

## CHAPTER EIGHT

### POLITICAL CHALLENGES

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8.1 While the Committee is aware that the future might generate completely different challenges from the ones outlined here, the matters that are dealt with in this chapter were, at the time of the inquiry, questions of significant public debate on political relations in the region. They were addressed by numerous witnesses to the inquiry. They represent challenges to Australia's relations with regional countries and to the Association itself. They are the more sensitive political questions and the more complex questions that can no longer be avoided.

#### Transparency

8.2 The crisis in the economies of the region demonstrates that corruption is a serious political and economic problem. Its cause rests in the political systems where there is little transparency, accountability and scrutiny; the lack of a free press, a viable opposition and an independent judiciary. These fundamental civil and political rights are the means by which corruption, while not eliminated, is kept at bay. There is commonly expressed, in Australia and in the region, the view that political and economic systems could be compartmentalised, that human rights and trade were not connected,<sup>1</sup> and that a country could adopt western economics and reject broader democratic accountability: this appears, in the light of current events, to be a fallacy. The experiences of the past months in Asia have had antecedents in capitalist economies on a number of occasions. Both this experience and the clamour for reform in Thailand, Indonesia and the Republic of Korea illustrate that, while the problems of greed and the abuse of power are not Asian problems, they are universal; the solutions of fairness and equity are not Western, they are universally understood to be valuable.

8.3 Transparency and human rights were two matters related to the Asian values debate brought to the attention of the Committee during the inquiry. The matter of corruption in economic or political relations across the region was seen as a fact of life, the 'Asian way' or alternatively as an inhibition to trade and investment. Where it was described as 'part of life'<sup>2</sup> what was often being referred to were minor payments to officials to facilitate customs clearance. The Committee was told that much of this occurred because of a lack of institutional and regulatory frameworks. Professor Peter Blunt told the Committee that:

I think there is a direct correlation between the extent of institutionalised or systematic corruption, ... and the development of major institutions of government. ... [T]he higher the level of

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1 This Committee has argued for the integrated nature of human rights and the economic systems of nations for some years and it has debated at length how that clear interconnection should then inform policy in ways that are constructive rather than punitive.

2 Northern Territory Livestock Exporters Association Transcript, p. 354.

development of the systems of government, the lower the degree of corruption.<sup>3</sup>

8.4 More serious levels of corruption were said to have added up to 20 per cent to the operating cost in parts of Asia and were an inhibition to investment.<sup>4</sup> These views were expressed as far back as 1995, well before the market withdrawal of investment in October 1997. Further to this issue, the Committee heard evidence from Transparency International (TI), a world wide organisation formed in 1993, in the belief that corruption 'is one of the greatest challenges of the contemporary world, [as] it undermines good government, distorts public policy, leads to misallocation of resources, harms the private sector and hurts the poor'.<sup>5</sup> Transparency International warned that corruption not only harmed development, it spread increasingly to the domestic economies of industrialised countries.

8.5 Transparency International's mandate is to address the problem of corruption where it occurs at an international level and on a grand scale. They define grand corruption as 'the misuse of public power for private benefit, ... usually involv[ing] the giving of a benefit to a political leader or senior public official by a businessman in return for a decision in his favour'.<sup>6</sup> This form of corruption is increasing according to Transparency International. It 'springs from the great disparities in wealth between the developed and underdeveloped countries, and the enormous flows of money that move between the developed and underdeveloped world to invest and to aid'.<sup>7</sup> Moreover it has been encouraged by the lack of an international legislative framework to match the rate and volume of this aspect of globalisation. Mr Henry Bosch, Chairman of Transparency International, told the Committee that:

These [investment flows] give rise to very large contracts which are highly prized by the international companies in the developed world, and there is enormous competition to get those contracts. Many companies are prepared to use any legal means to get them. While the bribery of public officials within one's own country is prohibited by law in almost every country of the world, it is prohibited by law in almost none when it concerns the public officials of other countries. Thus it ... [is] argued by many companies that it is quite legal to bribe foreign officials ... [and] in a great majority of companies, tax deductible to do so.<sup>8</sup>

8.6 The areas most vulnerable to corruption are foreign direct investment and government procurement.<sup>9</sup>

8.7 TI argued that their movement was part of a world wide change in the climate of opinion resulting from the '80s corporate excesses in the industrialised world and the excesses of political leaders primarily in the developing world'.<sup>10</sup>

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3 Professor Blunt Transcript, p. 355.

4 Exhibit No. 12, op. cit., p. 40.

5 Transparency International Australia Submission, p. S819.

6 *ibid.*, p. S823.

7 Transparency International Australia Transcript, p. 484.

8 *ibid.*, p. 484.

9 *ibid.*, p. 489.

8.8 Professor Stephen FitzGerald makes the point that the ethical problems of dealing with regional business or governments are by no means confined to the Asian players. Australians, he believes, have often either been without consciousness of the ethical questions that arise, have ignored them and complied with corrupt expectations or have retreated to a sense of outraged moral superiority. In any event the approach has not been effective and the problem requires a clarification of national direction, purpose and identity involving both political leadership at home and dialogue abroad.<sup>11</sup>

8.9 One option then is to encourage debate on social and political questions in the multilateral and the bilateral forums in the region. To some extent this is beginning within the ASEAN Regional Forum.<sup>12</sup> However, Professor FitzGerald has suggested the need for a regional political forum, the third leg of the existing stool,<sup>13</sup> and an essential element for the development of a regional order and, more importantly, a regional community, for East Asia.

