Power, Purpose, Process, and Practice in Asia

The Work of the 2003/2004 API Fellows

2003/2004

Asian Public Intellectuals Program
Power, Purpose, Process, and Practice in Asia
The Work of the 2003/2004 API Fellows
CONTENTS

About the book vii
Acknowledgements ix
The Contributors x

MESSAGE

Japan in Asia: Looking at Japan through a Small Window
AYAKO SONO xiii

INTRODUCTION

Power, Purpose, Process, and Practice in Asia
CAROLINE S. HAU xviii

Part 1: POLICIES AND PRACTICES

Implementation and Enforcement of Environmental Policies
in Promoting Sustainable Development in Asia:
Learning from Malaysia and Japan
ADDINUL YAKIN 1

Perspectives on East Asian Monetary Cooperation
AGUS EKO NUGROHO 19

A Review of the Asian Development Bank's Involuntary
Resettlement Policy and Resettlement Case Studies
TAI LEE MING 32

A Study of Rural Development in Two Asian Countries:
A Benchmarking Process for Best Practices
MUHTASAM 41

Orang Asli, Land Security and Response to the Dominant Society:
A Case Study of the Tanjung Rambai Temuan
YAYAN INDRIATMOKO 52
Part II: PARTICIPATION AND NEGOTIATION

Globalisation and Local Banking Institutions: The Case of Thailand 68
AKIHIKO KAWAURA

The Role of Development Workers in the Process of Community Development: Learning from the Experiences of CODI in Thailand (with video script in CD) 74
MAMI NAKAMURA

Creating Community Forests: A Comparative Analysis of Socio-Political Structure in Thailand and Indonesia 79
WATARU FUJITA

The Machizukuri Bottom-up Approach to Conservation of Historic Communities: Lessons for Thailand (with images in CD) 87
WIMONRART ISSARATHUMNOON

Dam Opposition Networks and Trends in Thailand and Japan 101
HUI SENG KIN (SAM)

Decentralisation versus Democracy: A Study of Thailand and Indonesia 109
TAN PEK LENG

Part III: SAFEGUARDING RIGHTS

Farmers' Rights to Seeds in Indonesia, the Philippines and Thailand 117
RAJESWARI KANNAH

Economic Globalisation and Its Impact on Consumer Rights in the Philippines, Thailand and Indonesia 125
DORAM T. DUMALAGAN

Peoples' Media and Communication Rights in Indonesia and the Philippines 135
UBONRAT SIRIYUVASAK

Iriai-ken Court Cases in Japan: Lessons for ‘Traditional Local Community Rights' Court Cases in Thailand 151
NILUBOL CHAI-ITTHIPORNWONG
A Comparative Study of the Free Legal Aid Systems of Japan, Thailand and the Philippines
PERSIDA V. RUEDA-ACOSTA

Part IV: HUMAN SECURITY

Social Protection of the Informal Sector in Southeast Asia
ISAGANI ANTONIO F. YUZON

The Impact of Globalisation on Migrant Workers in Malaysia and Japan in the Areas of Labour Standards and Employment Rights
RACHEL F. PASTORES

A Tri-Country Assessment of Health Reform
CARLO IRWIN A. PANELO

The Organisation and Financing of Social Security, Health and Other Social Services for the Elderly in Japan: Lessons for Malaysia
PHUA KAI LIT

Prospects of Traditional Medicines of the Philippines and Indonesia for Complementary and Alternative Therapy in the Era of Globalisation
MANGESTUTI AGIL

Part V: ARTS AND IDENTITIES

Decoding Manga: The Study of Identity (Re)Construction in Popular Culture
NAREERAT LEELAWAT

Malay Pop Music: Between Market and National Identity
R. MUHAMMAD MULYADI

Independent Film in Japan and Indonesia
AMIR BIN MUHAMMAD

Flexibility, Patronage and Class: Opportunities for Women Directors in Southeast Asia
ANCHALEE CHAIWORAPORN
Perception and Practice of Indigenous Musical Traditions in the Face of Changing Cultural Identities
TOMOKO MOMIYAMA

Iconography and the Interpretation of Cultures: The Foundational Symbols of Indonesia and Thailand
DANILO FRANCISCO M. REYES

An attitude of waiting: A Videodance Inspired by the Aesthetic Principles of Japanese Performing Arts (with videos in CD)
JOYCE LIM SUAN LI

SUMMATION

Conditions of Possibility and Intervention: Asian Public Intellectuals in the Region
CAROLINE S. HAU

APPENDIXES

Appendix 1: Workshop Schedule
Appendix 2: Workshop Participants
Appendix 3: Abstracts of Papers

Index

Contact Details

THE CD
The book comes with a CD in the back pocket which contains material by three Fellows. To access the CD, please ensure your computer has a DVD player and the following applications are installed:
- Windows 98 (or later).
- Microsoft Internet Explorer 6.0 (or later or equivalent).
- Adobe Acrobat Reader 5.0 (or later).
- Windows Media Player 9.0 (or later or equivalent).

If your CD does not start automatically, please open the file <index.htm> from Windows Explorer.
ABOUT THE BOOK

As Asia enters the 21st century, it faces political, economic, and social challenges that transcend national boundaries. To meet these challenges, the region needs a pool of intellectuals willing to be active in the public sphere who can articulate common concerns and propose creative solutions. Recognising that opportunities for intellectual exchange are currently limited by institutional, linguistic and cultural parameters, The Nippon Foundation launched the Asian Public Intellectual (API) Fellowships on 8 July 2000. The Fellowships’ primary aims are to promote mutual learning among Asian public intellectuals and contribute to the growth of wider public spaces in which effective responses to regional needs can be generated.

Each year, the work of each group of Fellows is presented at a Workshop and published in a book. This publication, Power, Purpose, Process, and Practice in Asia, is a collected work of the third group of Fellowship recipients. It comprises 28 papers of the projects undertaken by the 2003/2004 Fellows, which cover several key areas: policies and practices; participation and negotiation; safeguarding rights; human security; and arts and identities. This book also includes a CD of video and images produced by some of the Fellows.

All API publications can also be downloaded from the Program's website, http://www.api-fellowships.org.

The Fellowships

The Fellowship Program was launched on 8 July 2000 and comprises the API Senior Fellowship and the API Fellowship. The Fellowships are open to academics, media professionals, artists, non-governmental organisation (NGO) activists, social workers, public servants and others with moral authority, who are working to shape public opinion and influence policy in their societies. The Fellowships will give these intellectual leaders the opportunity to learn what their counterparts are doing in different cultural and ethnic contexts, generate theoretical ideas to cope with social and economic change, and build the intellectual networks of the future.

The programme's first five participating countries are Malaysia, Thailand, Indonesia, the Philippines, and Japan, with management of the programme entrusted on a rotation basis to one partner institution in each country. This arrangement holds for the first several years of the Fellowship's existence, with a view to increasing the number of participating countries in the future.

Within broad themes for the intellectual, cultural, and professional projects determined by the API Executive Committee, Fellows are required to:

- Propose and carry out a project of research and/or professional activities in a participating country or countries other than their native country or country of permanent residence;
- Conduct research and/or professional activities in compliance with the schedule accepted by the Selection Committee;
- Attend the API Workshop to exchange results of their research and/or professional activities with other Fellows;
- Disseminate their findings and results to a wider audience; and
- Pursue a deeper knowledge of each other, and hence the region.
For the first three years of the Fellowships (2001-2004), the three main themes were:

- Changing identities and their social, historical, and cultural contexts;
- Reflections on the human condition and the quest for social justice; and
- The current structure of globalisation and possible alternatives.

An API Follow-up Grants programme was subsequently initiated in 2004-2005. This programme seeks to encourage API Fellows to further develop and enrich their activities as public intellectuals, particularly in collaborative work, and to identify individuals and organisations that have the potential of becoming extended members of the API Community and support their activities.

The Nippon Foundation

Founded in 1962, The Nippon Foundation is an independent, non-profit, grant-making organisation based in Japan. The Foundation strives to address the myriad societal issues that fall outside of the scope of traditional sectors by assisting the people who are living and working closest to the problem. To date, the Foundation has provided support for a wide range of projects administered by non-profit organisations in over 90 countries, focusing primarily on basic human needs, multilateral cooperation, and human resources development.
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MESSAGE

JAPAN IN ASIA: LOOKING AT JAPAN THROUGH A SMALL WINDOW
AYAKO SONO
Chairperson, The Nippon Foundation

I would like to begin by expressing my sincere appreciation to all the API Fellows gathered here for your dedicated efforts to better understand and experience life in your neighbouring countries. I feel a strong bond with all of you, as I believe that we Asians share a common identity. Having said that, I also believe that Asia is a very diverse region and that each Asian country is unique.

The renowned 20th century Japanese thinker, Tenshin Okakura, wrote in his famous book *The Ideals of the East* that “Asia is one”. When I read this as a student it didn’t ring true to me. I wondered why he would say that Asia was one when Asian people were obviously very different from each other. I knew that Tenshin Okakura was a great scholar, but I still did not agree with what he said.

When I was in my twenties, I travelled to many Asian countries, and saw with my own eyes how every country had very different climates and ways of thinking. Through my travels, I came to realise the importance of trying to understand others, and of people having the freedom to choose their own paths in life. And above all, I came to realise just how important “being different” was in this world.

Then there was the time I visited Beirut in 1975, a couple of years after the first oil shock. During my trip, I met with the secretary-general of the Palestine Liberation Organization, Shafiq Al-Haut. Al-Haut was very surprised when during the course of our conversation I used the phrase, “that’s because we are Asians”. He told me that he had never heard any other Japanese person say that. But I have never considered myself Western and if I were asked where I belonged, I would say Asia.

There are many books on Japan that you can read to get an academic perspective of Japan, so I will not talk about those kinds of things here today. Instead, today I would like to share with you, the public intellectuals of Asia, different episodes from everyday life in contemporary Japan that I believe shed light on Japanese culture and people.

As you probably know, the Second World War left Japan devastated. About 220,000 people were killed or wounded in the atomic bombings of Hiroshima and Nagasaki. About three million people fell victim to the Pacific War. Tokyo was burned to the ground by bombers during the war, so people lived in small huts built from scrap wood and metal. People were lucky to have potatoes and pumpkins to eat. Eggs were out of the question and most children had never seen a banana or chocolate bar in their life. But the Japanese people succeeded in rebuilding their country from scratch in a relatively short period of time. In fact, Japan's post-war recovery progressed at such speed that I could literally see the country changing before my eyes.

In my opinion, one of the factors that helped Japan's recovery was the frugality of its people. This is a characteristic that most young people in Japan today no longer have. At that time, old Japanese homes were made out of wood and paper. This wasn’t necessarily because people couldn’t afford to build brick homes. It was simply that homes made out of wood and paper best suited the Japanese climate. One problem with these houses was that the insulation was not very good. So Japanese families survived the cold by huddling around the *kotatsu*. A *kotatsu*, for those who have never seen one, is a foot warmer with a quilt over it. This was a wonderful invention for two reasons. It saved energy
by heating the smallest surface area possible and, more importantly, it brought the family together.

For meals, people ate rice with salted fish and vegetables. The fish and vegetables were salted so that people could eat more rice. People led very simple and modest lives, but it was not because they were trying to rationalise the fact that they were poor. By fusing imagination and material simplicity, they were trying to create a country rich in spiritual and cultural wealth.

The tokonoma is a good example of this fusion of imagination and simplicity. The tokonoma is a small space in a traditional Japanese room. It is about one metre deep and two or three metres wide at most. People use the tokonoma as a space for expressing themselves. They enrich their souls by decorating the wall with a hanging scroll of landscapes or calligraphy. This is something that requires both imagination and creativity.

Another good example is the tea house. I am not an expert in the tea ceremony, so I am not familiar with all the details, but a tea house is only four and a half tatami mats big. The entrance is very small and you have to duck your head in order to enter the room. Anyone entering the tea house, even if he or she were a teacher or royalty, has to bow his or her head. In the olden days, samurai had to remove their swords from around their waist before entering the tea house.

The only things that are served in a tea house are small sweets and tea. Teatime in a tea house isn’t a luxurious event like high tea in England. If anything, I suppose you would call it ‘low tea’. The aim of the tea ceremony is to bring people’s hearts together in these modest surroundings and fully incorporate the riches of the four seasons. For example, the sweets that are served in the tea house change with the seasons. The sweets take the shape and colour of autumn leaves in the autumn, cherry blossoms in the spring and so on. This celebration of the four seasons is also found in literature and philosophy.

Also, in most cases, a tea house is decorated with a single flower, which wilts by the end of the day. Needless to say, artificial flowers are never used. In my garden, I grow a flower called Ooyama Renge. It has an impressive fragrance that you can smell from several metres away. It is a wonderful flower with beautiful white petals and perfect leaves. But it only blooms for half a day. Tea houses are decorated with these kinds of flowers to remind us of the transience of life.

It is because we treasure this kind of use of the imagination that we do not associate a house made from wood and paper with being poor. This is one aspect of our culture. For example, Ise Jingu, the famous Shinto shrine near Nagoya, is made entirely of wood. There are no marble statues or gold-coated structures in the shrine grounds. The temples are rebuilt every 20 years. This has been the tradition for the past 1,300 years. Ise Jingu is a treasure-trove of culture. Everything in the shrine is from the natural world. For example, there is a beautiful stream running through the shrine grounds called Isuzugawa. This stream was created by altering the surrounding landscape so that water would stream down into the grounds.

Another interesting aspect of Ise Jingu is how evergreen and deciduous trees are planted together. When the leaves fall to the ground and return to soil, they create a layer of soil with a high water-retaining capacity. Planting evergreen and deciduous trees together ensures that all soil has a high water retention capacity and which benefits not only the areas where the deciduous trees are planted. People knew the importance of this from hundreds of years ago.

The grounds of Ise Jingu are surprisingly modest and very much like a regular park. The main temple is located at the centre of the inner shrine. On each side of the main temple are storehouses. In the Eastern Storehouse, gifts—cadeau in French or gohei in Japanese—are kept. Gohei are sacred paper strips that symbolise purity in the Shinto faith and serve as offerings to the gods. In the Western Storehouse, the specifications for the temples are kept. These specifications contain instructions on how to rebuild the temples every 20 years. The instructions include what needs to be rebuilt, the clothing that should be worn, and measurements of the various sections of the shrine.

This is reminiscent of the Book of Numbers in the Old Testament, which also includes different measurements for temples. The specifications of Ise Jingu may not
be as old as those in the Book of Numbers, but it is still amazing that such records have been preserved for hundreds of years.

Another interesting fact about the trees planted in the shrine grounds is that there is always enough wood to rebuild the temple 10 times over. This means that there are 200 years worth of wood in the shrine grounds. Not only are there a sufficient number of trees, but there are also the right kinds and sizes of trees. For example, a very thick tree needs to be used for the central pole of the main temple. So the right kind of trees has been planted well in advance so that they can be used for the central pole when the time comes. This kind of meticulous planning is one aspect of Japanese culture.

While employing very advanced ideas in some respects, Ise Jingu’s everyday operations are administered in a highly traditional manner. On the northern corner of the outer shrine is a small hut called a mikedono. Every day in this hut, a fire is made by rubbing wooden sticks together and food is prepared here to serve to the gods. Every morning and evening, the senior priest walks across the gravel paths in traditional clothes and wooden sandals to serve this food to Amaterasu, the Sun Goddess.

I would like to share with you three interesting episodes related to the meticulous nature of Japanese people. The first episode is from the time I met the former Secretary of Commerce of the United States at an event sponsored by The Nippon Foundation. The Secretary of Commerce told me that he had lost a button from his blazer. As you know, blazers have all different kinds of buttons, so when you lose one, it is very difficult to find a replacement. It is also a nuisance because the man can’t hide his belly and his wife scolds him when he gets home.

When the Secretary told me about how he had lost his button, it occurred to me that the hotel might have some spare buttons since they often had American guests. So the next morning, I called the front desk and asked if they had a spare blazer button I could have. They told me that they didn’t have a button that they could give me, but asked me when the Secretary had arrived at the hotel. I told the front desk that I was pretty certain that the Secretary had arrived the day before, and I was told that they would look for it and keep it in an envelope at the front desk if they found it. Sure enough, when I went down to the front desk, an envelope was waiting for me.

When I saw the Secretary later that day I handed him the envelope containing a button. He was very surprised because it was indeed the same button he had lost the day before. This was only possible because the hotel had a highly organised lost and found system that recorded exactly what time and day something was found.

The second episode is about a factory of a Japanese electronics company. This particular electronics company has factories all over Japan producing the same part of an electronic appliance. Out of all the factories, there was one factory that had a slightly higher error rate than the others. What may not seem like a big deal to me, was certainly a big deal for the people working in the factory, and they were very disappointed by this.

One day, two workers, a young man and woman fresh out of high school, were chatting in the garden outside of the factory during their lunch break, watching the trains that passed nearby their factory. As they were watching the trains, it occurred to them that the trains might be the reason their factory had a high error rate.
So they did many experiments and found out that although their work was not affected when regular trains passed by, when a freight train with 40 to 50 cars passed by at a very slow speed, the increase in vibration levels caused the work desks to shake slightly, which in turn caused the workers to produce imperfect parts. Upon finding this out, the tables were fixed so that the vibrations would not affect them and the problem was solved.

The two young workers both received a cash reward of just ¥5,000. The two of them were driven not by the desire for money or promotion but the simple desire to improve the quality of work at their factory. This is the mark of a true professional. In Japan, there is only a small percentage of amateurs or people who sell their labour for an hourly wage.

The third episode is about an editor with whom I work closely. One day, he was told by an old writer to come out all the way to the rural town where the latter lived, to pick up a manuscript he had just completed. You can send manuscripts by e-mail these days, but some of the older, more conservative writers still prefer to work with pen and paper. The editor went to pick up the manuscript as he was dealing with an old person and thought that it would be a good opportunity to try the region's speciality sake.

On the way back from the writer's home, the editor caught a taxi to go back to the station, but along the way, the taxi slipped off the road and fell into the ocean. The quick-thinking editor opened the door as the car was falling, and not only managed to swim to safety, but also managed to save the manuscript as well. The taxi driver unfortunately died in the accident. So it was a very serious accident, but the editor never told me about it, probably because he didn't want me to go on about how lucky he was. I was told about it by his wife who survived the accident.

