

SPOTLIGHT ON R2P



The Inaugural Dr Surin Pitsuwan Memorial Oration Bangkok 2018

The inaugural Dr Surin Pitsuwan memorial oration was presented by Dr Marty Natelegawa on the 22nd of August 2019. He was introduced by the Honourable Professor Gareth Evans. The oration with permission from Dr Marty Natelegawa.

The late Dr. Surin Pitsuwan made a difference.

He spoke eloquently and with vigour on issues of collective and common interests to the region; to ASEAN.

And, significantly, he tirelessly – relentlessly - sought to bring vision to reality.

Responsibility to protect – as reflected in the seminal 2014 High-Level Advisory Panel report entitled *Mainstreaming the Responsibility to Protect in Southeast Asia: Pathway Towards a Caring ASEAN Community* which he chaired – certainly was a key pursuit.

In particular a key assertion in the Report that the concepts and norms of the R2P, and I quote: “... converge with ASEAN’s vision of a peaceful, just, democratic, people-centred and caring community in Southeast Asia.”

I could not agree more.

This evening I should like to speak simply on that critical nexus or link between internal and external domains that I believe the R2P represents and to reflect on its management by ASEAN.

For more than ever, we are reminded that ours is a world of convergences – between local, national, regional and global levels, as well as between issues – such that developments in one invariably affect the other; and that sustained and effective solution of issues often demand cooperative partnership between nations, rather than unilateral actions, as the cross- border, transnational and global challenges confronting us all increasingly defy national solutions alone.

In a manner, the R2P embodies these realities.

It is about the responsibility of each individual State to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity; of the responsibility of the wider international community to encourage and assist individual states in fulfilling that responsibility; and, in cases where states manifestly fail to protect its populations, for collective action by the international community in accordance with the UN Charter.

Hence, the R2P strikes a careful synergy between the internal and external domains.

Given past experience of external interventions – of colonial rule and the projection of major powers direct and proxy rivalries - nations of Southeast Asia have quite naturally placed, and continue to place, great emphasis on the principle of non-interference in internal affairs, as manifested in its determination as one of ASEAN's bedrock principles.

Yet, the past also reminds that internal fissures and conflicts left unattended would expose countries of the region from the very external interferences that they loathe.

The world is replete with examples, most recently in parts of the Middle East and North Africa, of how internal conflict dynamic – at the local level even – rapidly envelops the entire nation, draws-in divisive regional interests and, worse still, invites the projection of proxy major powers interests. In too many instances, the resultant “perfect storm” – negative local-national-regional-global dynamics feeding off one another - has been a recipe for prolonged conflict and human sufferings. Our own region – pre-ASEAN – also suffered from hitherto internal fissures magnified by projection of proxy, and indeed, direct, extra-regional interests.

At the personal level, this management of the internal and external domains – the nexus between them – has been a constant pursuit during some three decades of diplomatic service: motivated to search for a satisfactory synergy between internal and external dynamics.

That it is possible to remain steadfast and unrelenting to the principle of non-interference in internal affairs, and yet at the same, find expression to the shared values of the wider community of nations.

That in face of the most egregious abuses of human values, inaction is not an option.

Not least of all, I have been of the firm conviction that ASEAN has the potential to facilitate a considered and well-crafted synergy between the internal and external domains.

Through sound policies and sustained action, in the same manner that ASEAN has transformed the previous “trust deficit” between countries of Southeast Asia into one of “strategic trust”; and the past history of Southeast Asian nations being pawns and objects of major powers' rivalries to one of “centrality” in the region, I have been convinced of ASEAN's transformative capacity in placing its peoples at the heart of its undertakings, subsequently described as “people-centred” ASEAN.

In effectively managing the nexus between internal and external domains.

The vehicle for the promotion of such synergy has been the ASEAN Community. And it is thus no coincidence that the assertion has been made that the ultimate objective of the R2P is consistent with the ASEAN Community.

Drawing lessons learnt from its own national experience – in particular the tumultuous “multi-dimensional” crisis post-1998 that ushered democratic reform – in 2002 Indonesia came to the conclusion that an ASEAN “Community” – a progression from a loose “association” of years past - cannot simply rely on a single economic pillar. Rather, that there was a critical need to begin a simultaneous and parallel efforts at forging political-security and socio-cultural community.

For Indonesia, the proactive search for synergy between the internal and external domains through ASEAN has become an important necessity post-1998 democratic reform.

