# ASEAN'S "BLACK SWANS"

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It was meant to be a celebration not a showdown, let alone a showdown that the brutal junta in Burma (Myanmar) would win. In August 2007, the Association of Southeast Asian Nations (ASEAN) turned forty. On November 20, to mark the occasion, the heads of government of the association's ten member states—Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, the Philippines, Singapore, Thailand, and Vietnam—met in Singapore for the thirteenth ASEAN Summit. A day later the heads of government from Australia, China, India, Japan, New Zealand, and South Korea joined them for the third East Asia Summit (EAS).

The summitry had three purposes. The first was to commemorate ASEAN's first forty years. From only five members at its inception in 1967, the association had by 1999 grown to encompass all of Southeast Asia's formerly quarrelsome states. For the first time in the region's history, a single indigenous organization could claim to stand for all of Southeast Asia—albeit only by overlooking just how variously accountable ASEAN's diverse regimes were to the peoples whom they presumed to represent.

ASEAN's summiteers had other reasons to be proud. No two ASEAN members had ever gone to war with each other, and member states had enjoyed faster economic growth and greater political stability inside the association than they had outside it. The extent to which these achievements should be attributed to ASEAN's existence and policies alone is debatable. Nevertheless, the association's assiduous promotion of regional cooperation arguably deserved no small share of the credit.

But ASEAN was not content to rest on these laurels. The second reason for the summitry in Singapore was to prepare the organization for the future. The ASEAN summit's peak event was to be the unveiling

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and signing of a first-ever charter for the organization. Regional leaders were not so rash as to pride themselves in advance on one-upping the European Union, whose members had in 2005 failed to ratify a constitution for that exemplar of regional cooperation. But in the run-up to the November 2007 launching of the ASEAN Charter, the association's boosters were not above privately enjoying the thought that Southeast Asians could succeed where Europeans had failed—even though ASEAN's charter, like the EU's constitution, would have to face member-state ratification before coming into force. Adding to the prospective luster of the fortieth-anniversary summit was the anticipated release of a blueprint for a proposed ASEAN Economic Community.

Finally, the packed schedule in Singapore was meant to project the best possible image of ASEAN to the assembled foreign guests and the wider world. By inaugurating a charter meant to enhance the association's effectiveness, the organizers of the celebrations hoped to belie Western criticism that ASEAN was little more than a "talking shop." They also hoped that showcasing the charter would distract attention from the presence in Singapore of ASEAN's most widely castigated member, Burma, and thereby gain some relief from Western charges of guilt by association with that pariah state.

It was not to be. The summit was convened and the charter was signed. Plans to implement the ASEAN Economic Community were announced. But the Burmese junta stole the spotlight from these accomplishments in a way that tainted the anniversary, embarrassed the association in front of its foreign guests, and reminded analysts just how tenuously regionalism is related to democracy in Southeast Asia.

## "Revulsion" over Burma

Burma has been under military rule since 1962. Beginning on 8 August 1988, mass protests broke out against the regime. The demonstrators were ruthlessly suppressed, and many were killed. The survivors became known as the "Four Eights Generation." In legislative elections held two years later, the opposition, Aung San Suu Kyi's National League for Democracy (NLD), won handily, but the generals canceled the results and kept power. In 1992, the regime announced plans to convene a constitutional convention. But as this initiative dragged on inconclusively year after year, its true purpose became clear: to postpone reform and ensure continued military rule.[1]

As plans were being laid for ASEAN's anniversary summit in early 2007, few expected any disturbance of Burma's authoritarian status quo. But in mid-August, spurred by the regime's decision to shrink fuel subsidies, members of the "Four Eights Generation" returned to the streets in demonstrations that soon escalated into mass opposition. The junta began arresting dissidents, but the protests continued to grow. Within weeks,

Buddhist monks were leading huge marches against the dictatorship.

Near the end of September, the generals cracked down hard and lethally, as they had in 1988, on the protesters. News of the bloodshed, including as many as a hundred deaths,[2] swept the world, triggering anger and concern not only in the West but in some ASEAN countries as well. The association prided itself on having brought all of Southeast Asia into its fold. But that had meant opening the door back in 1997 to Burma as well, despite the junta's odious record and reputation. Suddenly, with only two months to go until the November 2007 summit, Burma's brutal military dictatorship was threatening to ruin ASEAN's party.

For those who had hoped that ASEAN's leaders would finally disavow the Burmese regime, the association's initial silence was deafening. Only at the end of September, five weeks after the protests began, did word circulate that the government of Singapore, as chair of ASEAN's Standing Committee, had quietly tried to persuade the leaders of Brunei, Indonesia, Malaysia, the Philippines, Thailand, and Vietnam to join Singapore in "urging the Myanmarese authorities to exercise restraint" and peacefully seek a "political solution for national reconciliation."[3] By this time the UN, the EU, and various other international organizations had already made public statements and taken actions on the matter.

