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THE 14th ASEAN SUMMIT: LITTLE CHANGE DESPITE CHARTER

ASEAN leaders' promotion of the newly enacted ASEAN Charter as an instrument of change rang hollow at the 14th ASEAN summit because of the organization's failure to effectively deal with the problems created by the Burmese military regime. The failure was glaring.

In the weeks before the ASEAN summit, ASEAN Sec-Gen Surin Pitsuwan delivered promising statements and speeches that indicated significant change for the organization. Surin's speeches were peppered with the terms "people-centered" and "people-caring" to describe the "reinvented" ASEAN – an ASEAN with a new guiding charter. Surin said that the Charter made "all issues relevant", and "all issues were on the table" and "nothing could be hidden". Of all the provisions in the charter, the most widely heralded was the call for the establishment of the ASEAN Human Rights Body (AHRB). The ASEAN Secretariat's public relations hype over the summit would have been much easier had it not been for the Rohingya boat people.

The plight of the Rohingya fleeing Burma because of religious persecution represented the first test of the ASEAN Charter's promise to make human rights and the rule of law common currency throughout the region. The test fell flat. Surin was undermined by the Terms of Reference for the ASEAN Human Rights Body and by the inability of ASEAN to unite to confront and resolve the Rohingya problem. ASEAN leaders have not caught up with the rights and entitlements implemented in the Charter.

ASEAN's failure to address the Rohingya issue and other pressing regional problems caused by the SPDC seriously undermines authority and effectiveness of the ASEAN Charter, and ASEAN itself. ASEAN leaders must realize that the current situation threatens the credibility and the integrity of the organization..

Rohingya

ASEAN has been aware of the Rohingya's plight since the early 1990s, when nearly 250,000 fled to Bangladesh. In March 1992, Malaysian Foreign Minister Abdullah Badawi said that the Rohingya refugee crisis "could no longer be regarded as Burma's domestic problem because the action by Burmese troops has burdened neighboring countries and may disrupt regional stability."¹ Singapore's Foreign Ministry noted at the time that the influx of large numbers of refugees from Burma into Bangladesh was creating "a potential area of instability for the region and human suffering."²

The plight of the Rohingya was conveniently forgotten after Burma joined ASEAN, until an international scandal flared up over Rohingya boat people in the weeks leading up to the 14th ASEAN Summit in February 2009.

¹ FEER (10 Mar 92) Title unknown

² New Straits Times (12 Mar 92) Islamic nations slam Myanmar for persecuting Muslims

The SPDC denies the Rohingya exist

Before the ASEAN summit and at the ASEAN summit, the SPDC rejected that Rohingya were an ethnic nationality group in Burma. As for the SPDC's actions inside Burma, the SPDC military was doing their best to make sure the Rohingya didn't exist at all.

- On 30 January, the SPDC released a statement claiming that the Rohingya ethnic group are recent migrants from Bangladesh, and not part of Burma's historic ethnic minority groups.³
- On 11 February, the SPDC's Consul General in Hong Kong, Ye Myint Aung, wrote to heads of foreign missions and local newspapers insisting the Muslim Rohingyas should not be described as being from Burma. Ye Myint Aung described the Rohingya boat people as "ugly as ogres." The SPDC diplomat was quoted as saying: "In reality, Rohingya are neither Myanmar people nor Myanmar's ethnic group." The envoy contrasted the "dark brown" Rohingya complexion with the "fair and soft" skin of people from Burma.⁴
- SPDC Deputy Home Minister Brig-General Phone Swe ordered Na Sa Ka Commanders to **"reduce"** the population of Rohingya community by 75% to 25% on the Burma-Bangladesh border areas when the minister visited the town of Taungbro in Maungdaw Township, Arakan State, on 22 February. Upon arriving in Taungbro, he asked the Na Sa Ka Commanders about the population of Buddhist and Muslims Rohingya in Na Sa Ka areas in Maungdaw Township. The Na Sa Ka Commanders said that the existing population of the Rohingya community is 75% while 25% of the population accounts for the Buddhist community. On learning that, the minister was reportedly very angry and asked the Na Sa Ka commanders what they have been doing all this time.⁵