8.10 The Committee recommends that:

**14. the Australian Government support the development of an East Asian political community in the form of a regional forum developed through consultation with all regional governments.**

8.11 Given that much corruption occurs across national borders, Transparency International has been working in conjunction with a number of international organisations such as the Organisation for Economic Cooperation and Development (OECD), the United Nations, the World Trade Organisation (WTO), the European Union (EU) and the Organisation of American States (OAS) in order to establish some uniformity of action. Other organisations which have given consideration to the issue are the Commonwealth and the South Pacific Forum.

8.12 In December 1996, the UN General Assembly passed a *Declaration against Bribery and Corruption in International Business Transactions*. As with all such international agreements, this declaration is standard setting only. It is incumbent on individual states to develop domestic legislation to ensure implementation. The OECD has developed a series of recommendations aimed at curbing international corruption for which it has sought compliance from member states and cooperation from other international organisations. The OECD recommendations require member countries to take measures to 'deter, prevent and combat the bribery of foreign public officials in connection with international business transactions'. The OECD recommendations are outlined in detail in Appendix 6. TI recommended that Australia support the OECD measures to curb international corruption by:

- lending support in the relevant multilateral forums, especially the WTO, APEC and the South Pacific Forum for the implementation of OECD recommendations;
- supporting the work of the Financial Action Task Force in the money laundering field;

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10 Transparency International Australia Submission, p. S825.

11 Exhibit No. 44, op.cit. pp. 133-136.

12 See Chapter 11.

13 See paragraph 7.54.

- continuing to support the work on curbing corruption in the context of development aid through the OECD Development Assistance Committee and by the World Bank and other multilateral agencies;
- supporting at a national level in developing countries, through development aid and in other ways, good governance policies which are designed to improve national integrity and to curb corruption both in the public government sector and in the private business sector; and
- implementing the OECD recommendations in Australia, in particular by ending the tax deductibility for the payment of foreign bribes and criminalising bribery of foreign officials.<sup>14</sup>

8.13 In May 1997, the Attorney-General, the Hon D R Williams, MP, and the Minister for Trade, the Hon T A Fischer, MP, announced that, in line with the OECD recommendations that members coordinate measures to criminalise bribery, the Australian Government would examine measures to create an international bribery offence. In the May announcement, the Government removed the tax deductibility of bribes and in December the Minister for Justice, Senator the Hon Amanda Vanstone, announced the intention of the Government to criminalise bribery. It is expected that the penalties will include fines and gaol sentences. The target date for the legislation is April 1998 but its passage is dependent on similar legislation being introduced by other OECD countries.

8.14 Apart from the OECD recommendations, there are significant international initiatives emerging in responses to the problem of corruption in transnational business. A number of regional conventions have been developed, in the EU, the OAS and in southern Africa. In this region, while there has been some discussion in APEC, the interest of ASEAN itself is as yet embryonic. Preliminary discussions on transnational crime have begun in the Council for Security Cooperation in the Asia Pacific (CSCAP). This is second track dialogue which forms the basis of the agenda in the ASEAN Regional Forum (ARF). The G7 leaders summit in 1989 decided to create an international task force to address the matter of money laundering especially as it arose out of the international narcotics trade. They established the Financial Action Task Force (FATF) to develop international cooperation on the issue of money laundering. The FATF consists of 26 member countries, including Australia, the majority from OECD countries. It addresses that problem in three basic areas: legal, financial and regulatory, and law enforcement.<sup>15</sup>

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14 Transparency International Australia Submission, p. S829.

15 See Chapter 11 for further detail on the security initiatives of the ASEAN Regional Forum and the CSCAP process.

## Human Rights

8.15 The question of human rights is one of the most contentious political issues in regional relations. It is central to the Asian values debate and related to questions of transparency and the development of democracy. In its submission, the Department of Foreign Affairs and Trade lists human rights as a social issue.<sup>16</sup> However, the international human rights conventions embody values and systems that protect the individual from the abuse of power by providing mechanisms for accountability between the individual and the state as well as the social and cultural rights. Rights are also political and legal issues; therefore this report will consider the matter in this chapter.

8.16 In the ASEAN region, the official view has been that primacy needs to be given to the fulfilment of economic, social and cultural rights before civil and political rights. Nevertheless, most regional countries have acknowledged the indivisibility of the two international covenants - the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). In fact the ratification of human rights conventions in the region is not uniform or broad. The Department of Foreign Affairs reported to the Committee that:

The Philippines has ratified all major human rights instruments and Vietnam has ratified all but the Convention Against Torture. Indonesia, Thailand, Malaysia and Singapore have ratified the Convention for the Elimination of All Forms of Discrimination Against Women. Each of the ASEAN countries has ratified the Convention on the Rights of the Child. Indonesia has signed the Convention Against Torture. None of the ASEAN countries has yet ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, abolishing the death penalty.<sup>17</sup>

8.17 In past inquiries, this Committee has taken the view that the ratification of the two covenants and the associated conventions on human rights and consequently participation in the process of international standard setting on human rights is an important contribution to promoting both justice and order. The Committee recognises that the conventions alone do not ensure good practice, but it believes that they are an important, internationally agreed standard against which nations can measure themselves.