According to her, the taxi company paid for his clothes that were ruined, but a little later they realised that the glasses he had kept in his breast pocket were missing. However, they were just happy that he was alive and didn't really care about the glasses. Then about two months after the accident, they received a package from the police. Inside the package were his glasses. Since it had been a fatal accident, the police had sent down divers to retrieve the car from the ocean. In the process, one of the divers noticed the glasses and picked them up thinking that they might belong to someone involved in the accident. This is another wonderful example of true professionalism.

It is said that people in Japan use and waste things a lot these days. However, it is also part of Japanese culture to take good care of things as in the examples of the glasses and blazer button. We also have great respect for people who take good care of things, regardless of whether the thing belongs to them or someone else. The most obvious example is how every year, the Emperor himself puts on rubber boots and goes out into the special fields in the Imperial Palace grounds to plant rice. In India, work that requires you to bend over is considered lowly work. In Japan, however, agriculture is recognised as an important foundation of life. Therefore, the Emperor shows his respect for farming in this way.

Another example is how the Empress breeds silkworms to make silk. When I visited the Imperial Palace, the Empress was wearing work trousers made out of kimono fabric. The first thing that the Empress did when she saw me was apologise for the way she was dressed. She was apparently dressed in work trousers because she was showing her silkworms to her granddaughters. The silkworms that the Empress keeps are called *yamamayu* or mountain silkworms. Silkworms these days have been modified so that they produce very fine and smooth silk, unlike the less refined silk produced by *yamamayu*.

The reason that the Empress breeds mountain silkworms is to make silk that can be used for repairing the things stored in the Shosoin Storehouse. The Shosoin Storehouse was built in the eighth century as a storehouse for storing imperial treasures. At the time, all silk products were made from *yamamayu*, so in order to repair the silk products in the storehouse, there is a need to make silk from *yamamayu*. In other words, the Empress is producing precious *yamamayu* for the Shosoin Storehouse.

When I visited the construction site for the Three Gorges Dam in China, I asked one of the members of the Chinese Communist Party how many people were going to have to move out from the site as a result of the...
construction project. He told me 1.2 million people. So I told him that it was amazing that China could do that.

In Japan, it would be difficult to move even 12 people, because everybody would claim their right to keep living in their own homes. To this, the party member responded, “that’s because Japan is the world’s greatest socialist country”.

This is a funny story but it also gives you food for thought. Japan is obviously not a communist country. It is a liberal capitalist country. However, it is also true that nobody is outrageously rich or so poor that they are starving. One of Japan’s biggest weaknesses as a country may be that the people do not understand what it means to be poor. Poverty has been eradicated from Japanese society. Japanese people make precise products and there is very little corruption.

In a recent British Broadcasting Corporation (BBC) news report, the newscaster said something that really stuck in my mind. He said, “The cost of corruption is poverty”. I think this is very true. I believe that it is because Japan has so little corruption that we have a relatively equitable society where nobody is outrageously rich but nobody is living in poverty either.

The day will come when Japan will experience a serious fall. The danger of a collapse is always lurking around the corner. We must continue to work hard to prevent this collapse and I think that there is much we can learn from Southeast Asia. Each and every one of us is a teacher in life. So what I would like to ask you is to learn from both the bad and good aspects of Japan as well as your other Asian neighbours. This is the humble message that I want to share with you tonight. Thank you.
INTRODUCTION

POWER, PURPOSE, PROCESS, AND PRACTICE IN ASIA
CAROLINE S. HAU
Workshop Director, Third Workshop of Asian Public Intellectuals

The 3rd Asian Public Intellectuals Workshop brought together 28 Fellows from Indonesia, Japan, Malaysia, the Philippines and Thailand in a five-day dialogue that showcased the products of their respective research, and their professional and life activities. Aimed at establishing a cohesive network of public intellectuals with diverse backgrounds, talents, and projects, and spanning different generations, countries, and intellectual and activist milieus across the region, this workshop provided a good occasion for facilitating exchange, encouraging regional, comparative, and critical perspectives, and cementing ties among the fellows through the sharing of experiences, commitments, stories, and insights. It also laid the foundations for possible, future collaborative work among the Fellows.

This year’s workshop papers highlight initiatives from within Asia that aim at thinking through, dealing with, and bringing about, changes that shape and transform everyday life in the region. Ours is an age and world in which time and space are becoming more compressed. Increasing geographical proximity, technological advances, intensifying flows and exchanges whether of capital, information, products, or people within and across borders, new opportunities and political, legal and social norms, emerging actors and social formations, but also uneven distribution of power and wealth, conventional and unconventional forms of violence or conflict or exclusion, poverty and exploitation, and economic, political, social, intellectual and environmental crises, are leaving their imprints on everyday life, and on institutions, ideas, interests, imagination, and identities. In many cases, they are forcing us to rethink the basic concepts of territory, state, nation, sovereignty, community, society, public and private spheres, property, self, and activism.

How might we go about understanding and acting on the power relations and the different purposes, processes, and practices “from above” and “from below” which now characterise the region?

Below are five themes (and panels) that underlie the papers.

Panel 1: Policies and Practices
When, why, and how are policies crafted, implemented, and enforced? By whom and for whom? This panel subjects to close scrutiny the complex process of policy making and highlights the social, economic, political, ideational and environmental factors and issues which not only shape the particular course of action or principles adopted by institutional and non-institutional actors, but condition as well the responses to these policies. The panel underscores the importance of taking into serious consideration specific regional, national, and local perspectives and practices which ultimately determine the success or failure of policies. The panel comprises:

- Addinul Yakin (Indonesia), Implementation and Enforcement of Environmental Policies in Promoting Sustainable Development in Asia;
- Agus Eko Nugroho (Indonesia), The Proposed Development of the Asian Monetary Fund from the Perspectives of Southeast Asian Crisis Countries;
- Tai Lee Ming (Malaysia), Proposal for Reviewing the Asian Development Bank Involuntary Resettlement Policy and Successful Resettlement Case Study;
- Mukrasam (Indonesia), A Study of Rural Development in Two Asian Countries; and
- Yayan Indriatmoko (Indonesia), Local Land Tenure System and their Dynamics to Face the Changing Environment.
Panel 2: Participation and Negotiation
This panel emphasises the importance of active involvement by civilians and local communities in the decision-making process that informs policies and their implementation. The presentations expose the intricate web of interactions and contestations among international organisations, local institutions, policymakers, government officials, non-governmental organisations, intellectuals, students and local peoples, and show how the ensuing group dynamics and collective activism work to support, modify, oppose or undermine policies. People whose lives will be directly affected by these policies need to make their voices heard and take their own initiative to ensure that the policies do not end up doing more harm than good. The panel comprises:
- Akihiko Kawaura (Japan), Globalisation and Local Institutions;
- Mami Nakamura (Japan), The Role of Facilitators in Local/International Development Assistance and Its Implications for Development Education;
- Wataru Fujita (Japan), Creating Community Forests through Cooperation among Government, NGOs, and Local Communities in Thailand;
- Wimonratt Issarathumnoon (Thailand), Bottom-up Approach to Conservation of Historical Communities;
- Hui Seng Kin (Malaysia), Civil Participation in Decision Making of Dams in Japan and Thailand; and
- Tan Pek Leng (Malaysia), Effective Modes of Citizen Participation in Enhancing Governance.

Panel 3: Safeguarding Rights
Rights by definition are legal, just or moral claims to possession of property and authority, or enjoyment of privileges and immunities. While laws and treatises affirm in theory the human, social, and civil rights of, say, farmers, women, migrants, children, indigenous communities, consumers and people’s media, in practice there is often a great discrepancy between affirmation and actual protection, between rule and reality. This panel critically assesses the efficacy of current legislative efforts and institutional support systems aimed at securing the rights of various sectors of the Asian population. The panel comprises:
- Rajeswari Kanniah (Malaysia), Trade Related Aspects of Intellectual Property Rights and Farmers’ Rights;
- Doram T. Dumalagan (Philippines), Economic Globalisation and Its Impact on Consumer Rights;
- Ubonrat Sirijuvasak (Thailand), Peoples’ Media and Communication Rights in the Changing Global Information Culture;
- Nilubol Chai-itthipornwong (Thailand), Thai Judges Deliberately Stay Silent in Applying Constitutional “Traditional Community Right” Clause in Court Cases; and
- Persida V. Rueda-Acosta (Philippines), Comparative Study of the Free Legal Aid Systems of Japan, Thailand, and the Philippines.

Panel 4: Human Security
The presentations in this panel identify and discuss salient issues affecting the welfare of the informal sector, senior citizens, migrant workers and the general population. Whether focusing on health reform efforts and exploring alternative medical therapy, or advocating social protection and purposeful governance, or identifying innovative social services, or examining the impact of globalisation on employment and labour standards, the panel grapples with the challenges of providing social services to those in need, while underlining the responsibility of the state in ensuring their efficient and equitable delivery. The panel comprises:
- Isagani Antonio F. Yuzon (Philippines), Social Legislation and Programmes for the Informal Sector in the Philippines, Malaysia, Indonesia and Thailand;
- Rachel F. Pastores (Philippines), The Impact of Globalisation on Migrant Workers in Malaysia and Japan in the Areas of Employment and Labour Standards;
- Carlo Irwin A. Panelo (Philippines), A Tri-Country Assessment of Health Reform Efforts;
- Phua Kai Lit (Malaysia), Health and Other Social Services for the Elderly in Japan; and
- Mangestuti Agil (Indonesia), Prospect of Traditional Medicines of the Philippines and Indonesia for Complementary and Alternative Therapy in the Era of Globalisation.

Panel 5: Arts and Identities
This panel showcases the full range and diversity of Asian imaginative works. The presentations dwell, in particular, on how these works reflect on, even as
they help to create, commonalities and linkages that underpin the production of (often fluid and hybrid) individual and collective identities in the cusp of relentless economic, social and cultural transformation. The panel comprises:

- R. Muhammad Mulyadi (Indonesia), *Malay Pop Music: Between Market and National Identity*
- Amir bin Muhammad (Malaysia), *Independent Film in Japan and Indonesia*
- Anchalee Chaiworaporn (Thailand), *Women’s Film making in Southeast Asia: Status and Cinematic Representation*
- Tomoko Momiyama (Japan), *Perception and Practice of Indigenous Musical Traditions in the Face of Changing Cultural Identities*
- Danilo Francisco M. Reyes (Philippines), *An Almanac of the Southeast Asian Imagination*
- Joyce Lim Suan Li (Malaysia), *Towards the Development of Southeast Asian Contemporary Dance*

The final versions of the papers presented at the Workshop appear in this book and might, therefore, have different titles.
IMPLEMENTATION AND ENFORCEMENT OF ENVIRONMENTAL POLICIES IN PROMOTING SUSTAINABLE DEVELOPMENT IN ASIA: LEARNING FROM MALAYSIA AND JAPAN

ADDINUL YAKIN
Mataram University, Indonesia

INTRODUCTION

Financial, trade and governmental systems have made unprecedented contributions to global economic growth and development. At the same time, their lack of consideration of environmental and socio-economic realities has led to conditions that threaten development and human progress. Over the years, the international economic system has favoured the excessive exploitation of raw materials in developing countries in particular, and often with serious environmental costs (UNCED). Rapid economic growth in Asia in the last few decades has immensely influenced global environmental change and raised concerns about this change.

In the long run, continual rapid economic growth and industrialisation in this region are likely to cause further environmental damage, with the region becoming more degraded environmentally, less forested, more polluted, and less ecologically diverse in the future (UNEP).

Japan and Malaysia are two nations that are considered well developed in the Asian region. Development in Malaysia over the past three decades has been rapid. At the same time, the Malaysian environment has continued to deteriorate. The main traditional environmental problems are deforestation and water pollution due particularly to palm oil mills and rubber processing factories (Guha; UNESCAP; World Resource Institute).

In Japan, the main environmental concern has been increasing water pollution that has harmed public health as the result of rapid economic growth in the mid-1950s. The most prominent example is mercury poisoning in the city of Minamata, Kumamoto Prefecture in 1956, and the occurrence of Itai-itai (‘ouch-ouch’) disease in 1957 (MOE Japan; Morishima). In recent years, water pollution remains a major concern. Chemical Oxygen Demand (COD) and Biochemical Oxygen Demand (BOD) levels have not been decreasing rapidly enough and chemical pollution problems have worsened, including from dioxin exhaust from waste incinerators. In response to the promotion of sustainable development and better environmental governance, the two countries have developed a large array of environmental laws and set up environmental institutions. This has happened especially in the last decade, in line with global commitment to support the United Nation’s Agenda 21.

The command-and-control policy via direct regulation is the most prominent policy instrument, but its effectiveness depends on the manpower available, methods of implementation and control, and levels of institutional coordination and policy integration. While most regions are now trying to strengthen their institutions and regulations, some are shifting towards deregulation, increased used of economic instruments and subsidy reforms, reliance on voluntary action by the private sector, and more public and non-governmental organisation (NGO) participation.

This development is fed by the increasing complexity of environmental regulations and high control costs as well as demands from the private sector for more flexibility, self-regulation and cost effectiveness.

If these alternative policies were to be implemented by the states immediately and pursued with strong political will together with better provisions of knowledge, technology, and other resources, they would be able to address environmental issues and could indeed set the
world on a more sustainable course (UNEP). Therefore, the extent of compliance with, and the effectiveness of enforcement efforts in executing environmental policies are crucial (Wasserman).

Based on the aforementioned arguments, this paper will discuss some crucial points as to what has been done, what is being done, and how social, economic, and political factors influence the implementation and enforcement of environmental policies in Japan and Malaysia, particularly in the case of environmental pollution.

This paper is organised into four main sections. The first section deals with the development and nature of environmental policies in the two countries. The second section presents institutional arrangements in pursuing environmental governance. In the third section, implementation and enforcement of environmental policies are presented and discussed, especially on compliance and changes in environmental quality. Finally, concluding remarks and some policy implications for better environmental governance and sustainable development in Asia are presented.

**DEVELOPMENT AND NATURE OF ENVIRONMENTAL POLICIES**

**History of Environmental Policies**

Historically, Malaysia and Japan have introduced series of environmental laws, regulations and policy measures in response to the increasing environmental impact of economic development.

In Malaysia, environmental laws have existed since the era of British Rule, but their implementation and enforcement have been weak (Aiken et al.). After independence, no specific environmental law was introduced until the Environmental Quality Act (EQA) was enacted in 1974, which has since served as the principal legislation in Malaysia to prevent, abate, and control pollution. Two years later, environmental objectives and strategies for environmental protection and pollution control were included in the Third Malaysia Plan (1976-1980). Specifically, this was covered in Chapter 19 of the Plan which was on development and the environment.

National development planning is addressed in the nation’s two primary policy initiatives, the ten-year Outline Perspective Plans and the five-year Malaysia Plans, which set out the broad policy objectives for the overall economic development of the country. In the Sixth Malaysia Plan, it was envisaged that the Department of Environment would examine the use of licenses, fines and charges for the control of effluent disposal.

The Second Outline Perspective Plan (1991-2000) provided the platform for the implementation of the National Development Policy (NDP), which was aimed at achieving balanced development and strengthening Malaysia’s position as a modern industrial-based economy.

Malaysia continues to pursue the balance between economic development and environmental conservation as stated in the Seventh Malaysia Plan (1996-2000). The Eighth Malaysia Plan (2001-2005) in turn recognises that an integrated and coordinated approach is needed to support sustainable development objectives. One of the policy thrusts in the Eighth Malaysia Plan is to promote the use of market-based instruments and self-regulatory measures among industries. Short-, medium- and long-term environmental policy objectives now guide environmental management in Malaysia.

Those policy objectives are enshrined in the five-year development plans, the Second Outline Perspective Plan (1991-2000), and the First Malaysia Statement: The Way Forward Towards Vision 2020. Many of the themes embodied in Agenda 21 are also incorporated in the Malaysian National Development Policy, with the National Development Council working to integrate other Agenda 21 themes in the policy (The United Nations, Malaysia Country Profile).