Lead-up to the ASEAN Summit

In the run-up to the summit, Indonesia, Malaysia, and Thailand, as well as ASEAN Sec-Gen Surin Pitsuwan, all said that the Rohingya issue and human rights matters would be brought up at the ASEAN summit – and appeared to be treating the Rohingya refugees as recent phenomena.⁶

- On 20 February, Thai PM Abhisit Vejjajiva said the Rohingya will be discussed at the ASEAN summit. "Essentially, it is a regional problem and must be dealt at a regional level," Abhisit Vejjajiva "All affected countries must work together to make sure that our national security is protected and at the same time that these people are treated in a humane way with their rights and their dignity respected," he added.⁷
- On 23 February, Malaysian FM Rais Yatim said the Rohingya issue would be raised at the ASEAN FM meeting on 26 February.⁸

Despite these remarks, it was the SPDC who successfully set the tone for the discussion of Rohingya issues by rejecting claims that recent the boat people came from Burma.⁹

At the ASEAN Summit

³ NLM (02 Feb 09) Bengalis from neighbouring country illegally immigrated Rakhine region of Myanmar

⁴ Irrawaddy (11 Feb 09) Troop Movements Reported Along Bangladesh-Burma Border

⁵ Kaladan News (08 Mar 09) Minister orders reduction in percentage of Rohingya population

⁶ Jakarta Globe (11 Feb 09) Thai FM agrees to use 'Bali Process' to solve Rohingya issue / CNN (27 Feb 09) Boat people to be sent back to Myanmar and uncertain fate

⁷ AFP (20 Feb 09) 'Regional' solution for Myanmar migrants: Thai PM

⁸ The Age (Australia) (23 Feb 09) Malaysia to put Burma under spotlight

⁹ Bangkok Post (27 Feb 09) Abdullah: We must be firm in turning back Rohingya

At the Summit, ASEAN leaders dared not confront the SPDC in order to find a just solution to the plight of the Rohingya. ASEAN could not even address the SPDC's ridiculous claim that Rohingya were not from Burma. Instead, ASEAN adopted the bizarre term "illegal migrants from the Indian Ocean."¹⁰ Whether migrants or refugees, the Rohingya are definitely not from the Indian Ocean but are forced to use it as a means of escape from the continued abuse of the SPDC.

In order to appease the SPDC and avoid another "complex and complicated" issue, ASEAN leaders deferred the Rohingya issue to the non-binding regional forum on illegal human trafficking, commonly referred to as the "Bali Process".¹¹ The traditional tip-toeing around the core causes of Rohingya displacement, the continued discrimination and abuse by the SPDC junta, undermines the ASEAN Charter which now binds all member states. Yet more ominously, this failure undermines individual ASEAN member states, leaving members to bear the burden of the SPDC's crimes alone.

ASEAN Human Rights Body - a lifeless skeleton

While the SPDC continues to detain over 2,100 political prisoners; while the SPDC continues to hold Daw Aung San Suu Kyi under house arrest; while the SPDC wages war on Burma's ethnic nationalities; the head of ASEAN's high level task force said that it must be recognized that ASEAN's human rights body will be 'evolutionary'.

On 22 February, ASEAN Sec-Gen Surin Pitsuwan said the member states should take a firmer stance on human rights violations in Burma, citing the group's new charter, which pledges the protection of human rights. "With the charter, every issue from now on is on the table. Every issue from now on cannot be hidden. Every issue from now on is legitimate," Pitsuwan said.¹²

Thai PM Abhisit Vejjajiva pledged that the ASEAN summit would mark a 'new chapter' for the region. He said leaders at the upcoming summit would work towards a 'credible and realistic' human rights body, move towards a more rule-based and effective community of nations, and enhance the group's resilience to shocks like the global recession, food security and natural disasters.¹³

The high-level panel of officials from 10 ASEAN member countries completed drafting the terms of reference (TOR) for the establishment of an ASEAN human rights body (AHRB) during the 14th ASEAN Summit.¹⁴ In May 2009 the TOR will be brought to the ASEAN foreign ministers meeting for endorsement.