8.18 The Committee recommends that:

- 15. the Australian Government encourage the ASEAN states to ratify and implement international human rights instruments as an integral part of their responsibilities in the international order.**

## Cultural Relativity

8.19 The Asian values debate canvassed in the previous chapter has raised the question of the relativity of rights across different cultures. Associate Professor Philip Eldridge commented that the arguments have emerged out of the older north-south conflict based on

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16 As does Professor Muntabhorn (see paragraph 4.74).

17 DFAT Submission, p. S391.

the international political economy. In the 1990s, as a result of heightened discussions on human rights prior to the 1993 World Conference in Vienna, the debate turned to political questions and focused in the Asian region on 'the perceived ideological and cultural hegemony by the west over the rest'.<sup>18</sup> Moderate and conciliatory voices in Asia have promoted ideas of Asian democracy, the importance of accountability and pluralism.<sup>19</sup> Western commentators have argued that the suggestion that there is an argument between Asian and western values is a 'false polarisation'; that Asian values largely reflect 'aspects of western conservative discourse stressing political order, authority, harmony, stability and family values'.<sup>20</sup>

8.20 Amnesty International, in its submission to the inquiry, rejects the arguments about cultural relativity in human rights; they question the motivation of those sections of Asian societies that propound such arguments and they suggest that acceptance of these arguments by Australia only serves to undermine the universality of human rights, to underline the differences between Australia and our neighbours and to compromise key values and interests in Australia's relationships with Asia.<sup>21</sup>

8.21 In their submission to the inquiry, Amnesty International outlined a number of concerns in respect of human rights in this region. These included:

- widespread restriction of the freedoms of expression and association, particularly through the exercise of national security laws;
- imprisonment of prisoners of conscience and unfair trial of other political prisoners;
- forced portering, 'disappearances' and unlawful killings in the context of armed conflict;
- near total immunity for human rights violators, including for massive human rights violations in the past; and
- increasing use of the death penalty.<sup>22</sup>

## The Death Penalty

8.22 Specific attention was given in the Amnesty submission to the use of the death penalty. Amnesty International noted that the ASEAN states were an exception to a world trend toward the abolition of the death penalty.<sup>23</sup> Amnesty provided the following statistics for the use of the death penalty in ASEAN countries:

- Indonesia - since 1978, 39 executions of which 30 have been political prisoners;

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18 Exhibit No. 36(b), Associate Professor Philip J Eldridge, International Political Science Association, XVII World Congress, Seoul, 17-21 August 1997, *Human Rights and Democracy in Indonesia and Malaysia: Emerging Contexts and Discourse*, p. 3.

19 See Chapter 7, paragraphs 7.81-7.82.

20 Exhibit No. 36(b), op. cit., p. 4.

21 Amnesty International Australia Submission, pp. S692-693.

22 ibid., pp. S694-695.

23 This trend is not evident in the practice in the United States or China. In the United States the death penalty has been reinstated and in China it is still widely used.

- Malaysia - since 1970, 349 executions, of these 139 have been since 1990;
- Singapore - 76 executions in 1994, at least 50 in 1995 and at least 32 in 1996;<sup>24</sup>
- Thailand - one person executed since 1987;<sup>25</sup> and
- Vietnam - 90 executions in 1994, 11 known to AI in 1995.<sup>26</sup>

8.23 The Philippines (1976) and Brunei Darussalam (1957) have not carried out the death penalty for many years although there has been pressure in the Philippines to resume executions. These statistics are varied and in most cases probably an understatement because most states do not publish figures on the use of the death penalty and Amnesty has relied only on verified cases. In the ASEAN states, Amnesty noted that the death penalty applied to a wide range of crimes and was applied after trials in which the procedures did not always meet international standards for a fair trial and where information about the use of the death penalty was not always made public.

### Civil and Political Rights

8.24 The Department of Foreign Affairs and Trade also expressed concern about a number of human rights issues: restrictions, including by imprisonment, on political rights in Indonesia, the Philippines, Malaysia and Vietnam; the imprisonment of conscientious objectors in Singapore, violations of the rights of those promoting separatism in East Timor, Irian Jaya and Aceh; exploitative labour practices, including child labour, forced labour, discrimination against women and the systematic suppression of the right of collective bargaining.<sup>27</sup>

8.25 Political restrictions in ASEAN are embodied in restrictions on the press and on freedom of speech. Free speech and a free press are pivotal to the maintenance of accountable and non-corrupt governmental and financial systems. Across the region these freedoms vary enormously; from the Philippines, where the press was described as the most 'voluble, high spirited and irreverent press anywhere' or Thailand which has 'the most outspoken political comment' to Malaysia where 'the Opposition is denied a fair go in the mainstream media'<sup>28</sup> or Singapore where the libel laws have been used to curtail opposition and criticism. In Indonesia, there was a short period of *keterbukaan* or openness in the early 1990s which witnessed a flourish of still cautious debate that covered financial scandals and labour abuses, but this was reversed in June 1994 when the government shut down three critical papers, *Tempo*, *De Tik* and *Editor*. Pressure on other underground journals followed. In May 1995, the Administrative Court ruled the closures unlawful but the government has appealed that decision.<sup>29</sup> Of particular concern to the Committee and illustrative of the problems of free speech in Indonesia were the continuing bans on the work of the epic novelist, Pramoedya Ananta Toer, imprisoned by the Dutch and then, in 1965, by the New Order Government for 14 years for political views at odds with the regime. In other ASEAN

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24 The statistics for Singapore are minimum as Singapore does not publicise many death sentences.

