Waves from Promise to Practice', *Journal of Human Rights*, no. 2, pp. 198-216; McAuliffe, P, 2015, *Transitional Justice and Rule of Law Reconstruction: A contentious relationship* Routledge, Abingdon.
- 149 Ciorciari JD, and Heindel, A, 2014, *Hybrid Justice*, The University of Michigan Press, Ann Arbor, p. 248.
- 150 Cited in Ciorciari and Heindel, *Hybrid Justice*, p. 248.

- 151 Previous UN backed courts included the ICTY and the ICTR, both proved to be expensive and observers argued that the tribunals were far removed from the site of conflict.
- 152 Katzenstein, S, 2003, 'Hybrid Tribunals: searching for justice in East Timor', *Harvard Human Rights Journal*, vol. 16, p. 246.
- 153 Gibson, J, Sonis, J and Heam, S, 2010, 'Cambodians' support for the rule of law on the eve of the Khmer Rouge tribunals', *The International Journal of Transitional Justice*, no. 3; McGrew, L, 2009, 'Re-establishing legitimacy through the extraordinary chambers in the courts of Cambodia' *Beyond Democracy in Cambodia: Political Reconstruction in a Post-Conflict Society*, NIAS Press, Copenhagen, pp. 250-97.
- 154 Coughlan, J, Ghouse S, and Smith, R, 2012, 'The legacy of the Khmer Rouge tribunal: Maintaining status quo of Cambodia's legal and judicial system', *Amsterdam Law Forum*, no. 2, p. 33.
- 155 The court is composed of a Pre-Trial Chamber, a Trial Chamber and a Supreme Court Chamber. It is speculated that the three chambers were established ad hoc to deal with the eventual disagreements between international and Cambodian co-prosecutors and co-investigating judges.
- 156 The supermajority requires four of the five judges to agree on a ruling; the majority of three plus one.
- 157 Un, K and Ledgerwood, J, 2010, 'Is the trial of 'Duch' a catalyst for change in Cambodia's courts?', *Asia-Pacific Issues*, no. 95, p. 6.
- 158 Ibid, p. 8.
- 159 Ibid, p. 1.
- 160 Ciorciari, JD and Heindel, A, 2014, *Hybrid Justice: The Extraordinary Chambers in the Courts of Cambodia*, Michigan University Press, p. 249.
- 161 These cases are opposed by the Cambodian government. Case 003 is against Muth, Case 004 against Yim Tith; and Case 004/02 is against Ao An.
- 162 Booth, A, 1998, *The Indonesian Economy in the Nineteenth and Twentieth Centuries: A History of Missed Opportunities* St. Martin's Press and Australian National University, Canberra; Hill, H, 2000, *The Indonesian Economy*. 2nd Edition, Cambridge University Press, New York.
- 163 Fox, JW, 2002, *Poverty Reduction in Indonesia, 1965 to 1997: A Country Case Study*, Technical report prepared for USAID Washing DC, Nathan Associates Inc, available at: http://pdf.usaid.gov/pdf_docs/Pnac802.pdf
- 164 Hill, H, 1988, 'Ensuring regional growth now the oil boom is over', *Far Eastern Economic Review*, vol. 1, pp. 24-5; Hill, H and Weidemann, A, 1989, 'Regional development in Indonesia: Patterns and issues', in Hal Hill (ed), *Unity and Diversity: Regional Economic Development in Indonesia Since 1970*, Oxford University Press, Singapore, pp. 3-54.
- 165 Booth, A, 2004, 'The changing importance of off-farm income for agricultural households in Indonesia', in Thomas R. Leinbach, *The Indonesian Rural Economy: Mobility, Work and Enterprise*, Institute of Southeast Asian Studies, Singapore, pp. 15-37.
- 166 Fox, JW, 2002, *Poverty Reduction in Indonesia, 1965 to 1997: A Country Case Study*, Technical report prepared for USAID Washing DC, p.9.
- 167 Booth, A, 2000, 'Poverty and Inequality in the Soeharto Era: An Assessment,' *Bulletin of Indonesian Economic Studies*, vol. 36, no. 1, p. 78.
- 168 On the other hand, under the Singapore's Employment Act, all migrant workers must be at least 23 years old, while migrant domestic workers are not included in this law.