Despite ASEAN's rhetoric of inclusiveness and transparency, this crucial document has not been made public. However, the content of an un-official draft of the TOR does not bode well.¹⁵ The guiding principles set forth in the available draft clearly place national sovereignty and non-interference high above respect for human rights. In its present form, the TOR would protect ASEAN governments rather than promote and protect the human rights of ASEAN peoples. This is a sad continuation of ASEAN's double talk - publicly calling for the protection and promotion of human rights and fundamental freedoms, while privately establishing the mechanisms that would allow for ASEAN governments to continue

¹⁰ AP (04 Mar 09) Myanmar must treat Muslim migrants better

¹¹ IRIN (02 Mar 09) ASIA: Regional approach to Rohingya boat people

¹² Mizzima News (23 Feb 09) ASEAN leaders urged to address Burma's rights issues in upcoming

¹³ Straits Times (11 Feb 09) 'New chapter for Asean'

¹⁴ Ministry of Foreign Affairs, Thailand (28 Feb 09) HLP Chair: ASEAN body to take evolutionary approach in promoting and protecting regional human rights

¹⁵ Accessed March 2009, at: <http://www.scribd.com/doc/12882981/Draft-of-ASEAN-Human-Right-Body>

bulldozing those rights.¹⁶ For ASEAN to meet the goals set forth in its Charter and to serve the regions people, it must act on its promises.

SPDC gags dialogue with civil society

Prior to the summit, ASEAN civil society organizations convened in Bangkok from 20-22 February, to discuss pressing issues in the region. The meeting served as forum to determine the points of discussion during the scheduled dialogue between representatives of ASEAN civil society and the ASEAN leaders.

On 28 February, ASEAN leaders met with representatives of the 4th ASEAN Civil Society Conference. The dialogue, facilitated by the Thai Ministry of Foreign Affairs, initially included 10 participants. However, the SPDC and Cambodian Prime Ministers objected to the representatives from their respective countries and threatened to boycott the meeting if they were in attendance. The dialogue was eventually held when Khin Ohmar, Coordinator of Burma Partnership, and Penn Somony of the Cambodia Volunteer Society decided to withdraw from the meeting. Their absence did not prevent the remaining civil society members from raising problems in Burma, stating their serious concern over the continued detention of Daw Aung San Suu Kyi, the plight of the Rohingya boat-people, and the SPDC's obstruction of democratic reform in Burma.¹⁷

In a gesture that seemed to break away from the position of other ASEAN leaders, Thai PM Abhisit Vejjajiva and FM Kasit Piromya met with the Khin Ohmar and Penn Somony after the meeting.¹⁸ The challenge for ASEAN is to strengthen and institutionalize its commitment for continued engagement with civil society organizations. In this context ASEAN must prevent SPDC temper tantrums from undermining relations with civil society and ensure that engagement remains an enduring element of the ASEAN framework.

Burma threatens regional stability

Overshadowed by discussions on the ASEAN Charter and the ASEAN Human Rights Body, ASEAN countries adopted the following documents at the summit: ASEAN Political-Security Community Blueprint; Blueprint for the ASEAN Socio-Cultural Community (2009-2015); Joint Declaration on the Attainment of the Millennium Development Goals in ASEAN; and the Initiative for ASEAN Integration (IAI) Strategic Framework and IAI Work Plan 2 (2009-2015).

Some of the stated goals of the above documents include:

- The ASEAN Political Security Community Blueprint shall promote political development in adherence to the principles of democracy, the rule of law and good governance, respect for and promotion and protection of human rights and fundamental freedoms as inscribed in the ASEAN Charter.
- To promote, through concerted efforts, effective cooperation and mutual assistance to narrow the development gap (NDG) among ASEAN Member States (AMS) and between ASEAN and the rest of the world.
- Make ASEAN a more dynamic, gender responsive, resilient and cohesive regional organization for the well-being of its Member States and people.