25 Information about the death penalty in Thailand is difficult to obtain as death sentences are not usually reported.

26 Again no official statistics are available. The numbers for 1994 were given by a Supreme Court official to an Australian visiting delegation.

27 DFAT Submission, p. S 391.

28 Exhibit No. 45, *Tigers: Leaders of the New Asia-Pacific*, by Greg Sheridan, Allen & Unwin NSW, 1997 pp. 48, 66, 184.

29 Exhibit No. 14, Angelo Romano, *The Open Wound: Keterbukaan and Press freedom in Indonesia*, The Australian Institute of International Affairs, Vol. 5, No. 2, 1996, pp. 157-167.

states, press freedom is firmly controlled. Burma in particular seeks to control all forms of information and uses the state run media for hostile propaganda against the NLD and Daw Aung San Suu Kyi.

8.26 Amnesty International was concerned that there were contradictions between ASEAN's stated adherence to the universality of human rights and the tendency of ASEAN governments to act as a group within United Nations forums to block scrutiny of themselves and other developing countries. Amnesty believed that these actions and the Asian values debate were often directed at undermining the concept of universality. Amnesty questioned the effectiveness of the policy of constructive engagement of successive Australian governments and recommended that there be a greater and more explicit emphasis on human rights in Australian diplomacy. The central place of human rights was in keeping with Australia's own traditions and democratic principles and therefore in Australia's long term interests.<sup>30</sup>

8.27 In particular, Amnesty International recommended the incorporation of human rights considerations into development assistance programs, the use of academic and other exchange programs to promote civil society and non governmental activity in ASEAN countries, and the adoption by business of good practice models and codes of conduct in the area of human rights. Human rights considerations, such as ILO conventions, should be a fundamental part of any common standards or framework agreements, such as a link between AFTA and CER. Amnesty International also believed that the broad agenda of the ASEAN Regional Forum which had begun to address regional security issues needed to acknowledge the significance of human rights as a dimension of security.<sup>31</sup>

8.28 Many of these issues are currently being discussed more thoroughly by the Human Rights Sub-Committee of this Committee in an inquiry into Australia's regional human rights dialogue. Detailed assessments and recommendations will form part of that sub-committee's report. Specific recommendations in relation to the promotion of civil society, human rights and aid, labour rights and codes of conduct have been made in Chapters 9 and 10 of this report. At this point of the report, the Committee recommends that:

- 16. the Government ensure that human rights issues are an integral part of emerging dialogues with ASEAN countries on regional development cooperation, economic and security issues.**

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30 Amnesty International Australia Submission, p. S693.

31 *ibid.* The agenda of the ARF will be discussed further in Chapter 10.



## Institution Building

### National Institutions on Human Rights

8.29 The United Nations Human Rights covenants and conventions define the standards for human rights internationally and the associated United Nations Committees and the Human Rights Commission of the UN have a responsibility to monitor practice; however implementation and primary monitoring is the responsibility of the nation state. There has developed across the ASEAN region an interest in the development of national institutions to protect human rights. Both Indonesia and the Philippines have Human Rights Commissions and Thailand is in the process of developing one.<sup>32</sup> In 1996, the first regional forum of national human rights institutions was held in Darwin, hosted by the Human Rights Commissions of Australia and New Zealand. At its conclusion, the meeting produced the *Larrakia Declaration* which established a framework for future cooperation and regular liaison. The Australian Government has provided three years seed funding of A\$225,000 for a regional secretariat to facilitate this cooperation. Amnesty International welcomed the establishment of the regional national institutions on human rights; however, they warned about the 'fundamental disjuncture' between the powers of the commissions and government responses and willingness to act upon recommendations made by such institutions.

8.30 The Committee endorses the development of the regional forum for national human rights institutions, particularly where such a forum offers opportunities for all the commissions to share expertise, to develop processes and mechanisms for handling complaints, and to reinforce the importance of the Paris Principles as the basis for preserving the independence of the commissions from their respective governments.

8.31 In a number of ASEAN countries, the human rights commissions have taken up the issue of child labour as a project for regional cooperation. This was identified at the Darwin workshop, held in July 1996. The Indian Commission had already completed a major study and the Pakistani Commission announced that they were about to embark on a similar inquiry and therefore expressed interest in the Indian Commission's experience. Representatives of the Philippines Commission, in conjunction with some judges, members of parliament and child welfare workers from the Philippines, were in the process of negotiating with AusAID for a joint project with the Australian Human Rights Commission and LawAsia in relation to children's welfare and services.<sup>33</sup>

### An Expanded ASEAN

8.32 From its inception ASEAN saw as its goal the inclusion of all South East Asian states. This was thwarted by historical circumstances in the mid to late sixties. Burma chose isolation and Vietnam, Cambodia and Laos were embroiled in a protracted war against which ASEAN set itself. The end of the Cold War and the gradual settlement of the relationship between Vietnam and Cambodia and the UNTAC elections in 1993 in Cambodia opened opportunities for revisiting the original goal. Vietnam became the seventh member of

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32 There are a number of other institutions outside ASEAN in the Asia-Pacific which participate in regional cooperation, eg India, Fiji, Mongolia, Nepal, Pakistan, Papua New Guinea, the Solomon Islands and Sri Lanka.