At this juncture, events in Burma were not only threatening to turn the anniversary summit into an unhappy birthday, but they were pressuring ASEAN to shift its approach from quiet to loud diplomacy and from a relative or pragmatic to an absolute or moral concern for democracy. ASEAN's foreign ministers had gathered as usual in New York City in September for the annual opening of the UN General Assembly. On September 27, all ten of them, including Burma's Foreign Minister Nyan Win, met to discuss the ASEAN Charter as well as developments in Burma and what, if anything, to do about them.

The chair of ASEAN at the time was George Yeo, the foreign minister of Singapore. "It was an unpleasant meeting of the ASEAN family," Yeo later recalled, "when we had to take issue with a member who behaved badly and brought down the reputation of everyone." He noted that the Thai foreign minister, a Buddhist, had found the junta's use of automatic weapons against unarmed monks "especially abhorrent." After an hour's discussion, according to Yeo, "the ministers agreed" that he should issue a statement, which he did immediately after the meeting.[4]

The statement took ASEAN watchers by surprise. Never before had a chair of ASEAN, in that official capacity and on behalf of "the ASEAN foreign ministers," spoken so vehemently against the behavior of a member government. Yeo described his colleagues as "appalled" at "reports of automatic weapons" being used against demonstrators. He said that they had "expressed their revulsion" to Burma's foreign minister "over reports that the demonstrations" were being forcibly suppressed and that fatalities had occurred.[5]

The ministers, Yeo continued, had "demanded that the Myanmar government immediately" stop using violence against the protestors, and "strongly urged" Burma to "seek a political solution"; "release all political detainees," including Aung San Suu Kyi; "resume its efforts at national reconciliation"; and "work towards a peaceful transition to democracy." They expressed concern over the "serious impact" of the crackdown "on the reputation and credibility of ASEAN." Finally, they urged the Burmese government "to cooperate fully and work with" UN secretary-general Ban Ki-moon's special envoy for Burma, Ibrahim Gambari.[6]

Yeo's statement was significant in several respects. First, it abandoned quiet persuasion for public denunciation. Notable in this context was the ferocity of the word "revulsion." Second, it went beyond urging "national reconciliation"—a standard phrase that honored the regime by making it seem morally equivalent to the opposition and suggesting a compromise solution halfway between their two positions—to advocate a "transition to democracy." The addition seemed to imply that the foreign ministers had shifted their preferred solution away from mere compromise and toward what the very name of the National League for Democracy endorsed. But the junta had already described itself as working toward "democracy" in Burma, albeit of a "discipline-flourishing" kind,[7] as the foreign ministers well knew. So Yeo may have chosen the word "democracy" less for its boldness than for its ambiguity.

Third, the explicit mention of democracy in Yeo's remarks raised a spectrum of outlooks that has received too little attention. At one extreme is an entirely instrumental (or relativist) view of democracy in which it is simply a means to some more highly valued goal. At the opposite extreme lies a wholly consummatory (or absolutist) view of democracy as an outcome worth striving for—in, by, and of itself, regardless of how well or poorly it serves any other goal, whether peace, prosperity, or anything else. The continuum consists of multiple and more or less mixed gradations between the two ideal types—completely empiricist pragmatism on the one hand and fully normative conviction on the other.

In his statement on Burma, George Yeo urged a transition to democracy without specifying a higher end that such a change would serve. Yet when he lamented the "serious impact" of the junta's crackdown "on the reputation and credibility of ASEAN," Yeo sounded like an instrumental democrat. His invocation of the association's "reputation and credibility" seemed to suggest that a transition to democracy in Burma was desirable not per se but as a means of assuaging foreign opinion. By that logic, "revulsion" against the dictatorship's behavior was meant to deflect the outrage of democratic governments outside Southeast Asia—outrage both at the junta and at ASEAN for tolerating such tyranny in its ranks. Arguably Yeo was engaging in damage control to protect ASEAN's relations with the West, which the region needed to cultivate for the sake of its own prosperity and security. Although Yeo did not say

so, ASEAN also needed the West to help Southeast Asian states avoid becoming too beholden to China.

## Testing the ASEAN Way

The final noteworthy aspect of Yeo's statement is what it said about the "ASEAN Way"—the foundational commitment of the association to the sovereignty of its member states, to noninterference in their internal affairs, and to consensus among them as the necessary basis for making regional decisions. Yeo's comments could be understood as violating all three of these principles. In his capacity as the ASEAN chair, Yeo had criticized the domestic behavior of a member regime. He had done so on behalf of "the ASEAN foreign ministers," despite the obvious objection of at least one of them, Nyan Win, and the likely antipathy of others from the region's more authoritarian regimes such as Laos and Vietnam. Even some of the ministers from semi-democratic member states may have harbored fears that Yeo's words might someday be used to justify official regional criticism of their own behavior. Depending on how these terms were understood, sovereignty had been breached, interference had occurred, and consensus had been ignored.