¹⁶ Washington Post (01 Mar 09) Asian Summit Snags on Human Rights

¹⁷ ASEAN Peoples' Forum (28 Feb 09) What Happened at the ASEAN Dialogue between Civil Society and Heads of Govt

¹⁸ Bernama (28 Feb 09) Myanmar, Cambodian Civil Society Representatives Stay Out Of Asean Talks

- Realizing an ASEAN Community that is people-centered and socially responsible with a view to achieving enduring solidarity and unity among the nations and peoples of ASEAN by forging a common identity and building a caring and sharing society which is inclusive and harmonious where the well-being, livelihood, and welfare of the peoples are enhanced.

ASEAN leaders continue to overlook conditions in Burma that undermine implementing these measures. The influx of refugees to neighboring countries as a result of the SPDC's widespread and systematic human rights violations and the regime's war on Burma's ethnic nationalities; the military regime's active involvement in drug production; and the junta's chronic mismanagement of the economy have adverse impacts on the region as a whole.

Drugs

The production, manufacture, and distribution of illicit narcotics inside Burma has undermined the stability and social fabric of its ASEAN neighbors.

- On 2 February, the UNODC released a report that stated poppy cultivation in Burma increased by 3% in 2008 - the second consecutive annual increase. Opium poppy cultivation has rebounded by about 33% - to 28,500 hectares - between 2006 and 2008.¹⁹
- On 27 February, the US State Department released its annual International Narcotics Control Strategy Report. As with the UNODC, the report noted an increase in opium poppy cultivation. The report also said that Burma remained the largest source for methamphetamine tablets in Asia and a major drug transit and illicit drug producing country.²⁰

Ethnic conflict/displacement

The SPDC's political, economic and social persecution of ethnic minorities in Burma has left many with no choice but to flee to neighboring ASEAN States. While ASEAN turns a blind eye to the SPDC's violent internal policies, its members are left to bear responsibility.

- The SPDC has continued to subject Rohingya Muslims in Northern Arakan State to systematic discrimination and abuses, which have included restrictions of movement, restrictions on marriage, arbitrary taxation, forced labor, confiscation and arbitrary arrests. Many Rohingya fleeing oppression, discrimination and restrictions in Burma have crossed into Bangladesh in an attempt to reach Thailand and Malaysia in overcrowded boats unfit for purpose. In 2008, it was estimated that over 5,000 Rohingya boarded boats in Bangladesh and Burma heading for Thailand and Malaysia.²¹
- In Chin State, a plague of rats resulted in the destruction of crops causing acute food shortages for local communities. In July 2008, more than 700 people fled to India's Mizoram State in search of adequate food supplies.²² The SPDC not only failed to provide any assistance to affected communities but also exacerbated the dire humanitarian situation by confiscating privately donated food aid.
- The SPDC Army has intensified its military offensive against the Karen National Union (KNU) and other ethnic armed opposition groups in Eastern Burma. The offensives has

¹⁹ IHT (02 Feb 09) UN reports more opium coming from Myanmar

²⁰ US Department of State, Bureau for International Narcotics and Law Enforcement Affairs (27 Feb 08) International Narcotics Control Strategy Report Volume I Drug and Chemical Control March 2009

²¹ Arakan Project (Jan 09) Boat people departures chart

²² HRO (Jul 08) Food Scarcity and Hunger in Burma's Chin State

resulted in the displacement of over half a million civilians and the destruction or forced relocation of more than 3,200 villages between 1996 and 2007.²³

- In the run up to the junta-run 2010 elections, the SPDC continues its confrontational policy towards armed ethnic cease-fire groups, specifically the United Wa State Army (UWSA) and the Kachin Independence Organization (KIO).²⁴ These groups continue to resist SPDC demands for disarmament or integration into SPDC security forces. As the 2010 elections approach, tensions and armed clashes are likely to increase, inevitably spilling over Burma's borders and affecting ASEAN neighbors and China.