33 Joint Standing Committee on Foreign Affairs, Defence and Trade, *The Human Rights and Equal Opportunity Commissioner and the Commonwealth Ombudsman: Report on Public Seminars on 20 and 25 September 1996*, tabled March 1997, p. 3.

ASEAN in 1995. In 1996, in order to mark the 30th anniversary of ASEAN, the leaders agreed to admit the final three South East Asian states, Cambodia, Laos and Burma. All were given observer status as a first step. The requirements were that each would:

- sign the Treaty of Amity and Cooperation and the South East Asian Nuclear Weapons Free Zone Treaty;
- fulfil the technical requirements of a capacity to meet AFTA trade liberalisation obligations;
- establish an ASEAN Directorate; and
- pay the joining fee (US\$1 million) and the annual running costs fees (US\$750,000).<sup>34</sup>

8.33 The inclusion of the new members offers a number of potential benefits to ASEAN: enhancement of its overall geo-political weight regionally and globally by increasing the size of the organisation and, with it, the members' collective self-confidence; an increase in the capacity of South East Asia to settle or avoid conflicts through broader based and more inclusive confidence building; and more rapid development through the more aggressive pursuit of economic reform.<sup>35</sup>

8.34 From Australia's point of view an expanded ASEAN was advantageous insofar as it diffused conflicts in the region and assisted in the rapid development of the less developed states of Vietnam, Laos and Cambodia. The lessening of the consensus decision making process could work in Australia's favour where Australia's inclusion in the Asia Europe Meeting (ASEM) has been blocked by the objections of a single country; however, the expansion means also that the balance of ASEAN has been tipped away from the more democratic states by the entry of the new members thus potentially intensifying the political divide between Australia and the region.<sup>36</sup>

8.35 Equally, there are more general concerns with the expansion of ASEAN. The disparities between the new and old members of ASEAN are very great, creating even greater diversity which has to be accommodated. The increased disparity in political and economic systems and developmental stages may make the already slow process of consensus decision making impossible. ASEAN has addressed this possibility by developing the formula of consensus minus X, whereby one or two of the members could dissent from a decision without detracting from the consensus; however, such a formula will alleviate the organisation of the need to seek consensus and thus it may 'legitimate' the natural fractures in South East Asia. In addition, the burden of assistance which ASEAN has assumed to bring the new members of ASEAN to more equal status with the old members may prove too great in the face of the severe economic problems of the region. There was the further danger that the new ASEAN members would not be able to meet the AFTA timetable thereby slowing the trade liberalisation process.<sup>37</sup> This was already problematic in relation to the original

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34 DFAT Submission, p. S397.

35 Dr Tow & Professor Trood Submission, p. S127.

36 Professor Thayer Submission, pp. S90-91.

37 *ibid.*, p. S90.

members. Should ASEAN become a two tiered organisation, its coherence, a strong factor in its diplomatic weight,<sup>38</sup> would be undermined.

## **Burma**

8.36 Objections were raised to the entry of Burma into ASEAN, largely by Western nations, although not entirely. The massacre of students and pro-democracy demonstrators in 1988, the failure to implement the outcome of the 1990 elections in which the population voted overwhelmingly for the National League for Democracy (NLD), continuing political repression, including the six year detention of Daw Aung San Suu Kyi, the NLD National Secretary, and the imprisonment and torture of large numbers of elected NLD representatives and thousands of political opponents of the ruling Junta, the SLORC,<sup>39</sup> and gross and continuing violations against the ethnic minorities have made Burma a pariah state internationally.

8.37 ASEAN's approach to Burma has been different from that of the United States, the European powers and Japan. ASEAN developed a policy of constructive engagement towards Burma, highlighting the ASEAN way of dialogue, non-interference and integration as a way of bringing about change. This was a consensus reached slowly and only after considerable disagreement between ASEAN partners and from NGOs within a number of the ASEAN states. Initially, Malaysia, Indonesia and Vietnam advocated early membership of ASEAN; Singapore, the Philippines and Thailand argued for delay.<sup>40</sup> Thailand changed its policy after the elections and the change of government in Thailand in November 1996. Singapore and the Philippines were gradually persuaded to the majority opinion.<sup>41</sup>

8.38 The inclusion of Burma has already complicated ASEAN's relations with the European Union which has objected to the presence of Burmese delegates at meetings between ASEAN and the EU and has warned ASEAN that the inclusion of Burma may make it difficult for the European Parliament to renew agreements with ASEAN. Complications in the ASEAN relationship with the United States over Cambodia and Burma have also developed. Burma focuses attention sharply on the question of governance and democratic values in a way that is likely to continue to be divisive of ASEAN's relations with the West.<sup>42</sup>

## **Cambodia**

8.39 The situation in Cambodia also poses a challenge to ASEAN. On 5-6 July 1997, only weeks before its membership of ASEAN was to be confirmed, Cambodia's Second Prime Minister, Mr Hun Sen, conducted a coup against the First Prime Minister, Prince Norodom Ranariddh in a preemptive strike against what he saw as the strengthening of the FUNCINPEC forces by the surrender of Khmer Rouge troops to the Prince. In the light of the dubious constitutional nature of Hun Sen's actions, the violence and extra-judicial killings that occurred and the rebuff to ASEAN's suggested solution, ASEAN was in no position to grant entry to Cambodia at that time. Cambodia's membership has been deferred indefinitely.