Democrats in the region with whom I spoke at the time rejected these judgments. Burma had been criticized, not invaded; its sovereignty was intact. Disapproval was not interference. And what was consensual about an arrangement in which the intransigence of a single member could ensure the silence of a majority wishing to speak? If that was a negative consensus, George Yeo had expressed a positive one by articulating his sense of the meeting in language that represented a compromise between the ministers' conflicting preferences—for polite silence or mere regret on the one hand, and an even stronger denunciation of the junta's cruelty on the other.

Even if Yeo's statement had more to do with diplomatic damage control than with any principled commitment to democracy, it raised a question for ASEAN and suggested a hope for the future. The question was whether regionalism in Southeast Asia should remain indifferent to democracy. The hope among democrats was that it would not.

Less than two months after Yeo spoke in New York, the old, unreconstructed ASEAN Way made a comeback in Singapore when the Burmese junta took its revenge. In mid-November, Singapore's ambassador to the UN told the Security Council that ASEAN "fully supported" the efforts by Gambari, the UN envoy, to promote "political dialogue and national reconciliation" between the junta and the NLD. As evidence of that support, the ambassador informed the Council that Singapore's prime minister had invited Gambari to brief the EAS leaders at their one-day summit on November 21. The ambassador described this as "an important opportunity" for Gambari "to personally update and engage"

the leaders of the sixteen EAS member states[8]—ASEAN's ten members plus Australia, China, India, Japan, New Zealand, and South Korea.

The ASEAN leaders held an informal dinner on November 19, the evening before their own one-day summit, presumably to set the tone of unity and amity they hoped would prevail at that event. Gambari was already in the air en route to Singapore. But at the dinner, Burma's Prime Minister Thein Sein, a military man (like each of his predecessors since 1962), objected to the UN envoy's plan to brief the EAS. Because the situation in Burma was his government's own domestic concern, said Thein Sein, there was no need for Gambari to address the summit's sixteen member states.

In New York in September, the junta's foreign minister had been unable to prevent George Yeo from sharply and publicly criticizing Burma. In Singapore in November, despite frantic efforts to resolve the impasse, the rest of ASEAN could not (or would not) override Thein Sein's refusal to let Gambari converse with the EAS leaders, even behind closed doors. Arguably still angry at having failed in New York, the junta insisted on prevailing in Singapore.

That Singapore had invited Gambari on its own initiative, without first clearing the matter with ASEAN, strengthened Burma's position. The Malaysian foreign minister, for example, blamed Singapore for having invited Gambari unilaterally in violation of ASEAN's traditional commitment to consensus[9] (defined negatively as limiting what the organization could do to what its least willing member would allow). As for the six non–Southeast Asian members of the EAS, none was willing to argue that all sixteen summiteers, not just the ASEAN ten, should decide whom they could or could not hear speak.

Whatever the exact nature of the discussion at the dinner, the stakes were high. Singapore badly wanted the next day's ASEAN summit to succeed. Although it is unlikely that Thein Sein went so far as to threaten to boycott the long-anticipated fortieth-anniversary event, scheduled to begin within hours, the junta had the upper hand. At the dinner, listening to what must have been a tense discussion, more than one of the Southeast Asian leaders present may have silently regretted having allowed Burma to join ASEAN in the first place.

Giving in to the junta was a double embarrassment to ASEAN. Not only did it show a majority of nine kowtowing to a minority of one—and the one with bloody hands to boot—but the episode unfolded in front of the six non–Southeast Asian EAS countries that ASEAN wished to impress. By letting the Burmese junta act as a censor in Singapore, ASEAN lost whatever legitimacy it had gained by censuring Burma in New York.

Legitimacy, however, is a matter of perspective. The cancellation of Gambari's briefing did not upset all six of the extraregional leaders in the EAS. China, for one, would not have welcomed ASEAN criticism of repression in Burma, knowing that its own behavior could be next—a

prescient concern in view of Beijing's extirpation of mass protest in Tibet in March 2008, about which ASEAN had nothing to say.