Economic Mismanagement

Burma is ranked as the third most economically repressed country in the world and the second most corrupt.²⁵ The lack of monetary and fiscal stability has created conditions of rising inflation, fiscal deficits, multiple exchange rates, distorted interest rates, and fraudulent reporting. UNESCAP warned that Burma is so far behind its neighbors that it threatens to destabilize regional development.²⁶

Burma's oil, gas and hydro-electric resources are being exported while the majority of people have no electricity. In 2008, the SPDC continued to sell off its oil and natural gas resources to maintain good relations with and obtain political protection from its neighbors – especially India, China, and Thailand. However, unchecked exploitation of natural resources in Burma has led to forced displacement and irreversible environmental damage, adding to migration push factors and further undermining regional stability.

Chronology of SPDC broken promises / lack of cooperation within ASEAN

The SPDC has made many empty promises about reform to ASEAN members. ASEAN governments who believed these promises and defended the SPDC lost much credibility. The SPDC has responded to regional goodwill and sincerity with contempt and dishonesty. The SPDC has repeatedly snubbed ASEAN-led efforts to facilitate a process of national reconciliation in Burma.

30 May 2003: SPDC Chairman Sr Gen Than Shwe authorized a murderous attack on NLD leaders Daw Aung San Suu Kyi, U Tin Oo, and their entourage in Depayin, Sagaing Division. The attack, which happened days before the ASEAN Ministerial Meeting & ASEAN Regional Forum, was a slap in the face of ASEAN's well-meaning but ineffectual efforts to encourage reforms in Burma.

Early July 2003: Thai Prime Minister Thaksin proposed a vaguely defined "roadmap" for political transition in Burma.²⁷ While UN Special Envoy Razali Ismail and a number of other countries supported the proposal, SPDC FM Win Aung informed Thaksin that the SPDC "would rather solve its own problems from within."²⁸

30 July 2003: Indonesian Foreign Minister and ASEAN Chairman Hassan Wirajuda said, "We have an assurance from Myanmar that the Suu Kyi case will be finished before the

²³ Irrawaddy (06 Mar 09) Hundreds of thousands still displaced in Burma: Watchdog

²⁴ KNG (25 Feb 09) Junta pressurizes KIO's 4th brigade in northeast Shan State ; SHAN (17 Feb 09) Junta Commander: Wa has Hobson's Choice

²⁵ Transparency International (2007) 2007 Corruption Perceptions Index; Heritage Foundation (Jan 06) Index of Economic Freedom

²⁶ UNESCAP (Nov 07) Ten as One: Challenges and Opportunities for ASEAN Integration

²⁷ Nation (18 Jul 03) Rangoon weighs Thai 'road map'

²⁸ AFP (27 Jul 03) Malaysia warns Myanmar over Suu Kyi

ASEAN summit [in October].” Wirajuda accepted the SPDC’s line that they needed a “cooling down period” and promised that “ASEAN would continuously engage Myanmar.”²⁹

19 October 2004: The SPDC purged PM Gen Khin Nyunt. Malaysian FM Syed Hamid Albar expressed Malaysia’s aversion to being left out of the loop. After almost a week without clarification from the generals, the FM publicly commented that ASEAN would be better prepared to defend Burma internationally if the country updated members on what was happening. Syed said the image of ASEAN had been damaged by the purge.³⁰

29 November 2004: The SPDC extended Daw Aung San Suu Kyi’s house arrest for another year. The move was an insult to ASEAN as it took place during the ASEAN Summit in Vientiane, Laos.³¹

26 July 2005: At the ASEAN Ministerial Meeting, the SPDC announced their withdrawal from the rotating ASEAN chairmanship.³² SPDC FM Maj Gen Nyan Win broke the news about the SPDC’s decision to his Singapore counterpart while they were in the restroom. The SPDC spun the decision as homegrown and cited a need to focus on domestic affairs.³³ However, the move was a submission to reality as ASEAN member states feared the fallout should the SPDC, political poison for the body and damaging to its credibility, assume the ASEAN chair.