In the context of Malaysia’s environmental policies, the prime target from the beginning of environmental governance in the country has been the handling of environmental pollution from agro-industries (e.g., palm oil and rubber processing factories), followed by other environmental problems. One important policy measure introduced was the Environmental Impact Assessment (EIA) through EIA Order 1987, followed by mandatory EIA for 19 categories of industries in 1988. By 1991, 331 major projects had been subjected to EIA. The detailed history of environmental laws, regulations and policies in Malaysia is presented in Table 1.
<table>
<thead>
<tr>
<th>Year</th>
<th>Laws and Regulations</th>
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<tbody>
<tr>
<td>1895</td>
<td>Introduction of Mining Code in Perak and Negeri Sembilan</td>
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<tr>
<td>1899</td>
<td>Mining Enactment introduced in all four of the Federated Malay States</td>
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<td>1905</td>
<td>Setting up of Tailing Commission</td>
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<tr>
<td>1920</td>
<td>Waters Enactment</td>
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<td>1929</td>
<td>Mining Enactment</td>
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<tr>
<td>1934</td>
<td>Mines Rules</td>
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<td>1935</td>
<td>Forest Enactment</td>
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<tr>
<td>1949</td>
<td>Natural Resources Ordinance</td>
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<tr>
<td>1951</td>
<td>Poisons Ordinance</td>
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<tr>
<td>1952</td>
<td>Environmental Quality (Clean Air) Regulations</td>
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<tr>
<td>1953</td>
<td>Federation Port Rules; Irrigation Areas Ordinance</td>
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<tr>
<td>1954</td>
<td>Drainage Works Ordinance; Aboriginal Peoples Act</td>
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<tr>
<td>1956</td>
<td>Medicine (Sales and Advertisement) Ordinance</td>
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<td>1958</td>
<td>Road Traffic Ordinance</td>
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<tr>
<td>1960</td>
<td>Land Conservation Act</td>
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<td>1963</td>
<td>Fisheries Act</td>
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<td>1965</td>
<td>National Land Code; Housing Development Act</td>
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<td>1966</td>
<td>Continental Shelf Act</td>
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<td>1967</td>
<td>Factories and Machinery Act</td>
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<td>1968</td>
<td>Radioactive Substances Act</td>
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<td>1969</td>
<td>Civil Aviation Act</td>
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<td>1971</td>
<td>Malaria Eradication Act</td>
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<td>1972</td>
<td>Petroleum Mining Act; Protection of Wildlife Act; Trade Description Act</td>
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<td>1974</td>
<td>Environmental Quality Act; Petroleum Development Act; Geological Survey Act; Street, Building and Drainage Act</td>
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<tr>
<td>1975</td>
<td>Environmental Quality Act; Petroleum Development Act; Geological Survey Act; Street, Building and Drainage Act</td>
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<td>1976</td>
<td>Local Government Act; Antiquities Act; Town and Country Planning Act</td>
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<td>1977</td>
<td>Environmental Quality (Prescribed Premises) (Crude Palm Oil) Regulations</td>
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<td>1978</td>
<td>Environmental Quality (Licensing) Regulations</td>
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<td>1979</td>
<td>Environmental Quality (Control of Lead Concentration in Motor Gasoline) Regulations</td>
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<td>1980</td>
<td>Environmental Quality (Amendment) Act</td>
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<td>1981</td>
<td>Environmental Quality (Scheduled Wastes) Regulations</td>
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<td>1982</td>
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<td>1996</td>
<td>Environmental Quality (Scheduled Wastes) Regulations</td>
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Table 1: Major Environmental Laws and Regulations in Malaysia, 1895-2000

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<tr>
<th>Year</th>
<th>Laws and Regulations</th>
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<tr>
<td>1977</td>
<td>Order Motor Vehicle (Control of Smoke and Gas Emissions) Rules 1977 made under the Road Traffic Ordinance 1958</td>
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<td>1978</td>
<td>Environmental Quality (Clean Air) Regulations</td>
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<td>1979</td>
<td>Environmental Quality (Prescribed Premises) (Raw Natural Rubber) Regulations</td>
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<tr>
<td>1980</td>
<td>Environmental Quality (Compounding of Offences) Regulations</td>
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<tr>
<td>1981</td>
<td>Environmental Quality (Prescribed Premises) (Raw Natural Rubber) Order</td>
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<td>1982</td>
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<tr>
<td>1996</td>
<td>Environmental Quality (Prescribed Premises) (Raw Natural Rubber) Order</td>
</tr>
</tbody>
</table>
In Japan, the development of environmental policies started in 1895 with the hunting law which was then followed by other environmental laws and regulations. In 1967, the Government of Japan (GOJ) enacted the Basic Law for Environmental Pollution Control to promote comprehensive countermeasures against the various forms of environmental pollution. Furthermore, inspired by UNCED and to accommodate present needs, the GOJ passed the Basic Environmental Law in November 1993.

Another important development was the introduction of the EIA through a series of processes. In 1970, the EIA system was established under the Ministry of International Trade and Industry's administrative guidance. Then in 1972, the Cabinet adopted EIA procedures for major projects. Finally, in 1997 the EIA Law was enacted. A comprehensive account of the evolution of environmental laws, regulations, policies, measures, and instruments in Japan is presented in Table 2.
### Table 2: Major Environmental Policies in Japan, 1891-2003 (Cont’d)

<table>
<thead>
<tr>
<th>Year</th>
<th>Laws and Regulations</th>
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<tbody>
<tr>
<td>1971</td>
<td>Amendment of Agricultural Chemical Regulation Law enacted</td>
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| 1972 | Air Pollution Control Law enacted  
|      | Nature Conservation Law enacted  
|      | Adoption by Cabinet of EIA procedures for major projects  
|      | Court decision issued on the Yokkaichi Pollution Lawsuit |
| 1973 | Law for the punishment of the crimes relating to Environmental Pollution  
|      | Air Quality Standards for NOx and other substances established  
|      | Pollution-related Health Damage Compensation Law promulgated |
| 1974 | Total SOx Emission Control Regulation enforced |
| 1977 | Ministry of International Trade and Industry strengthened the requirements for assessing power station development projects in environmental reviews |
| 1978 | Air Quality Standards for NOx amended |
| 1981 | Total NOx emission regulation enforced |
| 1988 | Law Concerning the Protection of the Ozone Layer through the Regulation of Specified Substances and Other Measures enacted |
| 1990 | Action Programme to Arrest Global Warming established |
| 1991 | Law for Promotion of Utilisation of Recyclable Resources enacted  
|      | Keidanren (Japan Federation of Economic Organisations) Global Environment Charter established |
| 1992 | Law Concerning Special Measures for Total Emission Reduction of Nitrogen Oxides from Automobiles in Specified Areas enacted  
|      | Law for the Control of Export, Import, and Others of Specified Hazardous Wastes and Other Wastes enacted |
| 1993 | Basic Environmental Law enacted  
|      | The National Agenda 21 Action Plan completed in December 1993 |
| 1994 | Cabinet decision on the Basic Programme for Environmental Protection issued  
|      | Basic Environmental Plan launched |
| 1997 | Receptacle Packaging Recycle Law places the responsibility for recycling polyethylene terephthalate (PET) bottles and glass bottles on manufacturers  
|      | Environmental Impact Assessment Law enacted |
|      | Electricity Utilities Industry Law amended  
|      | Keidanren (Japan Federation of Economic Organisations) Voluntary Action Plan on the Environment finalised |
|      | Guidelines for Measures to Prevent Global Warming established |
|      | Law Concerning the Promotion of Measures to Cope with Global Warming (Global Warming Countermeasure Promotion Law) enacted |
| 1999 | Pollutant Release and Transfer Registers (PRTR) Law enacted |
|      | Law Concerning Special Measures against Dioxins enacted  
|      | EIA put in full force and effect |
| 2000 | Basic Law for Establishing the Recycling-based Society and recycling-related laws amended |
|      | Environment Agency’s ‘Toward the Establishment of an Environmental Accounting System (2002 report)’ published |
| 2001 | Environment Agency upgraded to Ministry of the Environment through reorganisation of government ministries and agencies  
|      | Law Concerning Special Measures for Promotion of Proper Treatment of PCB Waste enacted |
|      | Law Concerning the Recovery and Destruction of Fluorocarbons enacted |
| 2002 | Kyoto Protocol 1997 ratified  
|      | Automobile NO\(_x\) and Particulate Matters (PM) Laws enacted  
|      | Guidelines for Measures to Prevent Global Warming amended |
|      | Soil Pollution Control Law enacted |
|      | Law Concerning the Promotion of Measures to Cope with Global Warming amended |
|      | Law Concerning the Rational Use of Energy (Energy Conservation Law) amended |
|      | Law Concerning Special Measures for the Use of New Energy Sources, etc., by Electric Power Companies (RPS Law) enacted |
|      | Basic Law for Energy Policies enacted |
| 2003 | Soil Contamination Control Law enacted  
|      | Waste Management and Public Cleansing Law amended such as laws prohibiting attempts to illegally dispose of wastes |
|      | Countermeasures against vehicle pollution enacted for diesel trucks in the Tokyo Metropolitan Area |
|      | Agency Act enacted after the dissolution of Japan Green Resources Corporation (JGRC) |
Environmental Quality Standards and Penalty Levels
In the context of policy, what was laid down in the EQA 1974 of Malaysia was quite progressive, where a conventional command-and-control approach was combined with a market-based instrument. In this approach, firms are required to obtain a license in order to be allowed to dump effluents into the watercourse or land. Authorities can threaten to cancel the license in the event of excessive violation of regulations by the firms (command-and-control component), while standard effluent charges are levied according to the BOD load discharged (market-based component).

The Environmental Quality Regulations detailing Palm Oil Mills Effluent (POME) discharge standards came into effect on 1 July 1978. Due to the lack of proven technology for the treatment of effluents from agro-based industries, a progressive reduction programme was allowed under the regulations. However, the standards set by the government have become increasingly stringent over time. BOD was the key parameter in the standards.

From the initial BOD level of 25,000 tonnes/day of untreated POME in 1975, the allowable load was reduced to 5,000 tonnes/day when the standards were implemented (1 July 1978), and have come down to the present allowable BOD level of 100 tonnes/day from 1 July 1984. The allowable COD level was reduced from 10,000 tonnes per day on 1 July 1978 to only 1,000 tonnes per day from 1 July 1981. The polluter pays principle (PPP) was adopted in the fee structure of the pollution control policy measures. The effluent-related fee payable to the government was linked to the BOD load of the effluent discharged on land, into a watercourse or both.

In November 1999, three toxic substances ("boron and its compounds", "fluoride and its compounds", "ammonia, ammonium compounds, nitrate compounds and nitrite compounds") were added to the list of items related to the protection of human health. However, the PPP instrument has not been included in Japanese regulations on pollution control.

In a command-and-control approach, environmental quality standards set by the government become effective if they are followed by the stringent application of penalties and punishments. Environmental penalties in Malaysia are more stringent than those in Japan.

In the Malaysian EQA 1974 [Act 127], parties applying to carry out developmental activities must pay prescribed application fees and penalties for violating the regulation. Penalties start at a RM 2,000 (US$ 554) fine or imprisonment of a period not exceeding six months or both for failure to furnish information as specified in the notice information issued. They can go up to a RM 500,000 (US$ 138,600) fine or imprisonment of a period not exceeding five years or both, in the case of discharging oil and wastes into Malaysian waters, and open burning.

In Japan, according to the Air Pollution Control Law (Law No. 97 of 1968) which was amended in 1996 (Law No. 32 of 1996), penalties start at not more than ¥100,000 (US$ 881.66) for any person who fails to provide notification as required, or who files a false notification.

Penalties can go up to imprisonment with labour of not more than one year or a fine of not more than ¥1,000,000 (US$ 8,816.55) for any person who violates an order issued under the provisions of (1) an order for Modification of Proposed Plan, etc.; (2) improving the method of disposal of designated soot and smoke, to change the fuel used, or to take any other measures as may be necessary; and (3) an order for Improvement, etc.

Introduction of Economic Instruments
Numerous discussions have concluded that economic instruments are superior to command-and-control and other instruments (Andersen; EA; Panayatou; UNEP).
The application of economic instruments provides incentives to economic actors, inducing them to behave in an environmentally more appropriate or acceptable way. Potential merits include the generating of revenue, effectiveness, efficiency, flexibility and incentives for innovation. If properly chosen, they will ensure that enforcement efforts are minimal.

In Malaysia and Japan, the command-and-control approach has been a major instrument in environmental protection and management. However, some forms of economic instrument application have been introduced. Malaysia is aware that the command-and-control mechanism alone is insufficient to address pollution problems in the country. Consequently, the EQA incorporates provisions containing punitive as well as economic measures for the control of effluents discharged into the environment. PPP has been applied in water pollution control in Malaysia, especially in agro-based industries. Waste handling has also been privatised.

In Japan, the application of economic instruments started with the introduction of garbage collection fees in 1992. In the last decade or so, there have been much research and analysis on the application of such instruments in wider areas and sectors. The Environmental Agency of Japan (EAJ) in 1995 conducted a research project on options for economic instruments such as taxation and charges in environmental policies. In November 1997, the EAJ also carried out economic analysis for designing the environmental tax system. In 2000, the EAJ published a report, Toward the Establishment of an Environmental Accounting System.

As for greenhouse gases, Japan Today (11 April 2003) reported that in April 2003, the Ministry of Environment expected to introduce a temporary tax on coal, petrol and other fossil fuels in fiscal year 2005 (FY 2005) in an effort to reduce the nation’s greenhouse gas emissions. The tax would end in FY 2012. Under the 1997 Kyoto Protocol, Japan is required to cut greenhouse emissions by 6 per cent from the 1990 levels between 2008 and 2012. The Ministry originally intended to make the tax permanent, but the business community has been lobbying against the idea and the Finance Ministry opposes designing a tax for such a specific purpose.

The Ministry of Environment is considering a ¥3,000 tax (US$ 24.45) per 1 tonne of carbon in coal or other fossil fuel consumed by industry. That would work out to about ¥2 (US$ 0.0176) per litre of petrol. The Ministry expects the tax to bring in about ¥1 trillion (US$ 8.82 billion) annually. The revenue would fund a special account budget for programmes aimed at meeting Kyoto Protocol limits.

INSTITUTIONAL ARRANGEMENTS FOR ENVIRONMENTAL GOVERNANCE

After thorough environmental policies and measures have been put in place, the next real challenge is to establish environmental institutions (together with the business sector, community organisations and civil society) to implement and enforce all the laws and regulations effectively.

State, Institutions, and Local Governments

In Malaysia, after the EQA was introduced in 1974, the Ministry of Science, Technology and the Environment Malaysia (MOSTE) was established a year later. Since 1976, it has become the Ministry of Science and Technology. Environmental protection efforts are carried out under the Department of Environment (DOE) of the Ministry.

The nature of environmental laws and regulations are sector-specific and state-based. As a result, many institutions and agencies are responsible for handling environmental problems. Some government agencies are responsible for administrating certain aspects of the environment without full legal powers, while other legally empowered agencies are equipped with enforcement officers who can summon or even confine offenders. The federal and state authorities share the responsibilities for promulgating and administering the legislation. Local authorities are also empowered to safeguard the environment against pollution in areas where the DOE does not have jurisdiction.

Definition of powers, functions and responsibilities among federal ministries and institutions as well as federal-state relationship remain ambiguous, which lead to conflicts in environmental governance. Under the current structure, functions and responsibilities of different environmentally related agencies, including
local authorities, often overlap in many aspects of the management of water, soil and other natural resources.

Although the DOE has a number of regional offices, it still lacks enforcement officers. The problem of inadequate personnel is faced not only by DOE, but also by other government agencies and local authorities in charge of managing and enhancing the environment. At the local authority and District Office levels, the situation is more serious because many of the limited number of enforcement officers have not been trained for environmental enforcement jobs, and they lack knowledge about which provisions to apply under the relevant types of legislation (UNESCAP).

Although the latest Cabinet (2004), headed by Abdullah Ahmad Badawi, has established the Ministry of Natural Resource and Environment, some environmental problems are still managed by other ministries and departments. To date, there has been no information on how this new ministry is organised in relation to other ministries and departments in promoting good environmental governance in the country.

In any case, the effective enforcement of environmental laws and regulations requires full cooperation among the federal and state authorities and within federal ministries and institutions.

In Japan, the Federal Environmental Agency was established in 1971. In March 1974, the National Institute for Environmental Studies (NIES) was established as Japan’s central organisation for environmental policy research. In July 1990, the NIES was totally reorganised to tackle a wider range of research demands, including global and natural environmental issues. The NIES operates four special centres in addition to its research divisions: the Environmental Information Centre; the Centre for Global Environmental Research; the Research Centre for Material Cycles and Waste Management; and the Research Centre for Environmental Risk.

In 1989, the Director General of the Environment was appointed Minister of State in charge of global environmental problems. Another development was the establishment of the Japan Fund for Global Environment which was set up within the Japan Environment Corporation in 1993.

In June 1996, the Japan Council for Sustainable Development was established. The Council, consisting of representatives from the government, industry and NGOs, aims at facilitating dialogue among members concerning issues of sustainable development. Furthermore, in 2001, the Director General of the Environment was transferred to the Ministry of Environment with richer structures and power. Under the current structure, the NIES is an independent administrative entity.

The Ministry of the Environment plays the central role in implementing government environmental policies, working to set standards, guidelines, plans and regulations for all government activities. The Ministry is also responsible for dealing with any issue concerning environmental impacts. However, to perform efficiently, it must still cooperate with the environmental protection offices in different regions of the country, as well as with other institutions.

In Japan, under the local autonomy system created under the Japanese Constitution of 1946, local governments are able to enact their own environmental legislations. During the 1950s, several large local governments enacted ordinances for pollution control, the first of which was the Tokyo Prefectural Ordinance for Factory Pollution Control of 1949. Since then, local governments have played an important role in creating and implementing environmental policies (Harashima). Japan reaffirmed the important role of local governments in environmental governance in Article 7 of the Basic Environmental Law 1993.

Furthermore, the GOJ provides assistance to the local authorities for their own voluntary and independent environmental activities, for instance, for the adoption of Local Agenda 21s, and for international cooperation at the local authority level. Out of 47 prefectures and 12 designated metropolitan cities, at least 28 Local Agenda 21s have been adopted, involving about 73 per cent of the population.

Another instance of GOJ assistance is for international cooperation at local authority level. Local authorities are directly involved in the implementation of laws, regulations and guidelines, and in the observation, measurement and control of pollution and other factors.
connected with the conservation of the environment. They also carry out various anti-pollution and nature conservation projects. Many local authorities play an important role in global environmental protection as well (United Nations, Japan Country Profile).

However, in Malaysia, there is a need to give more leeway to local governments to handle environmental problems. At present, the federal government of Malaysia is only beginning to relinquish power to local governments to implement environmental measures. Local initiatives have been on the rise; for instance the state of Selangor’s adoption of Local Agenda 21 acts as a sound foundation for establishing environmental governance on the part of local governments.

**The Role of the Business Sector: the Importance of Voluntary Actions**

Together with legal control and economic instruments, another important approach that has recently received attention is voluntary action by industries to improve environmental performance. The International Standard Organisation has introduced ISO 14000, which is a form of voluntary action by industries to establish environmental management systems (EMS). The promotion of ISO 14001 also supports the promotion of cleaner production (Peterson et. al.). As a non-binding approach, this instrument gives industries more flexibility in implementing environmental measures. It may also help to reduce the perceived regulatory burden, leading to reduced costs and enhanced competitiveness.

On the Malaysian industrial front, SIRIM Berhad—formerly known as the Standards and Industrial Research Institute of Malaysia Incorporated, a government-owned company under the Minister of Finance—has established a Cleaner Technology Extension Service and a Cleaner Technology Information Service to promote the use of cleaner technology by industries. Funds for programmes and projects to promote environmental protection initiatives and cleaner technologies come mainly from the Malaysia Government’s annual budget. In addition, donor agencies provide funding for specific programmes related to pollution control and other environmental activities (United Nations).

Results of a study by Tan on Malaysian firms with ISO 14001 certification indicated that there were benefits to be gained from implementing ISO 14000 standards. Generally, the benefits were rather similar to those documented for companies that adopted ISO 14000 in industrialised countries.

In Japan, Voluntary Agreements for Environmental Pollution Control were developed to build mutual consent between companies and local authorities. For instance, the Tokyo Electric Power Company (TEPCO) first signed a Memorandum on Pollution Control by the Ohi Thermal Power Station with the Tokyo Metropolitan Government in September 1968. Since then, some individual Voluntary Agreements for Environmental Pollution Control with other local authorities have also been signed. The local authorities include those in Chiba Prefecture, Ibaraki Prefecture and Fukushima Prefecture. Through broad-ranging environmental protection measures for new and existing thermal power stations, future efforts on environmental protection are in line with local situations and needs (TEPCO).