One might have expected India, as the world's largest democracy, to speak out against the dictatorship on its eastern doorstep. But India was locked in competition with Beijing for access to Burma's natural gas, worried by the growing ties between Rangoon (Yangon) and Beijing, and eager for Burma to deny safe haven to anti-Indian insurgents along the two countries' shared border. For New Delhi, good relations with the junta were more important than pleasing the West by urging reform in Rangoon. As for Burma's neighbor to the east, the foreign minister of Thailand (despite's his country's having just restored civilian rule following its own military coup) dismissed the question of democracy next door as "an internal affair."[10]

At the end of 2007, according to Freedom House, half of ASEAN's member states were Not Free: Brunei, Burma, Cambodia, Laos, and Vietnam. Four were Partly Free: Malaysia, the Philippines, Singapore, and Thailand. Only one—Indonesia—was Free. Remarkably, the distribution of these countries in 2007 differed in but two respects from what it had been in 1976: Indonesia had moved up to Free from Partly Free, while Thailand, whose elections in December 2007 had ended the military regime in place since the September 2006 coup, had risen to Partly Free from Not Free. These were notably modest gains over a period of more than thirty years during which the renowned "third wave" of democratization was supposed to have swept the world.

Freedom House's trichotomy aggregates incremental changes in component scores for Political Rights (PR) and Civil Liberties (CL). Typically these changes are too small from one year to the next to move a country to a new crossbar on a ladder with only three rungs. Freedom House also uses "trend arrows" to indicate even smaller degrees of freedom's rise or fall in a given country. The recent record of these more refined estimates is not encouraging for democrats. Of the eight numerical changes (in PR or CL) and four trend arrows affecting ASEAN member states in 2006 or 2007—a dozen in all—only one (improved PR in Thailand in 2007) was a gain for democracy. The rest were deteriorations.[11] Of all nine world regions, only the Middle East with North Africa was more authoritarian than Southeast Asia at the end of 2006.[12]

These are sobering contrasts, but I draw them not to contend that democracy in Southeast Asia is doomed. Rather, I do so to focus attention on the one condition that, more than any other, will influence the extent to which regionalism is—or is not—conducive to democracy in Southeast Asia: the extent and efficacy of durable democracy inside each of the region's states.

At first glance, this argument may seem tautological. How can democracy within member states be simultaneously a precondition *and* an end result of regionalism's ability to encourage democracy within member states? The answer for Southeast Asia lies in the difference between

leading and lagging democratization. ASEAN played no role, direct or indirect, in the rise of political pluralism in Indonesia in the late 1990s following the demise of General Suharto's authoritarian New Order. But *if* autocracy declines, as semi-democracies erase their prefix and incumbent versions of political pluralism succeed in other ASEAN member states, the potential for neighborhood effects on the holdouts should grow.

## Democracy Within States

The key wellsprings of liberalization are likely to remain internal to the countries undergoing change. But if democratization does proceed on the ground, one may expect ASEAN to play a greater, if still marginal, role both in reflecting and facilitating such a trend. Conversely, if Indonesia's democracy fails to perform, is replaced, and thereby sets a negative example for the region, the loss is likely, if again marginally, to reinforce the ASEAN Way of privileging sovereignty, noninterference, and consensus to the benefit of regimes that are less transparent or accountable but seemingly more effective.

In the late 1990s, several Southeast Asian leaders floated a series of concepts that, if accepted, would have modified ASEAN's commitment to noninterference: In 1997, a coup in Cambodia caused the association to delay plans to admit that country to membership. The issue was security, not democracy; ASEAN preferred not to accept a failing state into its ranks. But Malaysia's Deputy Prime Minister Anwar Ibrahim used the occasion to suggest that ASEAN consider undertaking "constructive interventions" to prevent future state failure in Southeast Asia, including helping countries at risk to improve their election procedures and reform their administrations while strengthening civil society and the rule of law.[13]

In 1998, Thai foreign minister Surin Pitsuwan went further by proposing that ASEAN adopt a policy of "flexible engagement" that would modify the principle of noninterference to allow the association "to play a constructive role in preventing or resolving domestic issues with regional implications." That said, it was still security and not democracy that he had in mind: "When a matter of domestic concern poses a threat to regional *stability,* a dose of peer pressure or friendly advice at the right time can be helpful."

Among the other ASEAN foreign ministers, only one came out publicly in support of Surin's idea—Domingo Siazon of the Philippines. In response, Malaysia's Foreign Minister Abdullah Badawi bluntly rejected "flexible engagement" and reaffirmed noninterference. So did officials from Brunei, Burma, Laos, and Singapore. At their 1998 annual meeting, the ASEAN foreign ministers completed the watering-down of Anwar's originally intrusive language to a euphemism—"enhanced interaction"—bland enough not to jeopardize the ASEAN Way.

At the time these events unfolded, Thailand and the Philippines were the only Free countries in Southeast Asia, while Malaysia was Partly Free.[14] It is not coincidental that the two most democratic governments in the region, those of Thailand and the Philippines, should have constituted a vanguard urging ASEAN to revise, however modestly, the principle of noninterference. Leaders of polities that allow for criticism of their own rulers are, other things being equal, less likely to feel threatened by criticism from other regimes.