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38 Dr Tow & Professor Trood Submission, p. S129.

39 Now renamed the State Peace and Development Council (SPDC).

40 Professor Thayer Submission, p. S72.

41 *ibid.*, pp. S78-89.

42 Dr Tow & Professor Trood Submission, p. S128.

8.40 Given the imminent entry of Cambodia to ASEAN at the time of the violence on 5-6 July, ASEAN leaders took it upon themselves to play a liaison role between Cambodia and the international community. ASEAN's sense of responsibility led it to break its non intervention principle and seek assurances from Hun Sen that there would be an end to the violence; that the 1998 election would go ahead and would include representatives from all factions; and that those who had fled the country would be allowed to return. A delegation of ASEAN Foreign Ministers from Indonesia, Thailand and the Philippines suggested a caretaker administration until elections could be held. Hun Sen abruptly rejected what he saw as outside interference.

8.41 The danger for ASEAN is that any return to violence in Cambodia will produce a recurrence of the refugee outflows that destabilised the region in the late 70s and 80s. The interests of Vietnam and Thailand are different from those of the other ASEANs in respect of Cambodia so that this situation will also test the cohesion of the organisation. Reductions in foreign aid to Cambodia as a result of the coup are also likely to exacerbate Cambodia's political, social and economic problems in ways that will make the holding of a free and fair election more remote. In the months since the coup, there appears to have been a growing pragmatism in both ASEAN and the international community which have accepted its outcome. The pressure for the maintenance of the election timetable remained for some time, but that too weakened as the necessary preparations fell short of what was needed for a 23 May 1998 poll. At the time of writing the Government had set the election for the end of July 1998.

## **Generational Change in the ASEAN Leadership**

8.42 The changes in East and South East Asia, and particularly in the ASEAN states, in the last generation have been remarkable. So untrammelled was their growth and development until the current economic problems developed, that their economies were labelled tiger economies. While the scale might now be perceived to be more fallible and human, the achievements are still remarkable: poverty has been reduced; education generally made available to broad populations in the region; health standards have been improved and development infrastructure put in place.

8.43 In the years since independence, some of the South East Asia states have been served by strong, decisive and often charismatic leaders who have contributed significantly to the development of their nations and, through the ASEAN process, the stability of the region. Whereas independence struggles created demands for strong leaders who could draw nations together, these leaders also produced strongly authoritarian governments. Now, a process of generational change occurring in South East Asia, has created uncertainties in some countries. As the economies of the region have matured, authoritarian governments, relying on personal favours and without open and accountable regulatory systems, have been inadequate or unsuited to the task. A number of witnesses before the inquiry discussed the implications of these changes for regional relationships and developments.

8.44 Mr Lee Kuan Yew, President Suharto and Dr Mahathir were described to the Committee by Professor Trood as leaders who had been:

absolutely critical to the evolution of ASEAN. ... Those three people have been the core of ASEAN. They have been the driving consensus. They have been the people who have been able to get

ASEAN to do some of the things that it has been able to do throughout its 30 year history.<sup>43</sup>

### **Singapore - Mr Lee Kuan Yew**

8.45 Although Mr Lee has retired from the leadership of Singapore in favour of Mr Goh Chok Tong, he still attends cabinet meetings and his influence from the position of elder statesman remains considerable.

8.46 In Singapore, Mr Lee Kuan Yew, is described as 'one of the exclusive and rapidly diminishing club of nationalist leaders who took their countries from colonialism to independence ... uniquely successful, a man of 'brilliant burning passions ... about the big things', bluntly spoken, influential beyond what might be expected from the leader of a small city state.<sup>44</sup> As first Prime Minister and after the debacle of union with Malaysia, Mr Lee and the People's Action Party (PAP) focused on industry, especially foreign investment and education as the pillars of Singapore's development. Per capita income has risen from \$US600 in 1960 to \$US3000 in 1978 to \$US10500 by the end of the 80s.<sup>45</sup> On trade and strategic issues Singapore and Australia hold similar views - the importance of the American presence, trade liberalisation through APEC, the inclusion of Australia in ASEM.

8.47 Mr Sheridan described Mr Lee's government as 'strongly redistributionist within a broad free market paradigm'. The egalitarian social order has been promoted by government direction through the Central Provident Fund and the Housing Development Board. Most Singaporeans are home owners and the government promotes conservative social values. Social regulations are extensive and opposition, particularly political opposition, is not tolerated.<sup>46</sup> Despite the political restrictions, Singapore's regulatory framework is such as to maintain an open and predictable system in which business can operate.

8.48 Singapore has weathered the economic crisis in the region better than other countries. The new generation of leaders in Singapore see this as confirmation of the policies of the Government over many years. Mr George Yeo commented in February 1998: 'In Singapore now, no one complains about the Government being frugal, squirreling reserves, not taking liberties with ourselves'.<sup>47</sup>

8.49 The generational transition in Singapore has been seamless.

### **Malaysia - Dr Mahathir Mohamad**

8.50 Of the charismatic and dominant leaders of the region, Dr Mahathir Mohamad, Prime Minister of Malaysia, has also played a significant role as nation builder. Dr Mahathir has been the prime minister of Malaysia since 1981. He is a post independence leader of his country; educated locally, not part of the independence negotiations but informed by the independence struggles of his country and a Malay nationalist. He has supported non-alignment, a 'Look East' policy, and he has been a formidable force within ASEAN, looking to the region, not to the United States or to the former colonial powers.