6 November 2005: The SPDC began moving civil servants to its newly-built administrative capital in Naypyidaw. Thai PM Thaksin Shinawatra said that the SPDC never informed neighbors of political developments, including the move to a new capital. Thaksin said he had told his junta counterpart that ASEAN, and notably Thailand, felt “uncomfortable” because the junta had never kept the group informed.³⁴ Singapore FM George Yeo said, “If Myanmar needs time out to attend to its own domestic preoccupations, I think we should respect it but, at the same time, the rest of ASEAN should not be held back. I think we will have to distance ourselves a bit if it is not possible for them to engage us in a way which we find necessary to defend them internationally.”³⁵

12 December 2005: At the ASEAN Summit in Kuala Lumpur, SPDC FM Maj Gen Nyan Win agreed to let Malaysian FM Syed Hamid Albar visit Burma on a fact-finding mission. However, the SPDC stalled Syed’s visit for over three months, claiming the junta was too busy moving its administrative capital to Pyinmana.³⁶ On 23 March 2006, Syed finally arrived in Rangoon for what was originally scheduled as a 3-day official visit.³⁷ But the FM cut his trip short and returned to Malaysia on 24 March after being denied access to Daw Aung San Suu Kyi and other pro-democracy representatives.

9 May 2006: The SPDC was absent from the inaugural gathering of Southeast Asian Defense Ministers meeting in Kuala Lumpur.³⁸ Malaysian Defense Minister Najib Razak said, “We invited Myanmar to attend this meeting. We were hoping that they would attend but they cited domestic commitments and for that reason they are not able to come.”³⁹

27 May 2006: The SPDC extended Daw Aung San Suu Kyi’s house arrest for another year.⁴⁰

²⁹ AFP (8 Sept 03) Indonesia urges Myanmar to free Aung San Suu Kyi before ASEAN summit

³⁰ Kyodo (21 Oct 04) ASEAN’s image hurt by shakeup in Myanmar, Malaysia says

³¹ AFP (30 Nov 04) Aung San Suu Kyi’s morale high despite detention extension: source

³² Irrawaddy (26 Jul 05) Burma concedes Asean Chair

³³ Irrawaddy (26 Jul 05) Burma concedes Asean Chair

³⁴ Nation (14 Dec 05) ASEAN Summit: Burma makes Thaksin ‘uncomfortable’

³⁵ Financial Express (05 Mar 06) ASEAN should ‘consider distancing itself from Myanmar’

³⁶ AP (06 Jan 06) Too busy to host ASEAN envoy this month, says Myanmar junta

³⁷ Irrawaddy (23 Mar 06) Asean envoy arrives in Rangoon

³⁸ AFP (09 May 06) ASEAN hopes Myanmar will attend next defence ministers’ meet

³⁹ AFP (09 May 06) ASEAN hopes Myanmar will attend next defence ministers’ meet

⁴⁰ AP (27 May 06) Detention of Myanmar’s Suu Kyi extended

On 5 July, the SPDC mouthpiece New Light of Myanmar said that freeing Daw Aung San Suu Kyi would endanger the country and derided the international outcry demanding her freedom as "meaningless."⁴¹ On 24 July 2006, Malaysian FM Syed Hamid Albar said in a Wall Street Journal op-ed: "Myanmar is seen to have failed to prove to ASEAN or the international community that it is serious and committed to national reconciliation and democratization. [...] they could have easily accommodated the request from ASEAN by releasing political detainees, including Aung San Suu Kyi. [...] In the past, I have impressed upon the Myanmar leadership the importance of cooperating with ASEAN. [...] Unfortunately Myanmar appears to be deliberate in its disregard of our goodwill and concern. [...] There is also a general feeling amongst ASEAN members that [...] ASEAN's cooperation with some of its dialogue partners is being held hostage by Myanmar."⁴²

23 August 2006: Indonesian FM Hassan Wirajuda said, "Our view on Myanmar is that it should be more forthcoming in its interaction with its own ASEAN family [...] As we are not well-informed with what they are doing, we are not well-equipped to help defend Myanmar," he added.

⁴¹ AFP (05 Jul 06) Myanmar says release of Aung San Suu Kyi "dangerous"

⁴² WSJ (24 Jul 06) It Is Not Possible To Defend Myanmar - Syed Hamid Albar