In real-life comparisons, other things are almost never equal. One cannot readily infer a prodemocratic foreign policy from the domestic practice of democracy. But a mild and reversible tendency in that direction makes sense. Neither Surin nor Siazon even came close to suggesting that ASEAN launch a campaign to democratize Southeast Asia—a wholly unrealistic and likely destabilizing idea, then and now. But their vocal impatience with noninterference as an excuse to tolerate failure and wrongdoing inside a neighbor's borders did at least match the more open and critical character of politics in their own countries.[15]

In June 2007, Surin said that ASEAN needed "a lot of rethinking, retooling and readjusting," in part because of "fierce" foreign pressure—a likely reference to Western impatience over Burma. On 1 January 2008, he began a five-year term as secretary-general of ASEAN. Six months later, the extent to which he would rethink, retool, and readjust the organization was still unclear, especially given his limited capacity, as a manager with ten avowedly sovereign bosses looking over his shoulder, to reform the association. Then again, never before had ASEAN chosen anyone but a civil servant to be secretary-general. Unlike his predecessors, Surin was a Harvard-educated scholar, a former Democrat Party politician elected to the Thai parliament, and a globally known public intellectual whose roles included founding and chairing the Council of Asian Liberals and Democrats. Before taking up his new job at ASEAN's headquarters in Jakarta, he harbored no illusions about what he might be able to accomplish. But his resumé, including his pronouncements as Thai foreign minister, did not predict business as usual.[16]

Anwar Ibrahim's route to regional influence was more troubled and circuitous than Surin's. In Malaysia in 1998, a year after Anwar had proposed that ASEAN consider "constructive interventions" in Southeast Asia on behalf of improved democratic procedures, civil society, and the rule of law, he was stripped of his position as deputy prime minister, jailed, beaten, and convicted on questionable charges of sodomy and corruption. The first of these convictions was overturned in 2004, and he was released, but not before having served six years in prison. Though free, he was banned from running for political office in Malaysia until April 2008.

The man who had upheld noninterference against Anwar's case for "constructive interventions" in 1997, Abdullah Badawi, went on to become Malaysia's prime minister in 2003, while Anwar wrote and lec-

tured around the world on behalf of democracy[17] and actively supported the political opposition at home. In February 2008, Badawi called a snap election for the following month, just under the April deadline for restoring Anwar's right to run for office.

By Malaysian standards, the March 8 polls were a debacle for Badawi and his incumbent National Front (NF). Not since 1969 had the ruling coalition failed to win a two-thirds majority in parliament. From having lost only one of Malaysia's thirteen state legislatures in the 2004 election, the NF lost five in 2008.

I recap these events for two reasons. First, however discouraging the enduring scarcity and compromised quality of democracy in Southeast Asia may be, the region is not immune to political change. Second, furthering democracy in Southeast Asia depends less on underlying preconditions than on political entrepreneurship of the right kind, at the right time, and in the right place. If a prosperous economy, for example, were necessarily conducive to a liberal polity, Singapore would be more democratic than Indonesia, not—as in reality—the other way around.

Secretary-General Surin may not be able to reform ASEAN. Malaysia may never be upgraded from Partly Free to Free. Anwar may never become its prime minister; and even if he does, he may decide not to rock ASEAN's boat with controversy over democratization. But my larger points remain: The balance of democracy versus autocracy across the membership of the association will affect the extent to which regionalism in Southeast Asia opposes, ignores, or favors democratization. Yet the actual dynamics of regionally influenced democratization, if it does occur, will likely have more to do with opportunities seized than with structural forces inexorably making themselves felt.

It is not coincidental in this context that the rethinking of regionalism associated with politicians such as Surin and Anwar in 1997–98 occurred in the wake of a "black swan"—a consequential but unexpected event[18]—namely, the financial crisis that blindsided much of East Asia at the time. That same swan ruined Suharto's record of economic growth and political stability, and thereby aided the subsequent democratization of Indonesia. The crisis also spurred ASEAN to broaden its agenda to include the defense of "nontraditional" or "human" security against contagious dangers whose ability to leap national borders made the passivity implied by "noninterference" seem foolhardy.[19]

## Chartering ASEAN

For hopeful liberal observers inside and outside Southeast Asia, the anniversary summit in Singapore was doubly disappointing. Not only did ASEAN fail to implement its "revulsion" over the bloodshed in Burma by standing up to the junta on behalf of human rights. Democrats in and outside the region were also disillusioned by the final text of the

ASEAN Charter,[20] signed at the summit by the leaders of all ten member states, including Burma.