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43 Professor Trood Transcript, p. 169.

44 Exhibit No. 45, op. cit., pp. 60-63.

45 ibid., p 68.

46 ibid., p.67.

47 Exhibit No. 47, *The Australian*, 6 February 1998, p. 11.

8.51 He is an elected leader of his country in a political system which is relatively open, orderly and free. The ruling, Malay-based Barisan coalition has held government since independence. It is the best resourced political group and, with the economic success of the country, it has captured the Chinese business community from the Malay Chinese Association and the Democratic Action Party (DAB), the major opposition parties. The opposition, although disadvantaged, is not suppressed; the government's vote has fallen as low as 53 per cent of the vote (1990).<sup>48</sup> Christopher Kremmer is not so positive about the political freedom in Malaysia describing the use of the Internal Security Act, 1987, as 'draconian', and his confrontations with the judiciary as sitting uneasily with any liberal interpretation of Dr Mahathir's rule.<sup>49</sup>

8.52 He has been described as an 'impatient moderniser', a leader who has 'vigorously pursued a growth path for the Malaysian economy - once almost wholly reliant on rubber, copra and tin'.<sup>50</sup> He has successfully sought foreign, mostly Western, investment in the technological modernisation of Malaysia. He has changed Malaysia's economic status from a traditional plantation economy into one of the newly industrialising economies.

8.53 Mr Sheridan attributes Mahathir's success to his personal capacities as a leader who can articulate the mood of his people by expressing Malaysian pride in their post colonial achievements but, more importantly, one who has been able to resolve the racial contradictions in Malaysia and drive economic development and modernisation. He variously describes Dr Mahathir as 'feisty, articulate, strong willed and challenging', a man of paradoxes who:

argues for Asian values of consensus, face and stability yet his own style is confrontational, dialectical, extremely Western. He is the guardian of Malay tradition and the chief force pushing Malays into accommodation with modernity.<sup>51</sup>

8.54 In foreign policy, Dr Mahathir:

- rejects the importance of the presence of the United States in the region as necessary for regional stability;
- has expressed concerns about the rise of Chinese power in the region and the possible reaction of Japan (a view somewhat modified to a more benign assessment of China in recent times);
- opposes what he sees as the trend of protectionism in both Europe and the United States; and yet
- is wary of APEC on two grounds - 'He would like countries to be able to pursue trade liberalisation at their own pace. (He does not believe there can be a level

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48 *ibid.*, p. 184.

49 Exhibit No. 14, Indian Pacific, *Life and Character of Dr Mahathir Mohamad*, Saturday 7 December 1996, pp. 4-5.

50 *ibid.*, p. 4.

51 Exhibit No. 45, *op. cit.*, p. 215.

playing field while there are great disparities between countries.)' and 'because there are too many powerful members who dominate it'.<sup>52</sup>

8.55 The economic crisis has tested Dr Mahathir's leadership. His unorthodox, defensive and nationalistic response to the economic problems Malaysia faced highlighted the weaknesses of his style. A style based on xenophobia and confrontation did not prove to be conducive to inspiring confidence at a crucial time of currency speculation and anxiety on the part of international investors.

8.56 Malaysia has successfully and smoothly changed its political leadership four times since independence and the political succession post- Mahathir appears to be in place with the expectation that his deputy Mr Anwar Ibrahim will succeed him when he chooses to resign.<sup>53</sup> Mr Anwar is perceived to be 'more pro-Western and less authoritarian than his mentor'.<sup>54</sup> He has, throughout the economic crisis, been a voice for moderation, responsibility and reform, and for longer term optimism. At the end of January 1998, he predicted that a new Asia would emerge from the crisis, 'more confident, more mature and liberal and democratic'.<sup>55</sup>

### **Indonesia - President Suharto**

8.57 The most significant question of generational change is that relating to the government of Indonesia. President Suharto has ruled Indonesia since 1967. In regional terms, Greg Sheridan describes Suharto as one of the 'authentic giants of South East Asia'.<sup>56</sup> His achievement in getting agreement to the Bogor Declaration during the APEC summit of 1994 was 'a triumph for Suharto'.

8.58 In his first years in office, President Suharto abandoned 'adventurist and dangerous foreign policy' placing Indonesia at the head of the Non-Aligned Movement, ended confrontation with Malaysia and was a driving force in the creation of ASEAN.

8.59 In twenty years, Suharto had 'made Indonesia self-sufficient in rice, lifted tens of millions of people out of poverty, restored coherence in Government, cut back inflation, attracted both international aid and international investment and established universal primary education and greatly expanded tertiary education'. He managed his 'windfall wealth' from oil 'relatively sensibly investing in infrastructure and industries'. He oversaw a process of extraordinary national unification in a vast and numerous archipelagic state of enormous cultural and religious diversity.<sup>57</sup>

8.60 However, if his achievements as a nation builder were considerable, high costs have been paid. The transfer of power in 1965 was made at the cost of hundreds of thousands of lives. The price for stability and growth has also been paid for by a lack of development in the institutions of government. Greg Sheridan describes the government of Suharto not as a

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52 *ibid.*, pp. 197-199, 210.