- 169 Data source from Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia, Penempatan dan Perlindungan Tenaga Kerja Indonesia Tahun 2013 (Placement and Protection of Indonesian Migrant Workers in 2013), (Indonesian Government 2014), available at: http://www.bnp2tki.go.id/uploads/data/data_21-02-2014_043950_fix_2013.pdf BNP2TKI, Penempatan dan Perlindungan Tenaga Kerja Indonesia Tahun 2016 (Placement and Protection of Indonesian Migrant Workers in 2016), (Indonesian Government 2017), available at: http://www.bnp2tki.go.id/uploads/data/data_08-02-2017_111324_Data-P2TKI_tahun_2016.pdf; Indonesian Financial Statistics, Remitansi Tenaga Kerja Indonesia Menurut Negara Penempatan (Remittance of Migrant Workers by Placement Destination), (Bank Indonesia, 2017), available at: <http://www.bi.go.id/id/statistik/seki/terkini/eksternal/Contents/Default.aspx>
- 170 Huang, S and Yeoh, BSA, 2016, 'Maids and ma'ams in Singapore: Constructing gender and nationality in the trans-nationalization of paid domestic work,' *Geography Research Forum*, vol. 18, p. 22-48.
- 171 Huang, S and Yeoh, BSA, 2003, 'The difference gender makes: State policy and contract migrant workers in Singapore,' *Asian and Pacific Migration Journal*, vol. 12, no. 1-2, pp. 75-98.
- 172 Huang, S and Yeoh, BSA, 2016, 'Maids and ma'ams in Singapore: Constructing gender and nationality in the trans-nationalization of paid domestic work,' *Geography Research Forum*, vol. 18, p.43.

- 173 Badan Pusat Statistik, Statistik Kesejahteraan Rumah tangga 1991 (Household Welfare Statistics 1991), (Jakarta: Statistics Indonesia, 1992).
- 174 Hugo, G, 1995, *Manpower and Human Resources Development in Nusa Tenggara Timur*, Draft report prepared for the Regional Manpower Planning and Training Project (RMPT), Bureau of Manpower, (Jakarta: National Development Planning Agency, Bappenas).
- 175 Hugo, G, 2004, 'International labour migration and rural dynamics: A study of Flores, East Nusa Tenggara,' in Thomas. R Leinbach, *The Indonesian Rural Economy: Mobility, Work and Enterprise*, Institute of Southeast Asian Studies, Singapore, pp. 103–33.
- 176 BPS Indonesia, Percentage of Poor People by Province 2007 – 2017, (Statistics Indonesia 2017), available at: <https://www.bps.go.id/linkTableDinamis/view/id/1219>
- 177 Barlow C and Gondowarsito, R, 2007, *Socio-Economic Conditions and Poverty Alleviation in Nusa Tenggara Timur*, Australian National University, Canberra.
- 178 These characteristics are recognised by Food and Agriculture Organisation and the World Bank as local knowledge and social capital of the tribal and indigenous peoples, see Food and Agriculture Organisation, FAO Policy on Indigenous and Tribal Peoples, Rome: FAO, 2010), available at: <http://www.fao.org/docrep/013/i1857e/i1857e00.pdf>; International Labour Organisation, Indigenous and Tribal Peoples Convention, C169, 76th International Labour Conference Session, 27 June 1989, Geneva, available at: http://www.ilo.org/dyn/normlex/en/f?p=normlexpub:12100:0::no::p12100_instrument_id:312314; World Bank, 2003, Implementation of Operational Directive 4.20 on Indigenous Peoples: An Independent Desk Review Washington, DC:.
- 179 West Timor is one of the four major Islands in NTT province; the other major Islands include Flores, Sumba, and Alor.
- 180 Any social occasion that affects the sacred ancestral territories, such as a marriage between two clans or a territorial dispute, will require the holding of a community meeting with the presence of customary elders to clarify issues of territory, origin of ancestors and location of their boneyards. See Yenny Tjoe, *Sustaining Livelihoods: An Analysis of Dryland Communities in West Timor, Indonesia*, PhD Thesis, Australia: Griffith University, 2016.
- 181 Ibid. p. 26.
- 182 Ibid. p. 178.
- 183 Ibid. p. 207.
- 184 Ibid.
- 185 In some villages, the village parliament (Badan Permusyawaratan Desa) and village administration are recruited based on their kinship with the village head rather than their capability and educational qualification, see Yenny Tjoe, 'Dryland sustainable livelihoods: Role of clan and customary laws in West Timor, Indonesia', *The International Journal of Sustainability in Economic, Social, and Cultural Context*, vol. 13, no. 1, pp. 1–19.
- 186 Malaysia is the base of two of the world's largest palm oil plantation companies: (i) Sime Darby, created in 2007 through a merger of Sinergy Drive and Malaysian State Owned Companies, Guthrie and Golden Hope; and (ii) Felda Global Ventures (FGV) Holdings, created in 2007. See Sinergy Drive, 'Synergy Drive Forms Merger Integration Committee,' Press Release, 27 December 2006, available at: <http://www.simedarby.com/downloads/pdfs/NEWS/News-20061227.pdf> ; Felda Global Ventures, Overview 2017, available at: <http://www.feldaglobal.com/our-business/plantation/plantation-overview/#> .