Expectations of reform had risen in January 2007 with the appearance of a report on the ASEAN Charter by a blue-ribbon panel known as the Eminent Persons Group (EPG).[21] ASEAN's leaders had tasked the EPG to review where ASEAN had been and should be going, and to recommend what the proposed charter should say. The liberal-reformist tenor of the EPG's advice surprised and heartened democratically minded observers.

Far from endorsing a continuation of the conservative, state-centered ASEAN Way, the group spoke up for "human security." Noting the damage done to the region by border-jumping calamities such as the Asian financial crisis, the SARS epidemic, and the 2004 Indian Ocean tsunami, the EPG argued that the ASEAN Way should be revised. The well-being of the populations living in different ASEAN member countries had become "more intertwined." The unstated implication was that globalization, having blurred the distinction between domestic and foreign affairs, had weakened excuses for the sovereign impunity of irresponsible regimes. In the diplomatic language of the report, member states would need "to calibrate their traditional approach of non-interference in areas where the common interest dictates closer cooperation."[22]

Still more remarkably, topping the list of activities that the EPG urged the charter to mandate was the promotion of peace and stability through the active strengthening of "democratic values, good governance," "the rule of law including international humanitarian law," "respect for human rights and fundamental freedoms," and the "rejection of unconstitutional and undemocratic changes of government."[23]

Innovative, too, were the report's suggestions that a "serious breach of ASEAN's objectives, major principles, and commitments to important agreements" by a member state could result in the "suspension" of its membership rights; that in making decisions, if "consensus cannot be achieved, decisions may be taken through voting"; and that ASEAN needed "to shed its image of being an elitist organisation comprising exclusively diplomats and government officials" and become more "people-centred," with greater participation by "civil society" and "human rights groups."[24]

Unfortunately for the fate of these proposed reforms, the EPG's role was purely advisory, and its ten members, though drawn from all ten ASEAN states, were mostly *former* officials. Having retired from public service, they were free to think creatively, but they did not necessarily represent and certainly could not commit their home governments to the group's recommendations.[25] A High-Level Task Force, whose ten members were all sitting officials with the authority to represent and presumably commit their respective governments, actually drafted the charter.

Content analyses of the EPG's report and the ASEAN Charter reveal the degree to which the liberal-reformist tone of the first document was diluted in the second. In the report, favorable mentions of items on an

agenda for liberal reform outnumbered favorable mentions of elements of the ASEAN Way by a ratio of 2.5 to 1. At 0.8 to 1, the comparable ratio in the charter ran in the opposite, conservative direction.[26] The charter does favorably cite "human rights" and "democracy," but overall uses more conservative language than the report does.

The contrast should not be overdrawn. Where the report merely noted that setting up an "ASEAN human rights mechanism" was a "worthy idea" deserving further study, for example, the charter says flatly that "ASEAN shall establish" such a body.[27] Looking ahead from May 2008, the nature and mandate of that promised entity and the timeline for creating it could generate controversy between those in ASEAN who favor liberal reform and those who oppose it. Of particular interest in this regard will be the position of Indonesia—not only because its Free ranking is unique in the region, but because it is ASEAN's largest and thus potentially most influential member.

The Charter will not come into effect until all ten member states have ratified it. Six had done so as of early June 2008: Brunei, Cambodia, Laos, Malaysia, Singapore, and Vietnam. But the road ahead looks rockier. Burma's intransigence at the anniversary summit angered Philippine president Gloria Macapagal-Arroyo enough for her to warn that the Senate in Manila might not ratify the charter unless the junta first freed Aung San Suu Kyi from detention. (On 27 May 2008, the junta renewed her confinement for another year.)

Nor was Indonesia's ratification a foregone conclusion. In Jakarta soon after the charter was signed, an Indonesian colleague privately described it to me as "garbage." Another Southeast Asian colleague, also privately, characterized it as a victory for some of the least democratic states in the region. (Of the six early ratifiers in 2008, Brunei, Cambodia, Laos, and Vietnam were all Not Free in 2007.)

The possible dynamics of ratification are intriguing. As in the Philippines, Indonesia's approval requires legislative consent, which implies a public debate. But as of May 2008, ASEAN still planned to have all ten approvals in hand by the next summit in Thailand in December, and the pressure to ratify was likely to mount with each additional endorsement.

In relation to democratization, regionalism in Southeast Asia is not a vanguard. It is an arena. Too few countries are democratic enough for their leaders to exert effective pressure on the association to liberalize its traditional ASEAN Way—decisions by consensus, the sovereignty of states, acquiescence in what they do or fail to do—by incorporating into its agenda the defense of human rights and freedoms and the promotion of democracy in Southeast Asia.

