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ASEAN'S HUMAN RIGHTS BODY: LESSONS FROM HELSINKI

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27 June 2008

European regionalism offers not only lessons in economic integration for ASEAN, but in human rights as well. Many look to the Conference on Security and Cooperation in Europe (CSCE) primarily for lessons in security cooperation. Yet ASEAN can also learn from the CSCE's long and complex attempt to balance human rights considerations with the principle of non-intervention/non-interference.

NEXT MONTH, a high-level panel will meet to begin the potentially daunting task of drafting the terms of reference for the ASEAN "human rights body". To date, other than a workshop organised in Singapore by a local policy institute on June 13, little of substance has hitherto been offered by policymakers and pundits alike on what precisely such a body – not "commission" or "mechanism", according to officials – would look like, much less stand for.

The workshop provided some useful hints, but not surprisingly also revealed significant cleavages among the ASEAN member nations over their respective positions on the proposed body. Notwithstanding their differences, all of the participants nevertheless agreed that "both promotion and protection of human rights" are necessary and desirable for all ASEAN member countries, according to Simon Tay, Chairman, Singapore Institute of International Affairs, which hosted the meeting.

Lingering doubts

The issue of an ASEAN human rights body is one of a slew of institutional developments, primarily of a declaratory nature, that have taken place in quick succession to date: the 2003 ASEAN Concord II, which called for the realisation of an "open, dynamic and resilient" ASEAN Community by 2020; the 2004 Vientiane Action Programme, which elaborated on the goals and strategies towards the realisation of that community; and the 2007 ASEAN Charter, which gave ASEAN a legal personality. While these developments have been greeted with cautious optimism, many have highlighted the anticipated difficulties regional governments will likely face in pursuing ASEAN's goals.

There are lingering doubts over the availability of national capabilities, resources and political will, which, combined with non-negotiable principles of non-interference in one another's domestic affairs

and of national sovereignty, have called into question the extent to which ASEAN member nations are prepared to go.

What is evident is the consensus among ASEAN governments to focus on economic integration, politically the least troublesome of all the goals in question. Moreover, ASEAN leaders have made no bones about their intention to learn from the EU's experience on market integration. As ASEAN's economic ministers noted in Hanoi in 2001: "In creating the ASEAN Economic Community, we are unlikely ever to move as far as Europe but there will be lessons that we can draw from the European experience."

What lessons can ASEAN can draw from Europe where human rights are concerned? More specifically, from the Conference on Security and Cooperation in Europe (CSCE), a grouping whose formative years had been characterised by Cold War politics, ideological warring and constant bickering between not just East and West, but also among Western democracies that did not necessarily see eye-to-eye on every issue, not least human rights?

CSCE and Human Rights

According to John Fry's 1993 book *Helsinki Process: Negotiating Security and Cooperation in Europe*, it was the debates over human rights that, at successive CSCE gatherings in various European cities, became the driving force for change. Inaugurated in Helsinki in 1973, the CSCE launched the Helsinki Process that eventuated in the formation of the Organisation for Security and Cooperation in Europe (OSCE) in 1995. The CSCE sessions often degenerated into extended shouting matches that pitted one group's ideology against another's.

While the Americans stressed civil and political liberties, the Europeans, especially the Easterners, were more likely to view human rights in economic, social and cultural terms, relying in fact on the UN Declaration of Human Rights for the text of Principle VII of the 1975 Helsinki Final Act. Nevertheless, as a result of this long engagement, general agreement among CSCE member nations on human rights solidified.

Crucially, this led to the agreement that no claim of precedence among the Final Act's 10 principles – for example, that non-intervention in internal affairs (Principle VI) should supersede respect for human rights (Principle VII) – would be entertained. It was further emphasised that all principles are of "primary significance", thereby giving equal weight and importance to all ten. It was from such consensus that cooperation on a range of military, security, and economic issues was subsequently made possible.

What looked good on paper was, however, another matter altogether in reality. With President Jimmy Carter making human rights the centrepiece of US foreign policy, the Belgrade meeting in 1977 deteriorated into a slugfest pitting human rights against non-intervention/non-interference. The Madrid round in 1980-1983, which took place in the shadow of the Soviet war in Afghanistan and the transition from the Carter presidency to Ronald Reagan's, proved equally difficult. The hard-fought success of those meetings laid in the collective affirmation of the importance of the Helsinki Process and the commitment of CSCE member states to implement fully the provisions of the Final Act.

The Act's implementation was deemed essential to the development of détente, and not the other way round. The seesaw tussle to privilege human rights or détente would continue to divide members at subsequent meetings throughout the 1980s, but it also kept the issue of human rights on the table. By the Vienna session in 1986, the Soviets, led by Mikhail Gorbachev, exhibited a new attitude of openness towards human rights concerns, one that reflected not only Gorbachev's *glasnost* policy, but importantly the recognition that human rights issues damaged Soviet credibility.

What Lessons for ASEAN?

The experience of the Helsinki Process highlights some concerns ASEAN leaders and mandarins may wish to consider as they begin their deliberations on the proposed human rights body.

First, the CSCE experience suggests that robust commitment to human rights can coexist with an equally robust commitment to non-interference. The ASEAN countries have long relied on the latter, which has allowed them to develop at their own pace. But their assumption that non-interference and sovereignty automatically trumps all other considerations should no longer hold.

This does not mean that human rights should therefore enjoy precedence over non-interference. The trick lies not only in the steadfast refusal by all ASEAN members to favour one over the other, but also in ensuring that such balancing acts do not end up leading nowhere.

Second, despite their ideological and political differences over human rights, ASEAN member states must remain committed to the dialogue process and the agreed-upon agenda and related provisions of the human rights body and the ASEAN Charter. Despite understandable reservations over ASEAN's plan to keep a recalcitrant Myanmar within the association, the strategy should not be discounted just yet.

Third, the process will clearly require considerable time, patience and effort on the part of all concerned before breakthrough can occur. Time is a luxury ASEAN can ill afford, not least when humanitarian disasters of unimaginable proportions cry for attention, and the urgent "responsibility to provide" (to borrow the Singapore defence minister's words) beckons. But the more ASEAN makes human rights a key issue in its deliberations, the more likely the realisation among all its members of the issue's relevance to their credibility.

As US president Gerald Ford urged fellow CSCE leaders in 1975: "History will judge this Conference not by what we say here today, but by what we do tomorrow – not by the promises we make, but by the promises we keep." So too, we might add, ASEAN's express aim to develop a human rights body and, more crucially, in fulfilling it.

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