

Cultures and perspectives

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Thank you for inviting me to join you in this first AMA Conference.

I am not an expert on culture or the history of Southeast Asia. The only advantage I have is my observation of how the political leaders of Southeast Asian nations interacted at close quarters with one another and how they tackled collectively the cross-border problems their countries faced in the five years when I was their Secretary at the ASEAN Summits. Some of my friends envied me for this presence in the inner-most circle and are still trying to get me to tell them untold stories of what transpired in the leadership meetings

The most important thing which has happened in ASEAN is the coming into force of the ASEAN Charter on 15 December 2008.

With the ASEAN Charter, the grouping is now a formal regional body having a legal personality and a rules-based regime. Over the coming years, ASEAN will be transformed through the implementation of the provisions in the Charter. For the people of Southeast Asia, the Charter will strengthen regional identity, governance, economic development and social justice. The promotion of a people-oriented ASEAN means better quality of life and human security. There will be sustainability of development for the benefit of both present and future generations.

Another often-publicised characteristic of ASEAN is its consensus-based decision-making process. A recent illustration of this is the fight between Cambodia and Thailand over the ownership of land near the ancient Preah Vihear temple. Several persons have died from the recent flared-ups of this conflict. When the latest episode in the long-standing dispute broke out in July 2008, there was a proposal for an ASEAN contact group to help support the efforts of Cambodia and Thailand to find a peaceful resolution to the issue. However, while the proposal found favour with a number of ASEAN Foreign Ministers, there was also a general view that the bilateral process should be allowed to continue and there was no consensus on the formation of such a contact group. In April 2009, after the ASEAN Charter came into force, the two sides exchanged gunfire across the border resulting in fatal casualty. As of now, talks to resolve the issue are still being held at a bilateral level, with the other ASEAN member states, and ASEAN as an organization, not playing an active role.

In the ASEAN Treaty of Amity and Cooperation in Southeast Asia, which was signed in 1976, a number of norms and principles were codified. They include the renunciation of the use, or threat, of force in relations among member states, the peaceful settlement of inter-state disputes, and non-interference in one another's internal affairs. These norms and principles have since been reaffirmed by the ASEAN Charter. Article 22 in the Charter duly states that "Member States shall endeavour to resolve peacefully all disputes in a timely manner through dialogue, consultation and negotiation". As part of this process, the disputing states may agree to resort to good offices, conciliation or mediation (Article 23).

There was intensive discussion among the drafters of the ASEAN Charter on whether the Chairman of ASEAN or the Secretary-General of ASEAN be empowered to offer good offices, conciliation or mediation without being requested by the parties concerned. In the end, it was decided that it would be better to let the parties directly involved in a dispute make a request rather than have others attempt to get them into the resolution process against their will. So, even though the ASEAN Charter provides for a dispute settlement

mechanism, it is not mandatory.

The Preah Vihear dispute offers a valuable insight on mediation vis-a-vis ASEAN affairs. A dispute settlement mechanism is a good idea on paper. In ASEAN's case, it is also backed by the group's long-held fundamental principle of peaceful settlement of disputes. But it can be rendered useless given the strong instinct among most member states of ASEAN to jealously guard the space in which decisions affecting their national interests are made.

Unfortunately, this instinct has been forged through years of historical rivalries, hurts and slights. Some of these, like Indonesia's Konfrontasi campaign against the forming of Malaysia, occurred fairly recently in historical reckoning. Others, like the ancient rivalries between the states of continental Southeast Asia, began when the ancestors of today's ASEAN nation-states occupied a Southeast Asian region that had a different political map. Indeed, when ASEAN was founded on 8 August 1967, its politically-young member states were intensely nationalistic, and mutually suspicious of, if not antagonistic, towards each other.

ASEAN detractors believe this has not changed, and ASEAN member states are firmly rooted to the promotion of their respective national interests instead of the region-wide agenda. They point to the failure of ASEAN in resolving bilateral conflicts and ASEAN's poor record of intra-organisation cooperation in various fields. The detractors argue that ASEAN's economic integration has been dismal as intra-ASEAN trade is still not more than 25 per cent of ASEAN's total trade with the world.