Voluntary actions by the private business sector should be encouraged. Progress on the increased use of EMS has also been made with the adoption of ISO 14000 standards in both countries, although this activity is still mainly undertaken within the operational aspects of companies, particularly the manufacturing sector. The application of Cleaner Technology for waste minimisation is necessary as an integral part of the manufacturing operation, as well as the recycling and reuse of effluents and by products of treatment systems.

**NGOs and Civil Society: Roles and Pressures**

NGOs have emerged as major partners in development and conservation activities, performing a multitude of roles including environmental education and increasing awareness among the public.

In Malaysia, some NGOs primarily concerned with environmental issues have been established. These include the Environmental Protection Society of Malaysia (EPSM), the Malaysian Nature Society (MNS), WWF (World Wildlife Fund) Malaysia, and Sahabat Alam Malaysia (SAM). These and other bodies have, to some extent, influenced the Malaysian government to promote better environmental governance. For instance, in 1986 the EPSM succeeded
in excluding opposition parties from partaking in one of their campaigns to protect the environmentally sensitive Batu Caves; to do otherwise would have risked getting their campaign submerged in party political strife (Eccleston & Potter).

The MNS explicitly emphasises its value to bureaucrats in terms of additional scientific expertise. It also brings to the fore its role as a colleague in policy formation networks even though this cooperation takes place through informal contacts rather than institutional networking since some of its members are bureaucrats. WWF Malaysia’s contribution to the preparation of state forestry plans is a classic example of its ability to influence policymakers in the better handling of environmental issues.

SAM was able to arrange a meeting between Penang representatives and politicians and officials in the Federal Government, attended also by representatives from the International Timber Trade Organisation (ITTO) in order to exert indirect pressure on the Sarawak Government in relation to the deforestation issue.

Occasionally, NGOs have been able to exploit political differences between Federal and state governments. Although local states control timber revenues, the Federal government can affect the rate of logging indirectly by restricting the level of log exports through the authority of the Federal Timber Board. For example, in 1977, MNS succeeded in stopping further logging of the Endau-Rompin National Park by using Federal opposition to the policies of the Pahang state government in their campaign.

In the mid-1980s, NGOs also succeeded in halting the first proposal to build the Bakun dam which would have covered 695 square kilometres of primary forest. However, construction of the dam went ahead in 1994 because the NGOs had lost their allies within the Federal government (Chandra Muzaffar).

From the early 1990s, NGOs have enjoyed greater freedom and government recognition. However, they remain constrained in challenging the ruling Barisan Nasional (National Front) and its then main constituent, the New United Malay National Organisation (UMNO Baru) (Clarke). At the same time though, there was a clear and strong initiative from many Asian governments, solidly backed by the World Bank, in inviting the cooperation of NGOs (Fonseca).

In order to strengthen the role of NGOs in environmental management and protection in Malaysia, mechanisms already exist to promote and allow NGOs to participate in the conception, establishment and evaluation of official mechanisms to review Agenda 21 implementation. Four NGOs participate in the Inter-Agency Planning Group: WWF Malaysia, MNS, EPSM and Environmental Management and Research Association of Malaysia (ENSEARCH). Although NGOs are not included in Malaysian national delegations to the United Nations Commission on Sustainable Development they are adequately consulted at the national level (EPU).

Due to the lack of financing, human resources and information, the activities of Japan’s NGOs are rather limited. However, historically, citizens’ actions and movements against pollution strongly influenced environmental policy development in Japan, particularly between the late 1960s and the early 1970s, and especially after the outbreak of the Minamata case.

In 1993, the Japan Fund for Global Environment was established, supported by contributions from the government as well as the private sector. Japan extends assistance through this fund to NGOs’ activities for global environmental conservation in developing countries as well as in Japan.

In 1996, the Ministry of the Environment and the United Nations University jointly established the Global Environment Information Centre. The centre aims to provide information and opportunities for exchange between private organisations and NGOs (United Nations, Japan Country Profile). The Japan Council for Sustainable Development was established in 1996 to facilitate mutual dialogue among the government, business sector and NGOs.

Even though social pressures for environmental protection were growing, Boyle (1998) insisted that the pressures were still weak by Western standards, largely unappreciated by government, and relatively ineffective.
in challenging specific project proposals. This is unless they were supported by the extraordinary resistance of local people and the publicising efforts of domestic and foreign NGOs.

More public pressure can influence firms whose activities are adversely impacting the lives of people. Depending on the level of public participation, local communities can provide strong incentives for industrial firms to abide by the law and meet—and occasionally surpass—the standards established by the State. Faced with budget and personnel constraints, many governments recognise the benefits associated with supporting communities in the role of environmental watchdog.

IMPLEMENTATION AND ENFORCEMENT OF ENVIRONMENTAL POLICIES, COMPLIANCE AND CHANGES IN ENVIRONMENTAL QUALITY

Implementation, compliance, and enforcement of environmental laws and regulations are recognised as the real challenges faced by governments in the pursuit of their sustainable development objectives. Full compliance is achieved when legal environmental requirements and obligations are met or fully implemented, and favoured changes are achieved. Both Malaysia and Japan have implemented numerous programmes, as recorded by the United Nations in its country profiles for Malaysia and Japan for the Johannesburg Summit 2002. However, there are some issues connected with implementation and enforcement efforts, particularly in pollution control, as discussed below.

Implementation and Enforcement Efforts

One important policy measure that is aimed at mitigating environmental impacts of developmental projects is the implementation of EIAs. Both Japan and Malaysia have applied this policy in their environmental management. However, they still face some technical and administrative problems in implementing this instrument.

For instance, in Malaysia, although 331 projects underwent EIAs up till 1991, the DOE still found some shortcomings in the quality of the EIA reports. Four years into EIA implementation, a 1992 DOE assessment of the quality of EIA reports found that only 11 per cent were good; 66 per cent were satisfactory with supplementary verification; while 23 per cent were poor or did not meet requirements.

Some weaknesses of EIA reports were poor description of project concepts and an inadequate statement of need; lack of baseline data on environmental quality; poor prediction of impacts, particularly in quantitative terms; insufficient, or absence of, alternatives for mitigation and recommendations for the most effective control measures; lack of alternatives for production technology and pollution control; failure to propose an environmental monitoring programme; and inconsistency in information reported (DOE). EIAs also sometimes proved ineffective on the ground, and project owners had to be taken to court for non-compliance; in 1996, for instance, there were seven such cases (DOE).

In Japan, the Environmental Impact Assessment Law was enacted in 1997, and put into full force and effect in 1999. Through this law, Japan has improved on the EIA system in terms of administrative guidelines, such as introducing the procedure of screening and scooping, and extending opportunities to hear public opinions.

This may lead to the development of the strategic environmental assessment (SEA). This type of assessment incorporates integrated policies, plans and programmes, and includes the need to predict future effects, design mitigation measures and develop auditing and monitoring procedures. It also has the ability to take account of possible cumulative and induced environmental impacts arising from developments within a defined geographical region.

The SEA was used in the study of the Paya Indah wetlands in Malaysia, for instance, in the preparation of local plans and in the consideration of environmental issues affecting various industrial sectors. These can be regarded as clear signs of raised awareness and interest in the development of SEA policies to secure a more environmentally sustainable future (Briffett et al.).

Other enforcement efforts comprise inspections and monitoring, negotiations, legal pursuits, and other compliance instruments for better environmental protection. The monitoring and audit system is one way...
of enforcing environmental regulations. For instance, the DOE of Malaysia frequently visits palm oil facilities to regulate prescriptions on agro-based premises.

During the year 2000, enforcement officers visited 627 palm oil mills and took action against 213 mills for various air and pollution offences, of which 20 were court cases. The highest number of contraventions was recorded in the states of Sabah (83 mills), Johor (68 mills) and Pahang (66 mills). Overall compliance of the regulations was at 38 per cent (DOE Annual Report 2000).

In Japan, prefectural governors make regular observations on water pollution in public water bodies to monitor the state of water quality. At the same time, the factories and business establishments under their purview are obliged to confirm compliance with effluent standards through testing of their wastewater. Another important measure covered by the Water Pollution Control Law is an absolute liability scheme in which a causal factory or business establishment is required to compensate for the health damage caused by its toxic substances (Water Environment Management in Japan).

The Ministry of the Environment has been subsidising prefectural governors and mayors of designated cities in these water quality surveys. The ministry has also subsidised the cost of installing automatic water quality monitoring systems. As of the end of FY 1999, such systems had been installed in 157 places.

The Ministry of Land, Infrastructure and Transport has implemented a similar programme for Class I rivers from the river management point of view. As of the end of FY 1999, automatic water quality monitoring systems maintained by that ministry had been installed in 152 places in 68 river basin systems. With the voluntary cooperation of local people, the ministry has also performed another type of river water quality monitoring which uses biological indices.

The Minister of the Environment, prefectural governors and the mayors of designated cities are authorised by law to conduct inspections and order factories and business establishments to send reports necessary to confirm their state of compliance with effluent standards. Based on the results of these inspections and reports, prefectural governors and the mayors of designated cities have been taking the necessary administrative actions to address non-compliance, such as orders to improve treatment facility operations. Industries which discharge pollutants into the areas where Area-wide Total Pollutant Load Standards apply are required by the Water Pollution Control Law to monitor and record their pollutant discharge loads.

One way of enforcing environmental regulations is through legal means. In Malaysia, the enactment of the EQA 1974 saw an increase in the number of offences prosecuted under this Act and subsidiary regulations. In 1980, the number of offences prosecuted was 14; this increased to 113 in 1993 (DOE). In fact, 1993 saw 177 cases filed in court; the 113 prosecutions saw total fines of RM 322,300 (US$ 89,500) being imposed.

In Japan, 1995 saw the government compensate more than 10,000 victims of the Minamata tragedy and related incidents after a long judiciary process. This indicates that legal pursuits in these two countries have been carried out. However, legal action still needs to be taken against many cases to create better environmental governance in the future.

Since the nature of environmental policies in both countries is heavily reliant on the command-and-control approach, the political will from governments plays a central role in promoting good environmental governance. A mismatch between high regulation, monitoring and enforcement costs, and budgetary, manpower and administrative constraints is a major shortcoming in environmental policy enforcement (Panayatou).

In Malaysia, one constraint in moving towards better enforcement is that most of the officers are new to the area of environmental management. Therefore, their capabilities and experiences are still limited and can only be enhanced with time and by attending more specific courses. Another constraint is that current environmental issues are no longer confined to environmental issues per se but are linked to other sectors such as trade, economics and technology. This renders environmental management more complicated and complex (MOSTE).
Furthermore, ineffective implementation of EIA, for instance, was due to political and socio-cultural reasons. Domestic political pressures for economic development and the substantial patron–client relationships among political, bureaucratic, and private-sector actors that strengthened them, had resulted in considerable power and authority being vested in mission agencies; this issue should be resolved.

Compliance Status and Favored Changes in Environmental Quality

Expensive monitoring costs have led to many governments targeting pollution reduction. The Malaysian DOE has decided to direct its attention to larger firms in the most polluting industries (42 per cent of firms in the palm oil industry and 33 per cent in the rubber industry). This approach has been successful at controlling effluent discharge in these industries and 80 per cent of firms are in compliance. The remaining industries are self-monitored with a system in place for local communities to lodge complaints against polluting firms (Markandya).

The effluent fees collected dropped sharply in the first year (1978 to 1979) and has continued to drop over time. This despite there being an increase in the number of palm oil mills operating in the country and increasing BOD standard. Table 3 shows that in 1978 when the BOD standard was still 5000 mg/l, the collected fees were quite high. However, in five years, the collected fees decreased dramatically despite the raising of the BOD standard to 250 mg/l, and the large number of palm oil facilities.

The Environmental Quality Report 1989 showed that from 1986 to 1989, the BOD load discharged from agro-based industries (palm and rubber) remained low at 11 tonnes per day (DOE). In the latest Malaysia Environmental Quality Report in 2001, the load from agro-based industries ranged from 8 tonnes per day in 1997 to 22 tonnes per day in 2001 (DOE). Table 4 shows that employing PPP in pollution control in Malaysia has resulted in positive responses from agro-based industries towards better management practices. The tremendous reduction in fees collected from 1978 to 1982 indicates compliance on the part of the industry. It shows that in that period, the companies have invested in, and successfully adopted effective treatment systems using improved technology to adapt to the more stringent standards, as Abdullah has also claimed.

Furthermore, based on the Environmental Quality Report 1990, the compliance status of agro-based industries (palm oil mills and rubber industries) was very high, mostly more than 80 per cent. The compliance status on some important parameters of watercourse discharge from palm oil mills and rubber industries is presented in Table 4.

### Table 4: Compliance Status of Palm Oil Mills and Rubber Industries (Watercourse Discharge), 1990

<table>
<thead>
<tr>
<th>Parameters</th>
<th>Palm Oil Mills</th>
<th>Rubber Industries</th>
</tr>
</thead>
<tbody>
<tr>
<td>pH</td>
<td>97.6</td>
<td>96.7</td>
</tr>
<tr>
<td>BOD</td>
<td>82.0</td>
<td>84.4</td>
</tr>
<tr>
<td>Suspended Solids</td>
<td>97.6</td>
<td>78.2</td>
</tr>
<tr>
<td>Oil and Grease</td>
<td>92.8</td>
<td>n.a.</td>
</tr>
<tr>
<td>Ammoniacal Nitrogen</td>
<td>93.4</td>
<td>80.6</td>
</tr>
<tr>
<td>Total Nitrogen</td>
<td>93.4</td>
<td>81.0</td>
</tr>
<tr>
<td>Total Solids</td>
<td>97.6</td>
<td>n.a.</td>
</tr>
<tr>
<td>COD</td>
<td>n.a.</td>
<td>78.2</td>
</tr>
</tbody>
</table>

Note: n.a. = data not available.

Source: Environmental Quality Report 1990.

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**Table 3: Percentage of Palm Oil Mills Fined Based on the Polluter Pays Principle, 1978-1982**

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>0-1000</td>
<td>19</td>
<td>63</td>
<td>73</td>
<td>68</td>
<td>75</td>
</tr>
<tr>
<td>1001-10000</td>
<td>35</td>
<td>37</td>
<td>24</td>
<td>31</td>
<td>25</td>
</tr>
<tr>
<td>10001-50000</td>
<td>24</td>
<td>n.a.</td>
<td>3</td>
<td>1</td>
<td>n.a.</td>
</tr>
<tr>
<td>50001-100000</td>
<td>15</td>
<td>n.a.</td>
<td>n.a.</td>
<td>n.a.</td>
<td>n.a.</td>
</tr>
<tr>
<td>100001 or more</td>
<td>7</td>
<td>n.a.</td>
<td>n.a.</td>
<td>n.a.</td>
<td>n.a.</td>
</tr>
</tbody>
</table>

Note: Based on 130 mills; the information in brackets = BOD standard applied in those years.

Measuring the effectiveness of the implementation and enforcement of environmental regulations and policies is quite tricky. However, the achievement rate of complying with environmental quality standards related to particular pollutants may adequately indicate the success of enforcement efforts (see Table 5).

In Japan, the achievement of the BOD levels of rivers is improving. The rate of compliance to standards increased from 67.7 per cent in 1985 to 81.5 per cent in 2001. The compliance rate of COD also increased from 41.2 per cent in 1985 to 45.8 in 2001. However, the compliance rate of COD of sea areas remained the same between 1985 and 2001. The quality of surface water (23 substances) in most areas has met required standards. However, it is imperative to take note of other hazardous water pollutants (United Nations, Japan Country Profile).

As a result of regulations on industrial wastewater in Japan, remarkable improvements have been made over recent years in water quality. This is due to the significant reduction of heavy metal pollution. Minamata Bay was declared clean by the Governor of Kumamoto Prefecture on 29 July 1997 after 23 years of continuous efforts to reduce water pollution. On the other hand, environmental quality standards for organic pollution are still not being met in about 30 per cent of Japan's total water area. In particular, there has been little improvement in urban rivers and enclosed water areas such as inland seas, inlets, lakes and reservoirs.

In the case of air pollution, the compliance rate to standards for sulfur dioxide (SO₂) is satisfied in almost all areas of Japan. Air pollution caused by SO₂ decreased dramatically because of regulations on emissions from stationary sources and on sulfur content of fossil fuels. However, compliance for Nitrogen Oxides (NOₓ) and Suspended Particulate Matters (SPM) is very low in urban areas. In particular, air pollution caused by nitrogen dioxide has not declined because of the continued increase in automobile use (http://www.env.go.jp/en/jeg/air/p_air.html). In addition, it is imperative to measure hazardous air pollutants such as benzene and dioxins.

Source: MOEI.
Some companies in Japan have successfully complied with environmental regulations. For instance, during FY 2002, no improvement recommendations, improvement orders, or penalties were issued to TEPCO on grounds of the violation of environment-related laws, ordinances or regulations.

CONCLUDING REMARKS
This paper aims to present and discuss the history and nature of environmental policies and their implementation and enforcement for promoting sustainable development specifically in Malaysia and Japan. To promote sustainable development, both governments have introduced a wide array of best-practice policies.

The nature of environmental policies in Malaysia and Japan has been based heavily on the command-and-control approach, with some exercise of economic instruments in limited areas. The Polluter Pays Principle was introduced in pollution control in Malaysia with some success. In Japan, economic instruments have been applied, such as in garbage collection, and the government is going to apply more economic instruments such as environmental taxes and emission trading to reduce greenhouse gases being produced by industrial companies.

To date, both Malaysia and Japan have laid down sound legal foundations for employing economic instruments in establishing better environmental governance in the future. In the last few years, there have been some positive developments in terms of institutional arrangements, notably in establishing more powerful institutions in the portfolio of the Ministry of Environment.

Policy Implications
There have been some positive developments in how environmental policies and environmental institutions are established, followed by some favourable changes in environmental quality. However, implementation and enforcement, as well as compliance with environmental regulations and policies in the two countries are not ideal. Some important factors that are still needed for better environmental governance are:

- Creating the necessary political will for better environmental governance, including improving the capacity of the government as the principal agent of environmental protection and improving the role of local governments (especially in Malaysia);
- Developing better environmental management practices by encouraging voluntary actions by industrial companies;
- Giving a more constructive role to local governments;
- Exploring and employing more economic instruments; and
- Facilitating and encouraging more pressure from NGOs and civil society.