I recall that among the vexing questions we faced at the time was how to ensure a conducive and benign regional environment for the then unfolding reform process in the country. As a country that has consistently been of the view that there is not a one-size-fits-all on democratic transformation – instead that each country has its own unique national circumstance – Indonesia was not about to project its own national experience to the wider region. However, it was critically aware of the need to promote some degree of synergy between the changing national dynamic and that of the region. Indonesia's rapidly changing internal democratic setting cannot be too disconnected and be at odds from the wider region. Indonesia felt it incumbent to gradually inject conversation on political and security development, respect and promotion of democratic principles, human rights and good governance within ASEAN.

The active pursuit of synergy between the internal and external nexus through ASEAN has not been without challenges.

At its introduction, the notion of an ASEAN Political and Security Community was not met with universal endorsement within ASEAN. Lacking an obvious compelling narrative, such as the ASEAN Economic Community that was presented as a response to the need for ASEAN to maintain and promote its economic competitiveness in a rapidly changing regional and global economic setting, an ASEAN political security community would appear to have a less obvious rationale, certainly for an association that has traditionally viewed these issues to be in the exclusive internal domain.

Not least of all, views were prevalent within Indonesia itself that questioned Indonesia's initiatives within ASEAN at a time when the country was consumed with the immediate challenges arising from the post-1998 reform process.

We persevered.

Within ASEAN we underscored that the Community plan that was being crafted envisaged the region by the year 2020 rather than what was prevailing then in 2002. In particular, that it was critical that ASEAN gradually – step-by-step – develops its collective capacities in the political and security domains, not only in anticipation and in response to possible future regional developments, rather also in positively shaping and moulding them.

Within Indonesia, the argument was made that we cannot simply “opt out” of the complex regional dynamics while awaiting a supposedly ideal internal setting.

The resultant ASEAN Political Security Community; the determination in the Charter among ASEAN's purposes “To strengthen democracy, enhance good governance and rule of law, and to promote and protect human rights and fundamental freedoms ...”; the establishment of ASEAN Intergovernmental Commission on Human Rights (AICHR); the ASEAN Commission for the Promotion and Protection of the Rights of Women (ACWC); the adoption of the AHRD; and the establishment of the AICHR – simply to cite a few – remind of the ground breaking perspective, capacities and potentials ASEAN has developed to synergize the internal and external domains. These complement the various capacities ASEAN also possesses in preventing, managing and resolving inter-state disputes.

Henceforth, there is not a void or a vacuum in ASEAN's collective capacities in addressing internal issues that also possess regional ramifications or implications.

Thus, amongst its extensive provisions, the AHRD inter alia underscores:

“Every person has the right to be free from arbitrary interference with his or her privacy, family, home or correspondence including personal data, or to attacks upon that person's honour and reputation. Every person has the right to the protection of the law against such interference or attacks;

“Every person has the right to freedom of thought, conscience and religion. All forms of intolerance, discrimination and incitement of hatred based on religion and beliefs shall be eliminated”;

“Every person has the right to freedom of opinion and expression, including freedom to hold opinions without interference and to seek, receive and impart information, whether orally, in writing or through any other medium of that person's choice”.

It is well to underscore that in collectively making these commitments at the regional level – through ASEAN - member states are signalling that such issues are of import to ASEAN collectively.

However, while ASEAN has largely succeeded in overcoming the hurdles associated with the development of such outlook and, indeed, developed an impressive range of institutional capacities in their implementation, the challenge remains of actively putting these into actual effect.

Should such regional capacities remain largely dormant – ASEAN remaining silent in the face certain developments that affect the region as a whole and bereft of timely action - then ASEAN risks irrelevance. The various capacities ASEAN has painstakingly developed would remain mere potentials.

Clearly, the promotion of an effective synergy between the internal and external domains – of national and regional levels – requires more than mere adoption of declarations and expressions of commitments and plans.

It requires dynamic-changing state practice by ASEAN member states.

To contribute to these ends, however modestly, Indonesia initiated the practice of regularly informing ASEAN member states of developments within the country. At meetings of ASEAN foreign ministers, in particular in the more informal and interactive setting of the ASEAN retreats, Indonesia shared then unfolding difficult developments in the country as it embarked on its reform process. Related, Indonesia also introduced the practice of having a Universal Periodic Review-like procedure by the AICHR on the state of human rights in the country and actively supported the greater engagement of the ASEAN civil society. Further still, Indonesia proactively sought the participation of ASEAN member states in the monitoring of the peace agreement in the province of Aceh.

All throughout, Indonesia was motivated to engender a new dynamic within ASEAN: one that sees a more synergic and complementary relationship between the national and international or regional nexus.

That it is possible to continue to remain steadfast to the principle of non- interference in internal affairs, and yet at the same time, manifest in constructive manner, the genuine interest and concern of neighbouring ASEAN family of nations on challenging developments within one of its own.

As certain occasions illustrate, dynamics began to change.