Adding to the historical baggage is the complex ethnic map of Southeast Asia. For example, in Indonesia alone, there are about 400 distinct ethnic groups. A "no" from a Batak from Sumatra is just that, but a "no" from a Javanese is often something else.

On top of ethnicity, there is the religious diversity. ASEAN countries host believers of major world faiths like Buddhism, Christianity, Hinduism and Islam, in various forms, from the orthodox to the highly-syncretised to the heretic. And, in terms of political system, we have a sultanate in Brunei Darussalam, a military regime in Myanmar, communist rule in Laos and Vietnam and democracies of different degrees elsewhere.

Different countries also have different interpretation of the rule of law and observe the sanctity of legal agreements to varying degrees. Concrete examples at the inter-state level include bilateral agreements as well as some ASEAN accords. These agreements were usually signed by Ministers but remain in limbo as the signatories cannot agree on what were agreed on, usually when one side tries to change the terms of what was already agreed upon earlier. At the corporate level, in some jurisdiction, the sanctity of contracts has also been known to be prone to adjustments prodded by political considerations.

As Secretary-General of ASEAN for five years, I travelled through the region and witnessed the unique qualities of each ASEAN member state. Broadly speaking, there are two types of societies in Southeast Asia. The first is the past-oriented societies. These are concerned with traditional values and ways of doing things. They come across as rather conservative and seem slow to change those things that are tied to the past. Next, there are the future-oriented societies. They are optimistic about the future. They think they understand the future and can shape it through their actions. They viewed management as a matter of planning, doing and controlling.

Using another measure, in some parts of Southeast Asia, time is seen as being a limited resource which is constantly being used up. Therefore, punctuality is a virtue and it is not acceptable to waste someone's time. In other parts of the region, time is seen as plentiful, if not infinite. There is no problem with making people wait all day, and then tell them to come back the next day. Time-plentiful cultures tend to rely on trust to do business. Time-

limited cultures do not have time to develop trust and so create other mechanisms to replace trust, such as strong rule-by-law.

As you ponder which ASEAN countries fit the descriptions I have detailed, let me stress that such differences have vastly complicated the operating environment for business, diplomacy, governance and people-to-people engagement. It is tempting to succumb to the detractors' case. For example, while the ASEAN leadership has committed itself to the establishment of a single market and production base by the year 2015, the ground realities would likely ensure that it will not happen. In different parts of ASEAN, especially in the larger member states, the implementation would likely be delayed by difficult local conditions.

Let me say a few more words on mediation. The ASEAN Charter provides for dispute settlement mechanisms (Articles 24 and 25), and with such DSMs, the Southeast Asian differences and difficulties can theoretically be neatly managed and resolved. Even though an understanding of the different cultures and perspectives of the parties involved is still required, the DSM structure is such that it will facilitate a clear resolution, as there will be clear rules on post-mediation compliance.

But to navigate the challenges posed by the multifarious environment in ASEAN, the rules-based DSM alone may not be enough. The effectiveness of the DSM can be undermined rather easily when the parties directly involved refuse to submit to the mechanism. Hence, the DSM for economic disputes has not been used for the five years it is in existence. ASEAN member states prefer to use bilateral avenues to resolve their differences. The gaps were reconciled through informal and personalised methods. Here, the understanding of cultural and other baggages become more important given that any resolution is not subject to a rules-based regime. Given how the principle of non-intervention in ASEAN is seen as a political imperative, and given the realities that have shaped the Southeast Asian landscape, this may just be the way to go for some time yet notwithstanding the ASEAN Charter and the

evolution into a rules-based framework.

In closing, let me say that ASEAN has tried to increase its people-to-people interaction to build a common ASEAN identity. While an ASEAN identity may take some years to achieve, the process will no doubt be helpful in forging mutual understanding of the various peoples that populate the ASEAN 10. Very likely, even before the process ends, there will be a point in time when the comfort level among the ASEAN 10 will be such that the DSM as provided for in the ASEAN Charter and other ASEAN agreements will be a more useful tool than what is is now.

Thank you for your attention.

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