Notes
2. 1 US$ = ¥113.423 (Japanese Yen) (rate as of 11 May 2006).
REFERENCES


INTRODUCTION

In the 1990s, the Association of Southeast Asian Nations (ASEAN) faced major challenges in strengthening political and economic cooperation within the group, as well as with countries surrounding the region. The very diverse economic achievements and advancements among ASEAN members and the inclusion of China in the World Trade Organisation (WTO) have caused pressures to increase in the competition not only within ASEAN but also in the East Asia region. This is particularly true in international trade and in attracting foreign investment (Shimizu).

Since the end of the 1990s, increased political instability associated with cross-border terrorism as well as inter-ethnic and inter-country conflicts in the region have placed additional obstacles in the process of stepping up cooperation.

It is well known that since the end of the Cold War era, the demand for regional solutions to the above problems has been more desirable than intervention from outside the region. As a result of the substantial increase in economic and technological achievements, the leaders of countries in the region are becoming aware that the solutions from outside are very likely to disadvantage the region as these may not reflect their countries’ best interests. Therefore, one can conclude that the call for regional solutions did not emerge simply as a response to the meltdown of Asian currencies in 1997.

In the early 1990s, policymakers in the region sought to reduce dependency on the West through the formation of the East Asian Economic Caucus (EAEC), an idea proposed by the former Prime Minister of Malaysia, Tun Dr Mahathir Mohamad. The EAEC failed to take off, and in response to the Asian currency crisis in 1997, the Japanese government proposed the creation of the Asian Monetary Fund (AMF). Although, the proposal was enthusiastically received by most East Asian countries, it could not be realised in the face of strong opposition from the US and the International Monetary Fund (IMF).

However, the death of the AMF did not lessen the demand to strengthen monetary cooperation in the region. Along with increasing criticism toward the IMF’s stabilisation programme in the crisis-affected countries, there have been various research papers on rationalising the need to develop a regional financial arrangement for East Asia (see for example, Bergsten, Ichimura, Naya, and Rajan, among others). As a result, in the May 2000 meeting held in Chiang Mai, Thailand on the sidelines of the Asian Development Bank (ADB) Annual Meeting, the ASEAN+3 grouping (ASEAN 10 plus China, Japan and South Korea) set up the Chiang Mai Initiative (CMI) in an effort to strengthen financial cooperation among the East Asian countries.

In light of the remarkable development of East Asian monetary cooperation in recent years, this paper seeks to investigate the perspectives of Thailand and Malaysia on the ongoing efforts of such cooperation. In doing so, 30 respondents have been interviewed, including high level officers of central banks, security exchange commissions, stock exchanges, banks, financial analysis institutions, researchers and economics lecturers of universities in Thailand and Malaysia.
THE BREAKDOWN OF THE ASIAN MONETARY FUND

Following the Thai currency crisis in July 1997 and in response to a request by Thailand for a financial bailout (Shirai), Japan proposed the creation of the AMF which was originally intended to provide quick disbursements of funds as a liquidity defence to emergency balance-of-payment problems for the Asian countries hit by the currency crisis (Rajan). The creation of this multilateral financial institution was enthusiastically welcomed by most East Asian countries. Funding mobilisation for the AMF was approximately US$ 100 billion, most of which would come from Japan while the rest was pledged by Hong Kong, Singapore and Taiwan as well as other ASEAN countries (ADB; Wade and Veneroso).

The Japanese government was eager to establish the AMF because of the following reasons. The first was the under-representation of Japanese interests at official levels of the IMF. The AMF was expected to overcome the inability of Japan to obtain preferred policy outcomes via the IMF (Rajan; Sussangkarn). The second was that the AMF would be likely to protect Japanese creditors from substantial capital losses if liquidity supports resulted in a possible quick economic recovery of the Asian crisis-affected countries in the short run. The third was that the recent financial crisis tended to have a regional contagion effect for which the funding bailout package came largely from the region itself.

These factors motivated Japan and other Asian economies to form a regional monetary institution which would behave similarly to the way the US provided substantial financial contributions to Latin America, and which was modelled after the successful development of the monetary union in the European Union (EU).

While in its infancy, however, the AMF proposal received strong opposition from the US and the IMF for several reasons. Firstly, the Asian regional approach on future crises was suspected to have “soft conditionality”, leading to fears of undermining reforms of the weak financial institutions of the crisis-hit countries (Rana; Shirai). Secondly, the US believed that such an institution would be likely to challenge Western hegemony in Asia as the AMF could possibly erode the role of the IMF in the region. Support for the AMF weakened further when China disagreed with the idea of the AMF due to successful lobbying by the US which emphasised that Japan had been trying to raise its hegemony in Asia.

THE CHIANG MAI INITIATIVE

Recently, along with the increasing number of criticisms of the failure of the IMF in dealing with the Asian financial crisis (Ichimura; Naya; Sachs), the idea of setting up Asian regional funding arrangements continues to feature prominently in regional consultative meetings as well as in academic papers and discussions.

For instance, the Asian Development Bank's Institute and the Asian Policy Forum suggest the establishment of an Asian financial arrangement which may act as a regional lender of last resort for future crises and which can provide regional surveillance and cooperation for financial and corporate restructuring (Yoshitomi and Shirai). Elsewhere, Rose, Ichimura and Naya support the development of a regional fund as a complementary funding facility to the IMF.

In the sidelines of the ADB Annual Meeting, the ASEAN+3 Finance Ministers' Meeting in May 2000 held in Chiang Mai, Thailand, established the Chiang Mai Initiative (CMI). The purpose of the CMI is basically to strengthen regional policy dialogues and cooperative activities within the region. These would cover the extension of the ASEAN financial arrangement and the development of bilateral swap and repurchase agreements among ASEAN+3; the ASEAN+3 framework for the exchange of accurate information on capital flows in the region; and the establishment of an early warning system which could increase the ability of ASEAN+3 to maintain financial stability in the region (Rana).

As the CMI allows each member country to enter into bilateral swap and repurchase arrangements with another member at their mutual discretion, a number of agreements has been carried out successfully (see Appendix). According to Shirai, the funding arrangement of the CMI has been favourable for the international community, including the IMF, for at least three reasons. Firstly, since the arrangement is not
independent of IMF assistance, this can mitigate fears of those who are concerned with potential conflicts with the IMF conditionality and ethical hazard problems. Secondly, the arrangement is unlikely to be institutionalised (such as in the form of the AMF) as it is on a bilateral rather than multilateral basis. Thirdly, there has been awareness among global financial institutions on the importance of an additional financing facility for the East Asian region.

However, compared to the remarkable amount of funding bailouts given to Indonesia, Thailand and South Korea to deal with the Asian currency crisis in 1997, the funding facility to be made available under the CMI is still relatively too small (Park; Shimizu; Sussangkarn). During the ongoing crisis, these countries should have cut down a significant amount of foreign reserves to defend the exchange value of their currency.

In the case of Thailand, for instance, the Bank of Thailand used up a substantial amount of the country’s foreign reserves to defend its currency value against the speculative attacks during the 1997 baht crisis. As Susangkarn revealed, the gross official reserves of Thailand which stood at about US$ 32.4 billion then, whittled down massively to just around US$ 3 billion in the fight against the rapid depreciation of the Thai baht against the US dollar.

Given the limited amount of funding facilities under the CMI, the most fruitful benefit it can give is to serve as an initial step towards in-depth monetary cooperation in the region. The East Asian policymakers appear to have learned that regional cooperation and the seriousness of the countries’ political will are crucial in dealing with the more volatile global financial markets (Bergsten; Blanchard; Shimizu; Sussangkarn).

Along this line, the ASEAN+3 grouping may significantly influence the increased demand on new forms of international financial architectures since ASEAN, Japan and China are not yet influential enough to contribute much to any reform that may be adopted by the main global financial players. The binding ASEAN+3 regional grouping, that accounts for about 45 per cent of world foreign reserves and a current account surplus of over US$ 200 billion in 2000, make them a key player in shaping the global financial system (Shirai; Sussangkarn).

Considering the funds constraints that the CMI is facing, the most important preliminary step to an effective CMI mechanism to defend against future speculative attacks is institutionalising an independent surveillance framework in the region. However, despite the recent achievement of such a surveillance process, it remains relatively weak.

As Wang and Woo point out, because participating countries prefer mutual discretion with regard to the contents of their macroeconomic surveillance reports, serious difficulties arise in assessing comparable macroeconomic conditions across the member countries. Consequently, the information exchange tends to be insufficient to improve the regulation and supervision of the immature financial system in the region (Wang and Woo, cited in Park).

In view of this, Park suggests the establishment of an independent ASEAN+3 surveillance institution to effectively monitor and provide enough macroeconomic reports which are important for credit-providing countries to enable them to respond to a sudden demand on swap facilities by a country facing balance-of-payment problems. This can help to achieve quick disbursements of funds to fight speculative attacks and to localise possible contagious effects.

The member countries should therefore supply not only the usual information on macroeconomics and capital flows, but also information dealing with socio-economic obstacles. Only by providing valid and viable socio-economic information can the surveillance mechanism produce specific policy recommendations to member countries. In addition, the recommendation should be published widely so as to reinforce market pressures for the countries that do not take serious action with regard to the recommendations (Yoshitomi, cited in Park).

It has been widely acknowledged that the root cause of the Asian currency crisis in 1997 was the massive change in the fragile short-term capital (capital account crisis) rather than the relatively foreseeable weak fundamental disequilibria, which was mainly the root cause of the non-
Asian crises (Chaipravat; Ito; Park; Rana; Sussangkarn; Yoshitomi and Ohno; Yoshitomi and Shirai). This crisis was then aggravated by major deteriorations in financial institutions’ and corporations’ balance sheets. These stemmed mainly from “double mismatch problems” (maturity and currency mismatches) due to weak corporate governance, supervision and regulation of the immature financial system.

Considering the problems of short-term foreign debt, and in view of the recent high levels of savings surplus in most East Asian countries, it is crucial for each member country to advance its domestic bond markets in order to strengthen long-term sources of funding investments in the region.

BEYOND THE CHIANG MAI INITIATIVE: A LONG-TERM ISSUE
The aftermath of the Asian currency crisis of 1997 has brought into debate the argument that countries in the region should necessarily unite to achieve effective cooperative surveillance in preventing the recurrence of such type of crisis in the future. One official effort in support of this is the ASEAN Task Force on the ASEAN Currency and Exchange Rate Mechanism. In 2001, the Asian-Europe Finance Ministers’ Meeting provided funding support for a number of studies under the Kobe Research Project. Likewise, the ADB has financed studies such as the one on Monetary and Financial Cooperation in East Asia, covering transitional regional exchange rate arrangements and coordination mechanisms for the region (Rana).

In response to possible currency unification in East Asia, empirical studies have been done to analyse the importance of prerequisite conditions for the development of a common currency. For instance, Goto points out that the interdependence of trade and investment across East Asian countries increased substantially particularly since the 1990s. The international mobility of goods and labours has also increased markedly, supporting the feasibility of interregional monetary unification.

More recently, there has also been growing demand to set up free trade negotiations between ASEAN countries and Japan and China. If it can proceed successfully, parallel with the ASEAN Free Trade Area (AFTA), the trade and investment integrations among the East Asian countries are very likely to deepen further. Looking at the EU experience, it has been noted that the development of a common currency can pave the way for greater cross-border trade and investment within the region and, hence, increase income growth for the regional countries.

However, the move to adopt a common currency for the East Asian region is still constrained by some factors. Firstly, there is large diversity in economic achievement across countries in the region, from the richest countries such as Japan and Singapore to the poorest countries like Indonesia and Myanmar. The per capita income of Indonesia, for instance, is just one-fourth of Singapore’s; Singapore’s per capita income is 300 times larger than that of Myanmar’s.

Secondly, the banking and financial institutions of East Asia are weak and heavily dependent on foreign capital. Applying a fixed or pegged exchange rate system is likely to increase vulnerability towards a currency crisis, undermining the exchange rate arrangement for the region (Eichengreen and Bouyomi).

Thirdly, the development of a common currency for the East Asian region necessitates the development of independent multilateral institutions, so as to help achieve the objectives of the CMI (Madhur). Currently, the CMI has insufficient funding provisions. There are also lessons to be drawn from the EU experience in setting up multilateral institutions (e.g., Council of the European Union, European Commission and European Central Bank) to manage the funding provisions of the region.

Fourthly and most importantly, although convincing arguments show the suitability of economic preconditions for the development of a common currency in the region, the political prerequisite to build the conditions necessary for currency unification has not yet been addressed clearly (Bayoumi, Eichengreen and Mauro; Eichengreen and Bayoumi). Based on the EU experience, in-depth discussions on political integration need to be carried out hand in hand with monetary integration. Political cooperation in the East
Asian region is well established, but the voluntary basis of the cooperation seems inadequate to meet the necessary political precondition to set up currency unification.

**PERSPECTIVES ON EAST ASIAN MONETARY COOPERATION**

As stated in various articles and expressed by the respondents of this study, the three main factors that lie behind the failure of the AMF are: the strong opposition of the US and world financial institutions (e.g., the IMF); the lack of support from China; and the inadequate preparation (insufficient promotion time) in developing the funding and governance mechanisms of the AMF proposal. However, it is interesting to note that there are two important roles that the AMF proposal played in paving the way for recent developments in Asian financial cooperation (e.g., the CMI).

The first is that the AMF proposal has influenced and inspired Asian countries to take further political steps toward stronger financial cooperation in the region. It is wrong to argue that the AMF proposal had no role in providing a route map for establishing the CMI. The second is that the regional monetary institution put forward under the AMF proposal may still become the regional financial institution necessary to achieve effectiveness under the CMI arrangement. As most respondents point out, without the presence of a formal institution, the CMI mechanism (e.g. swap and repurchase arrangements) will likely not be effective enough to protect the region from massive global speculative attacks, leading to recurrent currency crises.

The monetary cooperation within the East Asian region has begun a new phase of development. There are notable serious efforts among the East Asian country leaders to work closely together on financial matters for the region as a whole. These include the expansion of swap and repurchase arrangements under the CMI to include Japan, South Korea and China; the establishment of surveillance process mechanisms; and the development of an Asian bond market.

According to most respondents, this is the main reason why East Asian monetary cooperation for the future Asia has such positive prospects. The success of the cooperation will largely be dependent on the seriousness of the main country players (e.g., Japan, China and ASEAN) to further strengthen the cooperation.

With regard to the huge amount of funds required to overcome the crisis of 1997-98, most respondents point out that the funding provisions under the CMI are still far from sufficient for crises prevention and management for the region due to the nature of the contagious effects of the recent crisis. Some respondents argue that the funding provisions of the CMI will not be effective enough to protect the region against the occurrence of financial crises in the future for at least two reasons.

Firstly, learning from the experience of EU financial cooperation, the necessary political will to establish an independent regional financial institution in the region is still lacking. Such an independent institution is important to monitor closely as well as to regulate cross-border transactions of short-term financial flows in the region. Without an agreement which politically binds each member country to seriously meet the rules set up by the independent institution, any funding provision will likely fail in the face of discretionary acts by member countries due to policies that lack credibility.

On the other hand, some respondents argue that the size of funding arrangements of the CMI is less important. The most crucial factor is the disbursement speed of such funds, so that the emergence of recurring currency crisis in an affected country can be prevented from spreading.

Secondly, the effectiveness of the CMI mechanism requires cooperation among the member countries to coordinate their exchange rate policies. So far, the move to adopt the exchange rate policy coordination is not feasible due to the wide difference in exchange rate regimes among member countries. These range from fixed (e.g., China and Hong Kong) and pegged systems (e.g., Malaysia and Singapore) to more flexible exchange rate policies (e.g., Indonesia, Japan, South Korea and Thailand).

As a consequence of the bank-dominated financial system and the lack of access to long-term sources for financing of corporate sectors of East Asia, this region is very likely to be vulnerable to macroeconomic...
disturbances. Considering this, the development of long-term sources of portfolio investments is at the core of tapping the savings surplus of the region, which has been invested mostly in long-term assets outside the region. In response to the Asian bond market development, most respondents point out, however, that the ongoing efforts are still in their infancy and far from reaching expectations. There is insufficient market infrastructure (e.g., insufficient rating standards) and major differences in regulations (e.g. taxation) dealing with bond market transactions in most countries.

For this reason, according to most respondents, efforts should be made to gradually harmonise the standards regulation of the bond market in each country. Instantly adopting an international standard for the Asian bond market may not be feasible in the short run, particularly in view of the major differences in the advancement of bond markets among the member countries. The realistic view should be to develop an “Asian standard” of regulation in the short run which may be below international standards at first but will gradually approach global standards in the long run.

To consider the ongoing effort of raising initial funds for government bond market development, most respondents state that the US$ 1 billion initial fund to develop the Asian bond market is too small compared to that of the funding size capitalised in the bond markets of the region. It is difficult to expect that such a small fund is likely to give strong support for further development of the bond market in the region.

DO WE NEED A COUNTRY LEADER FOR ASIAN MONETARY COOPERATION?

Looking at the EU experience in boosting monetary unification, it would be natural to ask whether effective Asian monetary cooperation, such as the CMI, is likely to be pursued in the absence of a country leader. It is fair to say that the most influential country in the EU region, Germany, has played a vital role in giving a boost to the development of the European monetary union.

The importance of Germany as the dominant country is not only in terms of its economic and financial advancement, but also in its strong political influence in binding the EU member countries to build consensus or political will necessary to establish the monetary union. Needless to say, the Deutschmark had long been the anchor for the exchange rate coordination of the European Monetary System (EMS).16

In the case of East Asian monetary cooperation, most respondents point out that there are two possible countries which can reasonably be expected to take leadership in strengthening cooperation: Japan and China. Even without being asked which country is the most suited for strengthening cooperation, respondents favoured Japan for two main reasons.

Firstly, as the largest country in terms of economic and financial advancement in the region, Japan is expected to have significant influence on member countries in the area of trade and industry as well as in encouraging them to adopt the necessary conditions needed to further monetary cooperation. Secondly, Japan, with its massive foreign reserves, has historically been the main creditor for other Asian countries. Therefore, it is natural for Japan to lead the move for East Asian monetary cooperation.