On the Myanmar reform process, Myanmar began to have the comfort level to share with its fellow ASEAN member states of its efforts. ASEAN too began to develop the calibrated combination between robust collective support for Myanmar in the face of external pressures, and strong encouragement to Myanmar to do more. As a result,

ASEAN was able to be an important part of the equation in the Myanmar reform process, within the region and at globally, seeing change take place in relatively conducive manner in contrast, for instance, to that which has been unfolding in other parts of the world.

Clearly, however, given recent developments in the Rakhine state, continued ASEAN efforts are needed.

Also in Myanmar, ASEAN demonstrated its capacity to manage the national-international nexus following typhoon Nargys. Through deft and forceful diplomacy, in an unprecedented manner, ASEAN served to bridge the confidence gap or trust deficit then prevailing between the international community and the authorities in Myanmar that had the potential to delay much-needed humanitarian assistance to those in need.

Indeed, beyond the purely internal issues, ASEAN had managed to assert its relevance on bilateral issues among its member states. When border incidents erupted in 2011 between Cambodia and Thailand – risking not insignificant consequences to the populations in the affected border area – ASEAN served to manage and avert the potential for escalation of open conflict. In contrast to the earlier experience in 2008, ASEAN stood united and earned the confidence of the two parties to the conflict, the UN Security Council and, indeed, the ICJ, to manage the dispute.

In short, the recent past has demonstrated that ASEAN can effectively manage that critical nexus between the national and international domains. That the two can be synergized; in much the same way that the R2P does not view inherent tensions between them. A cursory review of the AHRD for instance, reminds of multitude of ASEAN-level commitments that reflect and assumes synergy between national and regional-level concerns.

What of the future?

I am of the view that to matter, ASEAN must manage and offer solutions to at least two critical nexus:

First, the national-regional or internal-external.

And second, the regional-global.

Recently, attention has tended to focus on the latter: with concerns about on how ASEAN can remain united and manage the intensifying major powers rivalries in the region.

I believe, however, that the former, namely the national-regional or internal-external, is as critically important.

ASEAN's response will help determine whether it can continue to strengthen and deepen the strategic trust now enjoyed between its member states, or whether these will wither, and trust deficit or at least a debilitating sense of inertia and drift sets in.

ASEAN's response will also help determine whether it can truly realize its vision of a people-centred and people-oriented community where the well-being of ASEAN's populace will be measured not only by their material conditions, rather also in the fulfilment of their political and social rights.

In this connection, it is well worth underscoring a quality that ASEAN has had in abundance in the past. The so-called "ASEAN way" that some has viewed as synonymous with lengthy deliberative decision-making, with its emphasis on consensus-building, should not be mistaken for an organization lacking in forward-looking transformative outlook. The expansion of ASEAN to ASEAN10, the 1976 TAC, the three pillar ASEAN Community and the development of ASEAN's external relations, not least the EAS, are not symptoms of an organization deeply entrenched in the status quo.

Rather, it is one that is conscious of the need to identify the key future challenges and, not only provide response to them, rather also seek to shape and influence them.

I believe it important that ASEAN maintains such transformative outlook.

Equally, it is vital that ASEAN sustained a spirit of cooperative partnership. An a la carte outlook – where Member States conveniently selects only those aspects of ASEAN cooperation that suits them, based on a transactional foreign policy outlook – will help guarantee an irrelevant ASEAN: seemingly united on the surface and yet fundamentally fractured. Instead, member states are called upon to continue to invest in ASEAN cooperation. This suggests, for instance, a natural preference for an ASEAN solution to internal issues that have regional ramifications rather than a too-ready inclination to engage others beyond the region, and to "externalize" ASEAN.

I believe it important that member states continue to empower ASEAN.

Specific on mainstreaming the R2P within ASEAN, the need for an early- warning capacity for genocide, war crimes, ethnic cleaning and crimes against humanity within ASEAN has been widely recognized.

However, ASEAN is not bereft of institutional wherewithal. The TAC, for instance, provides for the High Council as a dispute settlement procedure and Rules for Procedure has been agreed as early as 2001. The ASEAN Charter too is replete with provisions for ASEAN's early warning, conflict management and resolution capacities.

Rather, the challenge has been, among such plenty, there has been distinct reticence to resort to them. A hesitance to put into effect ASEAN own capacities.

In the current setting, in most cases, the emergence of a potential crisis has been discernible. It is perhaps less early-“warning” that is needed, rather early-“response”. This is inherently a political rather than institutional capacity deficit problem.

Hence the need to develop – painstakingly and persistently, the requisite state practice – new dynamic – I speak of before.

The need for leadership within ASEAN.

Much as the late Surin Pitsuwan provided in abundance. Thank you.

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