53 Exhibit No. 14, Wanandi, J, *ASEAN's domestic political developments and their impacts on foreign policy*, from *The Pacific Review*, Volume 8, No. 3 1995, p. 448.

54 Exhibit No. 14, Indian Pacific, *Life and Character of Dr Mahathir Mohamad*, Saturday 7 December 1996, p. 8.

55 Exhibit No. 47, *The Australian*, 28 January 1998, p. 7.

56 Exhibit No. 45, *op. cit.*, p. 90.

57 *ibid.*, pp. 90-92.

dictatorship but a government in which there is 'an overwhelming concentration of power' in which the Cabinet rarely meets, Suharto preferring to meet the ministers on a one to one basis. It is a government which has the forms of democracy - elections, political parties - but little power resides in these arms of government; the process for the election of the President by the Peoples' Consultative Assembly is a circular one - 'the President selects the Assembly which elects the President'. It is a government based on patronage. The military is integrated into the power structures and the economic structures. There is also strict control of the press and pervasive corruption, particularly involving the President's family.<sup>58</sup>

8.61 Political institutional weaknesses in Indonesia have become apparent in the pervasiveness of corruption and the abuse of human rights and in the failure to establish an orderly framework for the change of leadership. This has created great uncertainty both in Indonesia and in the region. Dr Tow from the University of Queensland told the Committee that:

[I]n the case of Indonesia, there does not seem to have been the type of comprehensive infrastructure put into place to ensure a fairly stress free political succession process there.<sup>59</sup>

8.62 According to Sheridan, the succession and the failure of Suharto to deal with it, is the most dangerous aspect of the current situation in Indonesia:

The succession question sits on Indonesian politics like an alpine snow mass, huge and apparently immovable, vastly solid from a distance, but in fact likely to crumble and fall in a terrifying avalanche at any moment. Succession dominates all political and even economic and social discussion in Indonesia. In its 50 years of independence Indonesia has had just two presidents - Sukarno and Suharto. It has never had a peaceful transition from one president to another.<sup>60</sup>

8.63 It was not until February 1998 that President Suharto announced his successor. The choice of the Minister for Research and Technology, Dr. Ing B J Habibie, was singularly unpopular with the money markets. That suggested appointment as Vice President compounded earlier decisions; the removal of the head of the Bank of Indonesia, Mr Sudradjat, and the proposal to establish a currency board and tie the rupiah to the US dollar at a rate of five and a half thousand to one dollar and the continual renegeing on the conditions of the IMF package. The value of the currency plummeted. At the end of January it had moved from a mid 1997 value of 2,000 to the dollar to over 15,500 to the dollar. Throughout January and February 1998, the calls for President Suharto to step aside were, for the first time, made publicly both inside and outside Indonesia. In Indonesia, the Muslim leader, Amien Rais, and the Democratic leader, Megawati Sukarnoputri, ventured to suggest that new leadership was needed. They were joined by former prominent leaders, academics and press. Outside Indonesia, *The Washington Post*, said that:

What Indonesia needs is political reform ... the development of democratic institutions that could provide some confidence in a post-

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58 *ibid.*, pp. 86-87.

59 Dr Tow Transcript, p. 177.

60 Exhibit No. 45, *op. cit.*, pp. 89-90.



Suharto transition. Instead, Mr Suharto's police are issuing shoot-on-sight orders.<sup>61</sup>

8.64 *The Financial Times*, in its editorial, commented that:

The president [Suharto] is, at best, a wasting asset to his country ... the currency markets may feel that the only credible program is one signed by a successor regime.<sup>62</sup>

8.65 *The Economist* argued that:

Rigidity and autocracy may have served to consolidate Indonesia; flexibility and democracy are now needed to safeguard its unity and allow its growth to continue. If Mr Suharto was once the solution, he is now a large part of the problem.<sup>63</sup>

8.66 However, Paul Kelly, in *The Australian*, observed that: 'Suharto's failure to grasp the nature of the crisis reveals that he has overstayed his time. He shouldn't be contesting next months presidential election. He should have taken a decision some time ago to retire. He shouldn't have put the interests of his family before the interests of his country. He should have managed a transition which boosted the breadth of Indonesia's governing institutions. He should have recognised that Indonesia's modernisation needs political progress, not just economic growth. ... but he didn't'.<sup>64</sup> Therefore, he argued, the options are severely limited.

8.67 The Australian Government has sought moderation of the IMF conditions, not because the IMF analysis of the problem was necessarily inaccurate but because too harsh conditions would be politically destabilising and because the alternative leaders to President Suharto are unclear and/or unpredictable and the price of failure would be disastrous for both Indonesia and the region.

8.68 However, as the crisis continued into March 1998, and unemployment, inflation, food shortages and social unrest have increased, President Suharto's opposition to the implementation of the rescue package has also grown. With each move to hedge about the conditions, the President's credibility is undermined; the political factors make a return to confidence more difficult. The danger is that procrastination will prove to be as damaging as the original action required by the IMF might have been.

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61 Exhibit No. 47, quoted from *The Australian*, 25 February 1998, p. 11.

62 *ibid.*

63 Exhibit No. 47, *The Economist*, 17 January 1998, p. 13.

64 Exhibit No. 47, *The Australian*, 25 February 1998, p. 11.