Notwithstanding any position in an Asian economic or financial grouping, this is the time for Japan to utilise its strong position on any reform of the global financial architecture to benefit the East Asian region as a whole. However, to take the leadership role, the country should in the first place be capable of recovering from its own long-term domestic economic sluggishness.

However, in light of Japan's incapacity to realise the AMF proposal in the face of objections from the US and the IMF, some respondents argue that Japan will never be capable of opposing the US in global economic and political issues. This is understandable as the Japanese economy depends largely on the US. It is in consideration of this that they propose China as the appropriate leader of East Asian monetary cooperation.

The 1990s saw rapid economic growth in China. As the most populous country in the world, China will be the dominant country of the region in terms of economic size in the near future. With less dependence on the US than Japan, the leadership position of China would politically be likely to benefit East Asia in any global political and/or economic negotiations.
However, the willingness of China to take a leadership role remains questionable for at least two reasons. Firstly, as optimum currency area (OCA) literature points out, the key economic cost resulting from the formation of currency unification is the loss of national monetary policy independence. In the case of China, this cost may be too large to be compensated by the uncertain benefits of the cooperation. This country is required to maintain high economic growth to overcome the high rate of unemployment as well as poverty due to its huge population. Secondly, weakness in financial institutions and the country’s probable unwillingness in liberalising its financial markets are also constraints against its assuming a leadership role.

**IS MONETARY UNIFICATION IN EAST ASIA FEASIBLE?**

The nature of the regional currency crises in the 1990s and the successful introduction of a single currency in the EU have led East Asian leaders and economists to study the feasibility of a common currency for the region. A number of academic papers and discussions have been produced in analysing the likelihood and desirability of an East Asian monetary union (see for instance, Chaipravat; Goto; Madhur; Mundell; Osotsapa; and Rajan among others).

Many studies have supported the development of currency unification in East Asia (e.g., Fabella; Goto; Madhur; Mundell). The conclusions of the studies, however, are based mainly on economic standpoints. Looking at the EU experience, if non-economic factors (particularly, socio-political issues) are considered, the region may still be far away from a feasible establishment of a single currency. Weak political will and consensus, vast differences in developmental achievements, and multilevel diversity in religion, government and ethnicity are very likely to hinder the unification of currencies (Fabella; Madhur; Osotsapa).

Considering the above issues, most respondents point out that the establishment of currency unification in the region should be placed as the long-term target of East Asian monetary cooperation. In fact, given the wide diversity in economic and socio-political conditions among East Asian countries, the development of currency unification is almost unlikely. The region may need an even longer period to establish a single currency than the EU had in establishing the euro.

Consequently, rather than focusing on currency unification, it is valuable for the East Asian region to turn its attention to further strengthening economic cooperation in the area of trade and industry. Meaningful efforts in the short run may be to carry out empirical endeavours in investigating a possibility of exchange rate policy coordination among the member countries which is crucial in paving the way for monetary union in the long run.

However, it is very likely that the political precondition for East Asian currency unification may differ from the “Euro-type currency union” in which the political factor played a leading role. Currency unification in East Asia is likely to be “market-induced currency unification” in which political consensus among the regional countries plays a lesser role as it is required only for rapid progress of in-depth trade and investments. If this is the case, then the East Asian currency unification can probably be achieved in the not too distant future in light of the rapid progress of East Asian economic integrations.

**CONCLUDING DISCUSSION**

Following the failure of the AMF, the establishment of the CMI has shown a new perspective on regional monetary cooperation in East Asia. Without questioning the effectiveness of the ongoing achievements of the CMI, this cooperation is a very important political step towards stronger monetary regionalism. Not only is it a means of crisis prevention, it is also crucial for building multilateral self-help (support) mechanisms for, and management of, economic/monetary problems of the region.

However, the funding provision under the CMI may still be far from sufficient as a crisis management and resolution mechanism for the region, as the recent crises have tended to have contagious effects. There are also no adequate frameworks to exchange viable information on short-term capital mobility in each country of the region. Under these circumstances, any regional effort to cope with more fragile capital flows in order to prevent and to quickly react to possible recurrent crises will very likely be ineffective. Therefore, an independent
surveillance unit to enhance the surveillance process mechanism of the region is crucial for better prospects of an East Asian monetary cooperation.

To tap the savings surplus that has mostly been invested in long-term assets outside the region, East Asian countries intend to develop an Asian bond market to provide regional long-term sources of portfolio investment. However, the challenge is to harmonise the major differences in market infrastructure in most countries of the region as well as to overcome the lack of experience in dealing with bond market operations. There are ongoing efforts to raise initial funds for this government bond market development, but the US$ 1 billion target is very small compared to the size of funds capitalised in bond markets of the region.

Given the suitability of the East Asian region for currency unification, this issue should be a long-term target of East Asian monetary cooperation. The wide diversity among the regional countries in terms of economic and developmental achievement and the lack of formal institutional infrastructure will be the main constraints for the region in terms of unifying their local currencies into one like the euro.

The absence of a country leader may also be another constraint. Although Japan and China appear to be possible candidates, the willingness of these countries remains questionable, besides issues of domestic economic problems as well as unresolved historical conflicts. These two countries require new perspectives on their bilateral cooperation which should be based on possible mutual economic benefits gained from the achievement of the long-term goals of the cooperation.

However, another difficult problem may arise if these two countries compete with one another for leadership of the East Asian monetary cooperation. Recently, the rapid progress of China in forming free trade negotiations with ASEAN member countries, as compared with Japan, is very likely to reflect competitive pressure between those two giant countries in the region.

Therefore, an alternative remedy may be for ASEAN as an institution to take a leading position for the cooperation. However, the precondition is that ASEAN should be able to move beyond its traditional emphasis on a voluntary basis for the cooperation. The major binding consensus within ASEAN members is in the establishment of AFTA. If ASEAN can proceed successfully with its schedule of establishing AFTA, there would be new hope in ASEAN as a stronger regional institution. For now, ASEAN should take on the important role of active initiator, as it did in drawing up the route map of establishing the CMI.

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Notes
1 The EAEC was basically a response to the emerging trade blocs in Europe and North America and was the means by which Japan was expected to be the economic focal point. This idea seemingly received enthusiastic support from Asian countries, including Japan. However, in the face of strong opposition from the US as this was perceived as undermining the Asia-Pacific Economic Caucus (APEC), Japan publicly opposed the idea (Dharma).

2 The names of respondents cannot be disclosed due to confidentiality.

3 The AMF proposal was delivered originally at the G7-IMF meeting in Hong Kong in September 1997.

4 In the case of Thailand, Japanese financial institutions lent the country about US$ 30 billion as
compared to the US, whose loans amounted to just about US$ 4 billion. Japanese firms have also been the largest investors in Thailand and the surplus of Japan’s international trade with Thailand make Japan vulnerable to any economic downturn in Thailand (Lipsy).

5 For instance, most funding bailouts for the Mexican crisis of 1994-95 came from the US. In the case of the East Asian crisis most funding bailouts were bilateral, of which most came from regional economies, e.g., about one-third of the US$ 34 billion Thai bailout commitment was from bilateral agreements with regional economies. A similar situation applied to Indonesia and South Korea (Chang and Rajan; Rajan).

6 At the seventh meeting of the ASEAN Central Bank Governors in August 2000, the ASEAN swap arrangement expanded to include the remaining original ASEAN 5 and other newer members (Brunei, Cambodia, Laos, Myanmar and Vietnam). The swap facility was also enlarged in November 2000, from the maximum of US$ 200 million when it was established in 1997 to US$ 1 billion. The ASEAN members facing temporary balance-of-payment problems were eligible to borrow US dollars, yen and euro against their domestic currency, effective operationally by mid-2001.

7 For instance, Japan has agreed to give Thailand a one-way bilateral swap arrangement of US$ 3 billion against its local currency; a similar arrangement has been made with Malaysia, the Philippines, and South Korea for a maximum amount of US$ 3.5 billion, US$ 3 billion, and US$ 7 billion, respectively. A number of swap agreements has also been under negotiation and are expected to be concluded in the near future (see Appendix).

8 Political endeavours for establishing a surveillance process can be traced to the ASEAN Finance Ministers’ Meeting in Jakarta in February 1998 which agreed to establish the ASEAN Surveillance Process. Furthermore, the coverage of the ASEAN Surveillance Process has since been expanded as the leaders of ASEAN countries invited Japan, South Korea and China to form the ASEAN+3 group in November 1999. The first peer review meeting under the ASEAN+3 Surveillance Process was carried out in May 2000, whose purpose was basically similar to that of the ASEAN Surveillance Process (Park; Rana).

9 The root cause of the Mexican financial crisis in the 1980s stemmed mainly from large outstanding government short-term debts, namely Tesabono, while the 1990s crises which affected Argentina, Mexico and Russia resulted specifically from fiscal indiscipline which was the mismatch of massive government debt instruments, namely sovereign bonds (Ito).

10 According to Sussangkarn, the current account surplus of the East Asian region is approximately US$ 100 billion each year, mostly invested outside the region largely in US dollars and euro denominated assets. The countries of the region running a deficit have to rely mostly on short-term risky borrowing, particularly bank-dominated loans. Hence, if such surplus could be channelled to the long-term domestic “Asian” bond, countries running a deficit need not rely primarily on short-term financing facilities (see also Batten and Kim; Chaipravat; Park; Rana; Rhee; Sussangkarn).

11 In view of the growing demand for the development of an Asian bond market, in December 2002 Japan presented a substantive proposal to strengthen bond markets in Asia, namely, the Asian Bond Market Initiative (ABMI). In June 2003, the 11 central bankers attending the Forum of the Executive Meeting of East Asia-Pacific (EMEAP) established the US$ 1 billion Asian Bond fund.

12 For similar findings refer to Bayoumi and Mauro; Goto and Hamada; and Kawai and Takagi.

13 Fabella points out that the main obstacle for a monetary union in East Asia is not only the wide diversity of economic achievements but also the multiplicity of religion, language, political system and the maturity level of the financial system (see also Chino).

14 Some also argue that to give up the AMF proposal so quickly in the face of US opposition reflects the unwillingness of Japan to defend the AMF. However, this is understandable as, economically and politically, Japan depends largely on the US. The US’s argument of
the possible increase in ethical problems resulting from the AMF mechanism may not be a strong enough reason for Japan to quickly give up on the AMF proposal. The realistic argument is probably that the AMF proposal excluded the US. Regardless of economic and financial capability, this is also the main reason why China is more desirable than Japan as a leader of the cooperation.

15 As Mundell points out, “the unification of Germany marking the end of the Cold War produced a sense of the urgency of monetary unification of Europe as a prelude to a deeper political integration” (p. 4).

16 For a theoretical explanation about the leadership role of Germany in the European monetary cooperation, the reader can refer to De Grauwe. Theoretically, the important point to note is that the leadership position of a country in regional monetary cooperation depends largely on its reputation in maintaining low domestic inflation. The change in leadership position is very likely to lead to great disturbance and even a downfall in such cooperation (De Grauwe).

17 The political reason behind this argument is simply based on the view that as China is the only country in Asia with veto rights in the United Nations Security Council, its leadership position is expected to be much more independent of the US or Europe than Japan is.

18 The issue of a common ASEAN currency had been introduced at the ASEAN Summit Meeting in Hanoi, known as the Hanoi Action Plan (Rana).

19 For detailed discussions on the feasibility of currency unification in the region, the reader can refer to Fabella; Madhur; and Osotsapa.
REFERENCES


Power, Purpose, Process, and Practice in Asia
The Work of the 2003/2004 API Fellows


### APPENDIX

**Table 1: Status of Swap Arrangements in ASEAN+3, 2001-2003 (in US$ billion)**

<table>
<thead>
<tr>
<th>Borrowers</th>
<th>Lenders</th>
<th>Number of Swap Arrangements</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Japan</strong></td>
<td><strong>China</strong></td>
</tr>
<tr>
<td><strong>Thailand</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amount</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Nature</td>
<td>One-way</td>
<td>One-way</td>
</tr>
<tr>
<td>Date of Agreement</td>
<td>30/7/01</td>
<td>6/12/01</td>
</tr>
<tr>
<td><strong>Malaysia</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amount</td>
<td>3.5</td>
<td>2</td>
</tr>
<tr>
<td>Nature</td>
<td>One-way</td>
<td>One-way</td>
</tr>
<tr>
<td>Date of Agreement</td>
<td>5/10/01</td>
<td>9/10/02</td>
</tr>
<tr>
<td><strong>Philippines</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amount</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Nature</td>
<td>One-way</td>
<td>One-way</td>
</tr>
<tr>
<td>Date of Agreement</td>
<td>27/8/01</td>
<td>Negotiation completed</td>
</tr>
<tr>
<td><strong>Indonesia</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amount</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Currency</td>
<td>US$-rupiah</td>
<td>?</td>
</tr>
<tr>
<td>Nature</td>
<td>One-way</td>
<td>One-way</td>
</tr>
<tr>
<td>Date of Agreement</td>
<td>17/2/03</td>
<td>?</td>
</tr>
<tr>
<td><strong>Vietnam</strong></td>
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**Note:** *Under the ASEAN swap arrangement, each member country facing balance of payment problems is eligible to borrow up to US$ 1 billion against its domestic currency.*

**Sources:** Chaipravat; Park
INTRODUCTION
The purpose of this paper is to review the Asian Development Bank’s (ADB) Policy on Involuntary Resettlement (subsequently referred to as Policy) and offer some recommendations for better resettlement implementation in future similar projects. It discusses the ADB’s involuntary resettlement policy and its implementation procedures, and highlights some of the past experiences of ADB-funded projects which induced involuntary resettlement. However, this paper is solely a personal view of the author and the same does not represent any of the official statements from any institution.

The first section of this paper presents an overview of the impacts of involuntary resettlement. The second section describes the ADB’s Policy and its implementation procedures. The third section examines the implementation processes that have been adopted in some of the ADB-financed projects involving involuntary resettlement, and presents an analysis of this. The final section provides an overview with some recommendations for effectiveness of implementation of resettlement activities in line with the objectives and principles of the Policy and concluding remarks based on the second and third sections.

The author of this report attended a workshop on the ADB’s Policy on 30 June 2004 during the Asian Public Intellectuals (API) Fellowship period (15 May-14 September 2004) at the ADB Headquarters, Manila, to discuss the compliance of the Policy during project implementation with the social development specialists of the ADB. The author also held regular discussions with the social development specialists from the operational departments of the ADB regarding the ADB’s implementation plan for projects with involuntary resettlement while reviewing the Policy and related ADB documents during his internship at the ADB.

In addition, the author visited project sites in Manila (June 2004) and India (August 2004) to interview the implementing agencies, affected persons (APs) and non-governmental organisations (NGOs).

The author has experience in involuntary resettlement projects and has gained insight into the donors’ (Japan Bank for International Cooperation (JBIC) and ADB) involuntary resettlement policy from his work in such projects in the Philippines, Malaysia, China, Vietnam, India, Bangladesh, Pakistan and Bhutan, working directly with APs and officials. This review of the ADB Policy has been conducted using the author’s knowledge and experience obtained by working directly in the field, and by using some of the above-mentioned projects as examples or case studies.

IMPACTS OF INVOLUNTARY RESETTLEMENT
Involuntary resettlement resulting from development projects has apparently been controversial for decades, yet such projects continue in a clearly recognisable form. Millions of people have been forced from their lands or have suffered from lost livelihoods as a result of development projects in developing countries; most of these people have suffered the devastating consequences of failed resettlement and no proper support from the authorities.¹

Involuntary resettlement involves people of all ages and gender, some of whom may be evicted against their
desire. In general, women and households headed by them are likely to suffer more than men because the compensation is often paid to the men. Households headed by women usually have fragile economic status, and women have limited access to many support services. Without significant help, people who are involuntarily resettled may become impoverished.

A recent World Bank study (Operations Evaluation Department) has concluded that the major problem in most of these developing countries is that there is no existing law such as an Involuntary Resettlement Act to protect the interests of the APs. In many past cases, the proper social dimensions have not been considered for the APs after their settlements were expropriated, their sources of income removed or substantially altered, and their social fabric unravelled.

This has resulted in many social problems such as the loss of the APs’ livelihood and the APs’ demonstrations in cities. Reports from the World Bank have consistently shown poor performance and compliance problems regarding the development policies of developing countries, problems that translate on the ground into impoverishment and degradation of the quality of life of the APs (Operations Evaluation Department).

Senior social policy advisor to the World Bank, Michael Cernea, who developed the Impoverishment Risk and Rehabilitation Model (IRR), notes that the APs are often those who have the least access to resources and are most likely to become impoverished if adequate social dimensions are not provided. Impoverishment can result from eight potential risks that deeply threaten sustainability of development: landlessness, joblessness, homelessness, marginalisation, food insecurity, increased morbidity and mortality, loss of access to common property resources, and social disarticulation (Cernea).

**ADB INVOLUNTARY RESETTLEMENT POLICY AND IMPLEMENTATION PROCEDURES**

**Background**

Until recently, development-induced resettlements of population were considered a ‘sacrifice’ that some people have to make for the larger good. Resettlement programmes in general were limited to statutory monetary compensation for land acquired for the project and, occasionally, development of a resettlement site. However, perceptions are changing because of delays in project implementation and benefits foregone; growing awareness about the potential adverse economic, social, and environmental consequences of population displacement; and increasing concern about people's welfare (ADB. ADB’s Policy).

Resettlement is viewed increasingly as a development issue. Policymakers, planners, and development practitioners have come to accept that inadequate attention to resettlement does not pay in the long run. Furthermore, costs of implementation problems caused by a lack of proper involuntary resettlement can far exceed the costs of proper resettlement. More, impoverished people are a drain on the national economy. Thus, avoiding or minimising resettlement, as well as proper rehabilitation of those being resettled, make good economic sense as well as being fair to those adversely affected.

The ADB started to change its stance and approach on involuntary resettlement as a development opportunity in the early 1990s. From this time onwards, the ADB not only placed emphasis on project quality and impact before and after implementation, but also focused on the APs’ livelihoods and their welfare. This approach is in tune with the twin objectives of poverty reduction and sustainable economic growth.