Nevertheless, in the more or less turbulent wakes of black swans—surprises of varying significance—the balances between impunity and accountability inside the region's states will continue to shift. And it

is these balances, and the people who choose to contest them, that will matter most in orienting the association toward or away from democracy as a regional goal. ASEAN's black swans have included the Asian financial crisis in 1997, the 2006 coup in Thailand, the upheaval and repression in Burma in 2007, the electoral losses of Malaysia's ruling coalition in March 2008, and Cyclone Nargis's destruction of the status quo in deltaic Burma two months later.

In the cyclone's aftermath, the willfully merciless behavior of the junta in hampering relief efforts and thereby facilitating thousands of unnecessary deaths severely embarrassed ASEAN.[28] Had Myanmar been a democracy when the cyclone struck, the regime could not have obstructed humanitarian relief without risking its own demise. Yet, in mid-2008, it was still too early to tell whether and how a more "people-oriented" regionalism might arise and begin to encourage the democratization of Southeast Asia.

The ASEAN Charter is not simply a capitulation to the association's most authoritarian members. Had the EPG been less creative, the text would have been less reformist than it is. Depending on which of its provisions are quoted, the document can and will be used both to endorse and to reject a liberal agenda. And the two-way relationship between democracy as a regional principle and a national practice will continue to evolve.

## NOTES

1. On 3 May 2008, Cyclone Nargis struck the Irrawaddy delta, killing more than 135,000 Burmese and displacing some 2.4 million. A referendum on the constitution had been scheduled for 10 May 2008. The junta went ahead with the vote on May 10 in unaffected areas of the country, obliged people in the delta to vote on May 24, and announced that 98.1 percent of 26.8 million eligible voters nationwide had cast ballots of which 92.5 percent favored the constitution. Signs of intimidation and the massive suffering and dislocation (worsened by the junta's refusal to facilitate refugee relief) rendered these results specious and the referendum itself both cruel and inane. International observers were not allowed to monitor the balloting, and it is likely that most voters had not even read the 194-page document that they were being, in effect, forced to endorse. Prospectively grotesque in this light is the junta's promise to hold multiparty elections in 2010. Eric Schmitt, "Myanmar Junta is Guilty of 'Criminal Neglect,' Gates Says," *International Herald Tribune,* 1 June 2008, *www.iht.com/articles/2008/06/01/asia/gates.php* (deaths. displacement); Xinhua, "Myanmar Formally Announces Ratification of New Constitution Draft," *People's Daily Online,* 30 May 2008, *http://english.people.com.cn/90001/90777/90851/6421254.html* (official results).

2. International Crisis Group (ICG), *Burma/Myanmar: After the Crackdown* (Brussels: ICG, 2008), 3n10.

3. "ASEAN Cannot Remain Silent over Myanmar Unrest: PM Lee," *Channelnewsasia.com* (Singapore), 28 September 2007, *www.channelnewsasia.com/stories/singaporelocalnews/view/302532/1/.html.*

4. Written and posted on 30 September 2007 by George Yeo on "A Writer's Blog: My Life, My Thoughts," *http://ephraim.blogspot.com/2007/09/myanmar-1.html.*

5. "Statement by ASEAN Chair, Singapore's Minister for Foreign Affairs George

Yeo in New York, 27 September 2007," *http://app.mfa.gov.sg/2006/press/view_press.asp?post_id=3125*.

6. "Statement by ASEAN Chair."

7. See, for instance, "Junta Wants 'Discipline-Flourishing Democracy' in Myanmar," Islamic Republic News Agency, 5 January 2007, *www2.irna.ir/en/news/view/menu-239/0701058175140530.htm*.

8. "Statement by Ambassador Vanu Gopala Menon, Permanent Representative of Singapore to the United Nations, at the Security Council Meeting on the Situation in Myanmar, 5 October 2007." Available at *http://app.mfa.gov.sg/2006/press/view_press.asp?post_id=3168*.

9. Benny Avni, "Asian Nations Deal Blow to U.N. Efforts on Burma," *New York Sun,* 20 November 2007.

10. On India, see Yogendra Singh, *India's Myanmar Policy: A Dilemma between Realism and Idealism* (New Delhi: Institute of Peace and Conflict Studies, 2007). The minister is quoted in Kyaw Zwa Moe, "Junta Sees Friendly Faces in New Thai Government," *The Irrawaddy* 16 (March 2008): 17.

11. A numerical change is defined as an increase or decrease of one point on either of the two seven-point scales (for PR or CL) in 2006 compared with 2005, or in 2007 compared with 2006; see "Table of Independent Countries" for 2007, 2006, and 2005 at *www.freedomhouse.org*.