- 187 One of the horrifying abusive cases is the case of Nirmala Bonat in 2004. Nirmala is from Timor Tengah Selatan Regency, who experienced a lot of physical abuse when she worked as a domestic worker in Kuala Lumpur, Malaysia. For 5 months, she was brutally beaten, burned with an iron and had boiling water thrown on her. She was only 20 when she commenced the overseas employment. The labour agency altered her age in passport to be 28 years old, and she was instructed by the labour agency to lie to the customs about her real age. She was only 20 when she commenced the overseas employment.
- 188 Institute of Resource Governance and Social Change, Data Perdagangan Orang Oktober 2014 (Human Trafficking Data October 2014), (Kupang: IRGSC, 2014).
- 189 For example, see 'Human trafficking: NGO calls for Indonesia, Malaysia 'modern slavery' investigation', 12 September 2006, ABC News, available at: <http://www.abc.net.au/news/2016-09-12/calls-for-indonesia-human-trafficking-probe/7785654> ; Puluhan Peti Mati Berisi Jasad TKI Dikirim ke NTT Sepanjang 2016 'Dozens of coffins with dead migrant bodies sent to NTT throughout 2016', 17 January 2017, BBC Indonesia, available at: <http://www.bbc.com/indonesia/indonesia-38647064>.
- 190 Data source from BNP2TKI, Penempatan dan Perlindungan Tenaga Kerja Indonesia Tahun 2016.

- 191 Data source from obtained from Data Penempatan TKI Daerah Asal Provinsi Nusa Tenggara Timur Periode 2011 s.d 2015 (Data on Placement of Migrant Workers from NTT Province Period 2011 to 2015), Centre for Development Research and Information (PUSLITFO BNP2TKI 2015), available at: [http://www.bnp2tki.go.id/uploads/data/data_18-05-2015_033446_PROVINSI_NUSA_TENGGAARA_TIMUR_PERIODE_TAHUN_2011_S.D_2015_\(s.d_30_April\).pdf](http://www.bnp2tki.go.id/uploads/data/data_18-05-2015_033446_PROVINSI_NUSA_TENGGAARA_TIMUR_PERIODE_TAHUN_2011_S.D_2015_(s.d_30_April).pdf).
- 192 In NTT, the war against human trafficking is actively promoted through Anti-Human Trafficking Alliance (Ampera) through research and actions of local civil society groups, including (i) IRGSC (Institute of Resource Governance and Social Change); (ii) JPIT (Eastern Indonesia Women Network); (iii) PIAR (Grassroots' Advocacy Information Centre); (iv) Rumah Perempuan (the Women's House); and (v) J-RUK (Volunteers for Humanity Network).
- 193 One of the victims was Yulfrida Selan, from Timor Tengah Selatan, who was missing in 2015. 10 months later, her body was returned home from Kuala Lumpur, Malaysia. The Malaysian Police report showed that Yulfrida had been working in the country and the cause of death was that she committed suicide. The parents did not receive any prior notice about Yulfrida's plan to work overseas. She was 19 years old.
- 194 ABC News, Human trafficking: NGO calls for Indonesia, Malaysia 'modern slavery' investigation.
- 195 US Department of State, Trafficking in Persons Report 2017: Indonesia, Office to Monitor and Combat Trafficking in Persons, 2017, available at: <https://www.state.gov/j/tip/rls/tiprpt/countries/2017/271206.htm>.
- 196 Santoso, A, 2017, *Migrant Workers and ASEAN: A Two Level State and Regional Analysis*, Routledge, London and New York).
- 197 Morada, NM, 2011, 'The Role of Regional and Subregional Arrangements in Strengthening the Responsibility to Protect: ASEAN and the ARF,' in *The Role of Regional and Subregional Arrangements in Strengthening the Responsibility to Protect*, The Stanley Foundation, New York, pp.19-29, available at: <https://www.stanleyfoundation.org/publications/report/RoleRegSbregArgmntsR2P.pdf>.
- 198 McCarthy, S, 2009, 'Chartering a New Direction? Burma and the Evolution of Human Rights in ASEAN', *Asian Affairs: An American Review*, vol. 36, no. 3, pp. 157-75.
- 199 Santoso, *Migrant Workers and ASEAN: A Two Level State and Regional Analysis*, p. 38-39.
- 200 Ibid. p. 191-2.
- 201 Graziano Battistella, 1993, 'The Human Rights of Migrant Workers: Agenda for NGOs,' *Asian and Pacific Migration Journal*, vol. 2, no. 2, pp. 247-57, available at: http://www.smc.org.ph/administrator/uploads/apmj_pdf/APMJN2CONFERENCEREPORT.pdf.

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