**Bank Policy**

With the ADB's fresh view on involuntary resettlement, it became evident that there was an absence of appropriate development measures and a legal framework for involuntary resettlement in developing countries. The measures and framework were needed to prevent severe long-term hardship and impoverishment that occurred to the APs after being resettled as a consequence of development projects.

As a result, in June 1991, the ADB established its own set of guidelines titled ‘Guidelines for Social Analysis of Development Projects’ to address resettlement issues in projects. The guidelines have since been superseded several times. In October 1993, the ‘Guidelines for Incorporation of Social Dimensions in Bank Operations’ came into being. In February 1994, ‘Staff Instructions
on Certain Policy/Administrative Issues—Involuntary Resettlement’ was issued by the ADB President to strengthen and highlight the importance of handling projects which involved involuntary resettlement. In November 1995, the ADB Board approved a formal ‘Policy on Involuntary Resettlement’ (Policy) to promote consistent improvements in ADB’s assistance to developing countries in this sensitive area.

Developing countries are required to comply with the Policy for project-induced resettlements which are funded by the ADB. By doing so, the hope is to avoid involuntary resettlement wherever feasible; and minimise resettlement where population displacement is unavoidable as well as ensure that displaced people receive assistance, preferably under the project, so that they would be at least as well-off as they would have been in the absence of the project (ADB).

With the new Policy adopted by the ADB, involuntary resettlement has become an important consideration in project identification. The three important elements of involuntary resettlement are: compensation for lost assets and loss of livelihood and income; assistance for relocation, including provision of relocation sites with appropriate facilities and services; and assistance for rehabilitation to achieve at least the same level of well-being with the project as without it. Some or all of these elements may be present in projects involving involuntary resettlement.

For any project that requires relocating people, resettlement should also be an integral part of project design and should be dealt with from the earliest stages of the project cycle, taking into account the following basic principles under the Policy (ADB):

1. Involuntary resettlement should be avoided where feasible.

2. Where population displacement is unavoidable, it should be minimised by exploring all viable project options.

3. If individuals or a community must lose their land, means of livelihood, social support systems, or way of life in order that a project might proceed, they should be compensated and assisted so that their economic and social future will generally be at least as favourable with the project as without it. Appropriate land, housing, infrastructure and other compensation, comparable to the “without project” situation, should be provided to the adversely affected population, including indigenous groups, ethnic minorities and pastoralists who may have usufruct or customary rights to the land or other resources taken for the project.

4. Any involuntary resettlement should, as far as possible, be conceived and executed as part of a development project or programme, and resettlement plans should be prepared with appropriate time-bound actions and budgets. Resettlers should be provided sufficient resources and opportunities to re-establish their homes and livelihoods as soon as possible.

5. The APs should be fully informed and closely consulted on resettlement and compensation options. Where adversely affected people are particularly vulnerable, resettlement and compensation decisions should be preceded by a social preparation phase to build up the capacity of the vulnerable people to deal with the issues.

6. Appropriate patterns of social organisation should be promoted, and existing social and cultural institutions of resettlers and their hosts should be supported and used to the greatest extent possible. Resettlers should be integrated economically and socially into host communities so that adverse impacts on host communities are minimised. One of the effective ways of achieving this integration may be by extending development benefits to host communities.

7. The absence of formal legal titles to land by some affected groups should not be a bar to compensation. The APs entitled to compensation and rehabilitation should be identified and recorded as early as possible, preferably at the project identification stage, in order to prevent an influx of illegal encroachers, squatters, and other non-residents who wish to take advantage of such benefits. Particular attention should be paid to the needs of the poorest APs, including those without
legal title to assets, female-headed households and other vulnerable groups such as indigenous peoples, and appropriate assistance provided to help them improve their status.

8. The full costs of resettlement and compensation, including the costs of social preparation and livelihood programmes as well as the incremental benefits over the “without project” situation, should be included in the presentation of project costs and benefits.

9. To better assure timely availability of required resources and to ensure compliance with involuntary resettlement procedures during implementation, eligible costs of resettlement and compensation may be considered for inclusion in bank loan financing for the project, if requested.

**Implementation Procedures for Project Induced Resettlement**

**Initial Social Assessment**

An initial social assessment (ISA) is required for the ADB for every development project in order to identify the people who may be beneficially and adversely affected by the project. The assessment is required to cover the stage of development of various subgroups, and their needs, demands, and absorptive capacity. It should also identify the institutions to be involved in the project and assess their capacities. The ISA should identify the key social dimensions aspects (such as involuntary resettlement, indigenous peoples, poverty reduction and women in development) that need to be addressed under the project. The ISA should be undertaken as early as possible in the project cycle and preferably by the time of fact finding for a project preparation technical assistance (ADB. ADB’s Policy).

**Resettlement Plan**

After the ISA, where involuntary resettlement is unavoidable, a detailed resettlement plan with time-bound actions specified and a budget for resettlement activities will be required by the ADB for further loan processing. The borrower from developing countries needs to prepare and submit to the ADB a resettlement plan consisting of a development strategy, compensation, resettlement, institutional organisation, consultation plan, grievance redressal mechanism, monitoring and evaluation and rehabilitation packages which generally improve or at least restore the social and economic base of those to be relocated.

Upon receiving the resettlement plan from the borrower, the Regional and Sustainable Development Department and the Safeguards Policy department will review it and approve it if the plan is within the requirement of the ADB’s Policy. A summary resettlement plan will be circulated at a Management Review Meeting and to the ADB Board for final approval (ADB. ADB’s Policy).

**REVIEW OF ADB-FINANCED PROJECTS IN LINE WITH ADB’S POLICY**

**Review of ADB-Financed Projects Before and After the Adoption of ADB’s Policy**

Before adopting the Policy in 1995, very few of the resettlement components in ADB-financed projects were carefully prepared. The completed hydropower project in Malaysia\(^3\) was an exception, as it was based on careful investigation, and social scientists familiar with the affected indigenous peoples were involved right from the beginning. Detailed investigation of involuntary resettlement was not a routine practice in the past, and there was no formal policy on how to address resettlement issues at various stages of the project cycle. As a result, significant problems and delays were encountered during the implementation of a number of projects, such as the port project\(^4\) and power corporation project\(^5\), both in the Philippines.

However, after adopting the new Policy in 1995, more recent ADB-financed projects indicate a positive change. The ongoing urban development project\(^6\) in the Philippines and the road development project\(^7\) in India incorporate detailed compensation, resettlement and rehabilitation provisions. Both projects involved cooperation with other agencies besides the government authorities, such as the non-governmental organisations (NGOs).

Considering that the resettlement and income restoration activities are still continuing in both projects, it is premature at this stage to determine the extent of the APs’ satisfaction on compensation and income restoration of livelihood. In other words, the degree of satisfaction might be different after the completion of the income restoration programmes as
well as the projects, since the projects are expected to contribute to reducing poverty in the short and long term.

After their resettlement, the APs in these projects were interviewed to assess their degree of satisfaction with the induced resettlement. The responses of those interviewed are summarised as follows. In terms of social infrastructure, the APs interviewed were satisfied with basic services such as electricity and water provided to them in the resettlement area. They found the overall physical characteristics to be better in the current settlement compared to the previous settlement. It seems that existing community and social support networks remained unchanged. In terms of resettlement activities, public consultation with the APs was carried out. Nevertheless, some of the APs were not happy with the compensation package.

The dissatisfaction of some APs was mainly attributed to undervaluation of their land and structures, and those without formal legal land titles not obtaining any compensation. These two significant matters are discussed in detail below, raising the issue of conflicting policies between ADB Policy and the developing countries’ policies.

**Undervaluation of Land and Structures**

According to the ADB’s Policy and in the Handbook on Resettlement, it is important to note that the ADB Policy covers all categories of APs and requires the borrowers to pay for all land and all other assets affected by the project as well as implement measures for income restoration. The ADB recognises that land compensation and resettlement policies vary widely among its borrower countries and that each has its own framework for land acquisition.

In most countries, this framework defines procedures for land expropriation and for compensation. However, it does not deal with the broader social and economic impacts of land acquisition and resettlement, including land replacement or land compensation paid at replacement costs, income restoration, relocation assistance and allowances, consultation and grievance redressal, and assistance to vulnerable groups.

However, when comparing these policies to those of the ADB, it is important to note that the ADB’s Policy emphasises the need for replacement costs for lost assets. This includes the need not just for compensation at replacement rates to restore lost assets, but also measures to restore living standards and livelihoods so that people are not disadvantaged by resettlement. In other words, the borrower countries should comply with the ADB’s Policy and compensate APs losing assets in replacement costs.

Nonetheless, the reality is that in most developing countries, there is no mechanism to evaluate the losing assets in replacement costs, or else, the rates used by the government officials are outdated and not in keeping with present replacement costs. In such cases, it is obvious that the borrower countries are not able to comply with the ADB’s requirements and this has resulted in complaints from the APs who claim that their assets were undervalued.

Borrower countries’ compensation policies in relation to structures also differ from the ADB Policy. Borrower countries will pay compensation based on adjusted average room sizes for different building types at different locations, exclusive of site development costs. Depreciation is also applied to the age of the structure and no compensation is paid to non-legal permanent or temporary structures. However, the ADB requirement is for full compensation for both permanent and temporary structures, whether legally erected or not.

**Informal Land Holders**

Borrower countries’ compensation policy with regards to holders and non-holders of land titles differs from the ADB Policy. According to the ADB Policy, the absence of formal legal titles to land by APs should not be a bar to compensation. However, in most of the developing countries, Land Acquisition Acts regulate ownership, sales and the compensation payable by the government when land is acquired. Compensation will only be given to the APs based on loss of land which is legally owned. Squatters and informal land holders are not entitled to receive any compensation according to most of the Land Acquisition Acts.
It is extremely difficult for developing countries to compensate informal land holders since it is not stipulated in any of their Acts or Regulations. Therefore, they cannot comply with the ADB’s Policy unless the governments are willing to institute new legislation or amend their Land Acquisition Acts.

Other Issues
The case studies involving involuntary resettlement have raised certain other issues and, whilst they do not specifically relate to the review of the ADB Policy, are significant points that relate to the ADB Policy in some way. These are discussed below.

Lack of Capacity Building in Handling Resettlement Issues and Understanding the Requirement of ADB’s Policy
Borrower countries usually have an insufficient number of experts for handling resettlement issues. In most of the projects, a resettlement unit will be formulated under the project to handle the resettlement and rehabilitation issues. However, if we look into the structure of the resettlement unit, the resettlement experts are basically the project managers in charge of the civil works of the project. In previous cases, the resettlement unit has not been an independent unit employed to handle the resettlement and rehabilitation issues. Instead, the same project managers have merely been given additional responsibility for resettlement activities.

This means that the project manager not only had to supervise the construction of civil works, but has to devote time to the preparation of resettlement activities. Moreover, most of these managers come from an engineering background with no knowledge or experience in handling issues related to sociology or anthropology and majority of them did not understand the requirements of the ADB’s Policy on involuntary resettlement.

Constraints of Capacity in ADB
The ADB has only five to six experts at the headquarters level who look after aspects relating to involuntary resettlement. However, no expert is deputed in the resident offices. In comparison, the World Bank has at least four full-time staff and four long-term consultants at its headquarters looking after involuntary resettlements. In addition, the World Bank has at least one staff member in each of its resident offices looking after resettlement issues. The World Bank has also hired long-term consultants to assist with specific assignments in this area.

According to the World Bank staff, a review of resettlement aspects at headquarters takes, on average, about four to five days for simple projects with well formulated resettlement plans. Staff indicated that it may take anywhere from two to three, or up to six to eight weeks of a staff specialist’s time to help prepare a resettlement plan in the field, depending on the nature of the project, the magnitude of resettlement involved, the capacities of the executing and implementing agencies, and the attitudes and developmental level of the APs.

Based on the above and taking into account the mix of projects in the existing portfolio and those to be included in the ADB’s future lending portfolio, it is reasonable to expect that at least one professional expert may need to be devoted in each operational department to adequately address involuntary resettlement aspects in projects being processed annually. One other expert would be needed at each resident office for the monitoring and administration of ongoing Bank-financed projects annually.

With improved planning and preparation, many of the delays in implementation normally encountered in such projects could be avoided. Overall, although overhead costs for the Bank are likely to increase in the short to medium term, the quality of such projects and their impacts is likely to improve as a result of devoting increased attention to involuntary resettlement.

CONCLUDING REMARKS
This study is useful as a means to draft some recommendations for overall implementation of the ADB Policy for both the ADB staff and borrower countries, therefore ultimately lessening the impact on the APs. The recommendations are discussed here.
1. Provide technical assistance to strengthen borrower countries’ legal framework for mitigation of involuntary resettlement caused by development projects.

In most of the developing countries, the Land Acquisition Act sets standards for payment of compensation for land and other immovable assets acquired for infrastructural projects. However, the Act does not deal with the broader social and economic impacts of land acquisition and resettlement, including land replacement and land compensation paid for replacement costs, income restoration, relocation assistance and allowances, consultation and grievance redressal, assistance to vulnerable groups such as squatters, female-headed households, the elderly and disabled and provision for resettlement sites and services.

There is no requirement for monitoring and evaluating the resettlement once the legally stipulated compensation is disbursed to the APs. Thus, land acquisition is always being viewed with concern and apprehension by the APs, because it potentially diminishes the productive base of farm families. It is also always associated with low and delayed compensation payments and often harassment from local revenue officials (Zaman).

**Recommendation:** In this context, the ADB should assist developing countries to institute new legislation or guidelines that lay down and regulate the eligibility and entitlements of the APs for developing projects with adequate compensation. These legislation or guidelines should be prepared in accordance with international standards and can be accommodated with the ADB or other donors’ policies on involuntary resettlement.

2. Assessment on finalisation of replacement cost of lost assets before loan approval.

Some developing countries do not have official mechanisms for valuing assets, or are using rates used by the government officials that are outdated and not in keeping with present replacement costs. As a result, compensation for losing assets is always less than market rates or the replacement cost. In such a case, it is obvious that the borrower countries are not able to comply with the ADB’s requirements.

**Recommendation:** To avoid devaluation of the APs’ assets, the replacement cost of losing assets payable to the APs should be finalised preferably before loan approval. For countries with no official mechanism for valuing assets, a qualified assets valuer or consultant should be deployed by ADB to carry out the assessment of lost assets caused by involuntary resettlement.

3. Strengthen the capacity building of the staff from borrower's government.

The ability to understand the ADB Policy and follow it in designing and implementing resettlement plans efficiently and effectively depend on the knowledge, skills and experience of the staff of the project implementation agencies.

**Recommendation:** The capacity of the developing countries’ governments to effectively plan and implement involuntary resettlement activities in line with the ADB’s Policy should be built upon and strengthened by ADB technical assistance.

4. Increase the capacity of ADB staff.

**Recommendation:** As discussed above, the capacity of resettlement specialists in the ADB both in headquarters and in resident offices should be strengthened to ensure adequate processing, monitoring and administration of ongoing Bank-financed projects.

5. Mobilise an experienced NGO in project induced involuntary resettlement.

Although it is not a requirement in the ADB Policy, the studies however revealed that involving an NGO in projects has provided satisfactory consultation, information dissemination, resolution of grievances, and the delivery of compensation to the APs. The strong involvement of the NGO in the resettlement process has also enabled the APs to learn more about their entitlements and enabled a level of trust, rapport and cooperation between the APs and project personnel on land acquisition and resettlement activities.
Notes


3 A US$40.4 million loan was approved in September 1981. The project relocated 3,600 Iban people in Sarawak, Malaysia.

4 A US$43.5 million loan was approved in December 1987. The project relocated 8,500 squatter families in the Philippines.

5 A US$50 million loan was approved in May 1993. The project relocated 233 family households.

6 A US$175 million loan was approved in 2000. The project relocated 10,000 squatter families. The author visited the site and interviewed the NGO and the APs in June 2004 during the API Fellowship period.

7 A US$240 million loan was approved in September 2001. The project relocated 3,151 family households.

8 The ADB’s definition of “replacement cost” is the value of assets to replace the loss at market price or its nearest equivalent plus any transaction costs—these latter items would include administrative charges, taxes, registration and titling fees. For structures, the replacement cost is the current fair market price of building materials and the required cost of labour without deductions for depreciation or for salvaged materials, plus transaction costs.

9 The ADB requires the compensation of all APs. These are defined as those who stand to lose as a consequence of the project, all or part of their physical or non-physical assets including homes, productive lands, commercial properties, tenancy and income-earning opportunities as well as community and natural or cultural resources.


11 The ADB provided technical assistance in response to request from the Sri Lankan Government to develop the National Policy on Involuntary Resettlement. The Policy was adopted by the Sri Lankan Government in May 2001.
REFERENCES


INTRODUCTION

Background
The Indonesian experience of rural development indicates some critical issues that need to be addressed such as declining community participation, community dependency, lack of community initiative, and issues of sustainability. Even though rural development has been placed as a critical stepping stone to national development, experiences from rural development reveal that, to the rural community, development means “programmes” or “projects” or “activities promoted and carried out by outsiders for the community”. This perception of development explains why development stops when the programme and the project are completed (Muktasam, Longitudinal Study; Muktasam, Microfinance).

Failures in rural development are not limited to the Indonesian experience, but are also experienced by other countries, such as has been discussed by Harrison et.al, Madeley, Hammer, and Egger. Their studies show that there are common factors for failures in rural development such as a top-down approach to development, lack of community participation, partial and disintegrative approach, neglecting local knowledge, lack of coordination, and investment illusion.

On the other hand, research has also found that effective and sustainable rural development was due to the ability to incorporate local values, knowledge and culture into the development process. By using traditional institutions such as the banjar and subak (found in Balinese villages), communities have not only developed their economy, but also their social and cultural lives.

Stories of rural development successes also highlight the significance of local knowledge, values and community participation. Attention to local knowledge and community participation has been popular in the last two decades, and are well expressed through publications as Putting People First: Sociological Variables in Rural Development (Cernea), Participatory Rural Development (Burkey), Farmer First (Oakley), Whose Reality Counts? Putting the First Last (Chambers), and Development from Below (Ife).

Pretty, and Roling & Van de Fliert highlight the critical role of learning in successful and sustainable development. Pretty, for example, states that “learning is the key to achieve success and sustainable development”. In line with this statement, learning from other countries’ experience through benchmarking is the main reason for this research project. Benchmarking is an ongoing search for best practices that produce superior performance. It is a discovery process and a learning experience (Camp).