12. To reach this conclusion, I used a spectrum of five polity types in Larry Diamond's *The Spirit of Democracy: The Struggle to Build Free Societies throughout the World* (New York: Times Books, 2008), Appendix, Table 5. The types (with ASEAN countries in parentheses after the category in which he placed them) were: "liberal democracy" (none), "electoral democracy" (Indonesia, the Philippines), "competitive authoritarian[ism]" (Malaysia), "electoral (hegemonic) authoritarian[ism]" (Cambodia, Singapore, Thailand), and "politically closed authoritarian[ism]" (Brunei, Burma, Laos, Vietnam). In this comparison, varieties of authoritarian rule characterized eight of ASEAN's ten members. To compare Southeast Asia with other areas, I used six of Diamond's seven world regions but subdivided his "Asia" into Northeast, Southeast, and South Asia. For an earlier comparison, see my "Region and Recalcitrance: Rethinking Democracy through Southeast Asia," *Pacific Review* 8, no. 2 (1995): 223–48.

13. Amitav Acharya, *Constructing a Security Community in Southeast Asia* (London: Routledge, 2001), 152, and for the details in my next two paragraphs, see 152–54.

14. Thailand was classified as Free in 1989–90 and 1998–2004. The Philippines enjoyed that status in 1987–89 and 1998–2004. At least through 2007, Malaysia had been Partly Free without interruption since 1974. See *www.freedomhouse.org/uploads/fiw/FIWAllScores.xls*.

15. To illustrate the frequency with which things are unequal when it comes to expecting a democratic government to encourage democracy abroad, it is worth noting that Surin would not have been named as ASEAN secretary-general were it not for the 2006 military coup that ousted Prime Minister Thaksin Shinawatra. Thaksin would not have chosen the opposition politician for the post.

16. Surin's signal achievement in his first six months as secretary-general came in May 2008 in the wake of the cyclone that devastated the delta region of Burma. He managed to nudge ASEAN into playing a facilitating role between the xenophobically obstructive Burmese junta and frustrated would-be donors of humanitarian aid. It was unclear, as of early June, whether this involvement would save both Burmese lives and ASEAN's face,

implicate the association in inhumane delays, or yield a mixed verdict in between these extremes.

17. Including his essay, "Universal Values and Muslim Democracy," *Journal of Democracy* 17 (July 2006): 5–12.

18. Nassim Taleb, *The Black Swan: The Impact of the Highly Improbable* (New York: Random House, 2007).

19. For more on these matters, see my edited volume, *Hard Choices: Security, Democracy, and Regionalism in Southeast Asia* (Stanford, Calif./Singapore: Stanford University Shorenstein Asia-Pacific Research Center/Institute of Southeast Asian Studies, 2008).

20. The ASEAN Charter was available as of May 2008 at *www.aseansec.org/21069.pdf*.

21. The EPG Report was available as of May 2008 at *www.mfa.gov.sg/internet/press/16012007/ReportOfTheEminentPersonsGroup(EPG)OnTheAseanCharter.pdf*.

22. EPG Report, 12 (para. 18).

23. EPG Report, 1 (Executive Summary [EC], para. 3); see also p. 15 (para. 27).

24. These references are drawn, respectively, from the EPG Report, 16 (para. 31) and 5 (EC, para. 8 and 9).

25. The EPG member from Burma was a sitting official. But in addition to the group's being merely advisory, his low-ranking position (as chair of the Civil Service Selection and Training Board) left the junta even freer to ignore the EPG Report, which the Group's members were not even asked to sign.

26. The words or phrases counted as favoring "liberal reform" were "human rights"; "civil society"; "[un]constitution[al government]"; "rule of law"; "democracy"/"[un]democratic"; and "fundamental freedoms." Those for "the ASEAN Way" were "consensus"; "sovereignty"; "[non-]interference"; "territorial integrity"; "right[s]" of member states; and "harmonious environment." Of these dozen concepts, the most frequently cited were "human rights" in the Report versus "consensus" in the Charter. All references were read in context to ensure that the core concept was being presented in a positive light. For example, a reference that criticized "unconstitutional" or "undemocratic" government or "interference" in a member state's affairs was coded as favoring, respectively, "constitutional" or "democratic" government, or "noninterference."

27. EPG Report, 21 (para. 47); ASEAN Charter, Art. 14.1.

28. As the junta continued "to kill its own people through brute idiocy," in the words of a U.S. observer, "conspicuous in its absence" was "one harsh word to Burma's rulers from ASEAN." Experts in Washington, he reported, were asking in the light of ASEAN's silence how the association could even expect to be taken seriously. Confidential communication, 12 May 2008. ASEAN might have counterargued that reexpressing "revulsion" against the regime would only have raised the death toll further by causing the junta to refuse any humanitarian assistance from ASEAN states. But even if criticizing the junta might not have saved Burmese lives, it would have helped save ASEAN's face. In any event, the cyclone certainly further eroded the ASEAN Way.