Objectives of the Project
The main purpose of this project is to learn from best practices of rural development in Malaysia and Thailand. Several specific objectives are to investigate community participation strategies, types of rural institutions and their roles, the roles of government and non-governmental organisations (NGOs), the roles of microfinance institutions, rural development effectiveness and sustainability, and rural development in the age of globalisation.

Results of the study allow me to compare the best practices in rural development that lead to the identification of sound knowledge and practices of rural
development in the Asian context. The project aims to share this knowledge and practices, while contributing to rural development theories and practices.

**Approaches to the Study**

This study used social research methods, combining several techniques such as document analysis, in-depth interviews, field visits, observations, focus group discussions and seminars. Critical analysis of documents, development policies and programmes was done to identify issues and approaches to rural development. Online searches for journals and other publications were carried out to get more insights and explanations on facts and issues related to rural development.

In-depth interviews were conducted to get peoples’ perceptions, ideas, and comments on best practices and other related issues in rural development. The sources of data were farmers, village leaders, field agents, rural cooperative leaders, government and non-governmental agencies, and experts from universities and research and developmental agencies. Interview guidelines were designed and developed before the project was started.

The project was carried out from 1 November 2003 to 31 January 2004 (Malaysia) and from 25 February 2004 to 25 June 2004 (Thailand). Activities carried out were the identification of policies and programmes on rural development; the identification of success stories; the identification of key persons and agencies related to the success stories; the selection of and decisions on research locations, contact persons, agencies, and cases for further investigation; visits to agencies and meetings with key persons; and field visits and observations.

**Results**

Five best practices in rural development were identified in Malaysia and Thailand. Three best practices were in Malaysia and the other two, in Thailand. A brief summary of these findings is presented in the following sections.

**BEST PRACTICES IN RURAL DEVELOPMENT IN MALAYSIA**

**Amanah Ikhtiar Malaysia (AIM)**

The Amanah Ikhtiar Malaysia (AIM) is an NGO which was established on 17 September 1987. It is a microfinance institution (MFI) and a replication of the Grameen Bank aimed at reducing rural poverty in Malaysia. The philosophy of the AIM is to alleviate poverty through microcredit. The AIM helps to improve productivity and incomes of hard-core poor households through their involvement in self-reliant community development programmes. Participatory approaches taken by the AIM have been considered a best practice that has successfully empowered the poor (Idris). The AIM is “Malaysia’s dominant MFI” involved in Malaysian poverty eradication programmes (Conroy).

**Why AIM?**

Many studies have been carried out on the impact of the AIM on poverty alleviation. All proved that the AIM has played significant roles in poverty alleviation and rural development (AIM; Idris; Ismail; Kasim; Siwar and Quinones). On the basis of this success, the AIM has been seen as a success story of microfinance institutions in Malaysia (AIM; Conroy; Kasim; Siwar and Quinones) due to its economic impact (Talib et al.) and social impact (Idris et al.).

According to some other research, the AIM has not only succeeded in giving loans to the hard-core poor households, it has also improved their income and social status (AIM; Conroy; Ismail; Kasim; Siwar and Quinones). The success of the AIM is also reflected by the increasing number of the AIM’s clients (Figure 1).

**Characteristics of the AIM Programme**

The characteristics of the AIM programme are special emphasis on the poorest, especially women; simple and easy process of loan application and

![Figure 1: Number of Sahabat (Members) Served by the AIM](image-url)
disbursement; activities/projects selected by the members; working through groups; focus on discipline and better management; and executing a continuous social development programme and training (AIM). The main financial services of the AIM are loans that consist of Skim Pinjaman Ikhtiar Malaysia (general loan schemes), Skim Pinjaman Pendidikan (education loans), Skim Pinjaman Perumahan (housing loans), Skim Pinjaman Khas Ibu Tunggal (single parent loans), and Skim Pinjaman Khas Nelayan (fisheries loans).

Based on members’ activities, AIM loans were used mainly for trading (52 per cent), farming (22 per cent), livestock (11 per cent), fishing (4 per cent) and others (11 per cent) (AIM) (Figure 2).

AIM’s Working Principles and Operational Model
Four major working principles of the AIM that have led to its success are exclusive focus on the very poor, a specialised delivery system, rigorous practical staff training, and a supportive national policy framework. Figure 3 depicts the operational model of the AIM. At village level, the AIM works with groups (kumpulan), where every group has five members (sahabat’). Two to eight groups then form a centre (pusat) where group members get together for discussion, making decisions, getting loans, training, repaying loans, and meeting AIM field staff. The centre becomes the platform for AIM activities through which AIM staff and clients meet every week.

Figure 2: Proportion of Loans by Sector

Source of Funds
There are various sources of funds for the AIM, either from government or non-governmental agencies. These sources are the Malaysian Federal and State Governments, the Islamic Economic Development Foundation (YPEIM), the Asian and Pacific Development Centre (APDC), bank and financial institutions, the Credit Guarantee Corporation (CGC, in the form of soft loans), the Islamic Bank of Malaysia, and Government Technical Departments, for example the Malaysian Fisheries Development Institution. Funding from these agencies could be in the form of grants and/or soft loans.

The AIM also applies a service charge to every borrower, which goes to AIM funding. The AIM has also introduced compulsory saving since it was established and members' saving comprise less than two-thirds of loan portfolios (Siwar and Quinones).

Keys to the AIM’s Success
This study found several good points in the AIM’s practices, namely, the effective use and establishment of groups, the use of credit-plus approaches, the development of networking, strict stages in recruiting clients, effective supervision by AIM field staff, and an effective control mechanism for loan disbursement and repayment—groups and centres are involved in controlling the process.

Competition in Village Innovativeness
The Pertandingan Ilham Desa, a competition of village innovativeness, is the second best practice identified in Malaysia. This event is perceived as a best practice because it facilitates the identification of the best
technical and social innovations in communities, has significant impact on social change, facilitates community and organisational learning, and motivates and changes people’s attitudes.

**Evolution, Objectives and Process**

According to the Institute for Rural Advancement, a convention on Gerakan Desa Wawasan or GDW (village empowerment) was introduced in 1998, when a national meeting was held. Following this, a series of conventions was conducted at state or negeri level such as in Sabah, Sarawak and Pahang. In these early conventions, participants were mainly from government agencies and universities.

There were three major objectives of the conventions. One was to bring together policymakers and those involved in GDW, including grass-roots leaders, in a forum for better GDW. The conventions also aimed to inform facilitators of GDW and the local leaders about the implementation of GDW—through which participants could improve their GDW implementation. In addition, the fora aimed to allow participants to share and exchange experiences.

After two years, it was realised that the convention system had limitations. The convention was not very interesting and allowed only limited participation from the participants; specifically, only a limited number of villagers could be involved and could present their experiences. These challenged the government to think of another more interesting and useful approach to improve GDW implementation.

A new approach was introduced by the Ministry of Rural Development through what was called the Pertandingan ala Kumpulan Meningkat Mutu Kerja (KMK), a competition to improve the quality of group outputs. The KMK focused on searching for, implementing and institutionalising creative and innovative ideas of participating villages. The main objectives were:

- To allow more GDW villages to participate in the convention, leading to the identification of more kampung contoh (model village);
- To allow various approaches in or methods of involving GDW villages to sustain their efforts in coming up with more innovative and creative ideas, to showcase their successes, and market their products; and
- To bring together policymakers and those involved in GDW, including grass-roots leaders, in a forum for improved GDW implementation.

Several requirements and conditions have been introduced as guidelines for the participating villages:

- They should be implementing GDW;
- They should have potential projects for further development;
- Submitted projects should have been implemented for more than a year;
- Submitted projects could be individual or group efforts;
- Successful and selected villages should participate in KMK training carried out by INFRA;
- Villages that withdraw from the convention after attending KMK training will be put in the blacklist for the next year’s convention; and
- Presentations by villages should be on Powerpoint or other multimedia instruments.

Besides the presentation of village projects, at every convention the following events also take place:

- Dialogue session: grass-roots discussions;
- Forum session: issues and problems associated with community participation in village development;
- Motivational speech: successful leadership as a pre-condition for village development; and
- A display of village products and products by government agencies.

**The Jawatankuasa Kemajuan dan Keselamatan Kampung (JKKK).**

**What is the JKKK?**

The Village Development and Security Committee or Jawatankuasa Kemajuan dan Keselamatan Kampung (JKKK) is an organisation of grass-roots level committees. It was established to help rural communities attain a better life in line with the national vision. Members of the committee are appointed by the Chief Minister of each state based on recommendations from the respective State Legislative Assembly Members. The recommendations are then endorsed by the State Development Office and District Officer.
Why the JKKK?
The strategic role played by the JKKK in rural development has been demonstrated in all of the successful villages. This rural institution plays strategic roles in converging and diverging, as in synergising and redistributing rural development resources (Figure 4). As practised in successful villages, for example in Kanchong Darat and Kampung Endah (two successful villages visited for the study), the institution facilitates planning and implementation of rural development programmes.

**Figure 4: Operational Model of the JKKK in Rural Development**

![Operational Model of the JKKK in Rural Development](image)

**Members and Structure of the JKKK**
Members of the JKKK must meet certain criteria. They have to be 21 years or above, living in that particular village, have completed their education, have good personality traits, and no criminal records. The JKKK structure consists of a chairman, a secretary, and 13 ordinary members who make up several committees or sub-committees such as welfare, education, agriculture, industry and tourism, infrastructure and public amenities, youth, cultural and sports, and security.

Document analysis showed some variations in the JKKK structure, number of committees, members, and duties based on the villages’ needs and characteristics. For example, information from the Melaka State Government stated that the period of JKKK membership is two years, while in other villages such as Kanchong Darat village, the working period of the JKKK is five years.

**Operational Model of the JKKK**
Based on document analysis, in-depth interviews, observations and critical analysis on the successful stories of the successful villages, the JKKK uses the following form of operational model (two village headmen visited for the study proved this leadership model).

Several strategic roles of the JKKK in the rural development are planning, monitoring of rural development, facilitating community participation, convergence and direct divergence of rural development resources, funding mobilisation, decision-making process, helping development agencies, articulating the community’s aspiration, facilitating inter-village collaboration, getting messages across to the villages, and controlling roles.

**BEST PRACTICES IN RURAL DEVELOPMENT IN THAILAND**

**Approaches to Agricultural Development**
To Indonesians, Bangkok has been synonymous with ‘superior’ agricultural products, especially fruits. This study found several driving forces for Thailand’s success in agricultural and rural development that contribute to Thailand’s being the largest exporter of agricultural products, fresh and processed products, especially in Southeast Asia.

**Figure 5: Driving Forces and Key Stakeholders in Thai Agriculture**

![Driving Forces and Key Stakeholders in Thai Agriculture](image)
Figure 5 shows the driving forces and key stakeholders in Thai agriculture: the King of Thailand, Thailand's agribusiness companies, traders, farmers and government agencies. Their involvement has led to better, competitive and high quality products. Thai agribusiness companies and government agencies have served not only as suppliers of improved agricultural technologies (as they have R & D divisions and activities), but also provide extension services to farmers that have led to the improvement of farmers’ knowledge and skills.

These in turn led to farmers' success in developing their own innovations known as “the best products”. Reward and recognition given by the King have also reinforced and strengthened farmers’ motivation to do their best. According to most of the respondents, “international competition and demand” have been major driving forces for innovation development and invention.

**The Role of Agribusiness Companies through Contract Farming**

Agribusiness companies, whether bigger companies such as Charoen Pokaphand (CP) or smaller ones such as commodity traders, have contributed substantially to the success of Thailand’s agriculture, not only in their roles for generating technical innovations, but also in generating the nation’s income. Falvey, for example, stated: “The success of CP has provided Thailand with potential income and technology, which has inspired other business groups and some government policy (57)…”

Growers with contracts from agribusiness groups were considered better lending risks (Gronski), and more likely to access new technologies (Glover and Kusterer)(57).”

In-depth interviews with contract farmers at Ta Kraserm village (Khon Kaen province) proved that contract farming has been an effective approach to generate better income, access new technologies and ensure economic stability. Farmers in the area have been involved in contract farming (especially for seed production of pumpkin and maize) for about 14 years due to these social and economic benefits.

**The Role of the King through Research, Development and Extension**

The role of King Bhumibol Adulyadej in Thailand's rural development has been widely recognised. In 1969, the King visited a hill tribe village in Chiang Mai, a province in the north of Thailand, and learned that the hill tribe farmers could earn as much from producing peach as from opium. That started his Royal Project using his own funds (Hanpongpandh). However, the King’s concern for his people has been shown even in the early years of his reign, as indicated in the following statement:

The first project which directly emphasised rural development emerged in 1952, when His Majesty the King donated a number of bulldozers to the Naresuan Border Patrol Police Unit for construction of a road leading to Huai Mongkol Village... Prachuab Khiri Khan Province. This was to enable the villagers to commute easily and to transport their farm products for sale in the markets outside the village (Royal Project website).

As mentioned by all respondents of the study, the King’s role in Thailand’s rural development covers all areas, from agricultural production and product processing to environmental conservation and household industries. These roles have been well supported through his Royal Project activities that cover research and development, the running and building of industrial plants, agricultural extension and community services.

**Community Participation in Community Forestry**

Several key informants interviewed for this study pointed out the success of community participation in community forestry as one of the best practices in Thailand’s rural development. These include the Executive Director of The Regional Community Forestry Training Center or RECOFTC (Dr Somsak Sukwong), and the President of the Village Foundation (Dr Seri Phongphit). They said the success of community participation in community forestry has led to more effective and sustainable management of natural resources while providing better social and economic values to the local villagers. The following case is a success story of Thailand’s community forestry.

**The Bamboo Community Forest of Khao Rao Thien Thong Village, Chai Nat Province, Central Thailand**

The village covers about 7,800 rai, approximately 1,250 hectares of land. In 1963, there were only 10 households in the village and the surrounding forest was in good condition. In 1966, people from nearby communities started the community forest project with the help of Dr Seri. The project was supported by the Royal Project and the Department of National Parks. The community forest covers about 1,250 hectares and the villagers have been actively involved in its management. The forest provides a valuable source of income for the villagers through the sale of bamboo products and timber.
provinces migrated to the village and the forest was cleared for the cultivation of cassava and sugarcane, causing the forest to become depleted since then. By 1983, the population had increased, so the village was split into four, namely, Moo 13, 15, 18 and 19.

Most villagers are landless and earn additional income from off-farm activities. Agricultural activities comprise only 30 per cent of a household’s income while off-farm activities related to extracting resources from the bamboo forest—farmers collect bamboo shoots, bamboo, termite mushrooms and wild honey—make up 70 per cent of their income.

Of particular economic importance are the bamboo shoots and the mushrooms. The bamboo shoots are a well-known delicacy in Thailand and Southeast Asia. The product harvested from this forest is marketed to local people and other provinces as well as Bangkok. It is also preserved for year-round consumption. The mushroom, known as Hed Kone, is Thailand’s most expensive earth mushroom. At Chatuchak Market in Bangkok, the price of the Hed Kone can reach 500 baht/kg. It is abundant in Khao Rao Thien Thong and the villagers have identified five species.

In the last couple of years, the communities from these four villages started to convert the forest into a bamboo forest and manage it. Today, the bamboo forest is considered sustainable. How the community achieved this is interesting. The initiative actually came from three people from the village. They found that the forest was providing economic benefits to the local community. In consultation with the Rural Reconstruction Foundation, they established a group consisting of 27 members, and came up with some rules regarding forest conservation. This group put in place several activities such as fire protection and suppression, enrichment planting and setting village regulations in the harvesting of bamboo shoots and forest protection.

The use of group approach and self-empowerment have been considered critical factors in the success of the project. At Khao Rao Thien Thong, activities are divided into four groups: the community forest management group, bamboo shoot canning group, banana processing group, and women’s sewing group. In addition to economic benefits, the establishment of the community forest management group has promoted better community solidarity and awareness which are positive social impacts. It has also led to positive environmental impacts—the bamboo forest is sustainable, new clumps have grown, some believe that the activities have also improved mushroom production and increased soil organic matter, and forest fires have been reduced (are under control).

GENERAL DISCUSSION
Community Participation Strategies
All five best practices highlight the strategic roles of local community organisations in promoting local participation in development. In the areas of rural extension, rural development and rural microfinance, this study demonstrates that the government, NGOs and private business agencies made use of community groups or community-based institutions. Many types of groups exist in villages, for example youth groups, farmers’ groups, women’s groups and poverty groups.

In Malaysia, the key to the AIM’s success was effective use of such groups. Similarly, the JKKK and Pertandingan Ilham Desa and, in Thailand, community forestry also clearly reveal the use of community institutions to promote rural development. Rural institutions were strategic in facilitating community participation, especially in the decision-making process. Every development programme was discussed at the village level through community organisation meetings.

Types of Rural Community Institutions and their Roles in Rural Development
All successful villages in Malaysia have the JKKK, farmers’ groups, women’s groups, youth groups, and others. These traditional and modern institutions have played substantial roles in village development. For example, women farmers’ groups facilitate the extension process for the vegetable farmers, and have been used by field extension agents—either from the government or industries—to bring key messages across. Farmers’ groups have been successfully involved in contract farming, especially in poultry and prawn industries. The groups have also facilitated community learning, community participation in decision making, social activities, and community income-generating activities.
Roles of Government and NGOs

Government and non-governmental agencies play important roles in rural development. The success of some villages analysed for this study is due to some roles performed by government institutions such as INFRA. The success of the AIM as an NGO in the field of rural microfinance in Malaysia and CP Agribusiness Company in Thailand highlight the strategic role played by NGOs in supporting rural development. Document analysis found that in Thailand, some NGOs are working with grass-roots organisations, especially in protesting development projects that have had negative impacts on rural life.

Rural Development Effectiveness and Sustainability

The success stories of successful villages in Malaysia demonstrate their ability to maintain their success in rural development sustainability. Kampung Endah of Selangor, for example, has several substantial sources of income that have been allocated and used for village development. These sources are a palm plantation managed by the JKKK, wakaf (donated) land in the form of an oil palm plantation, and a supporting budget from the government—prizes received during the village championship had been invested for productive purposes such as in the plantation. Moreover, Kampung Endah has been the winner of the village competition since 1971, and became a kampung contoh (a model village) that is continually visited by outsiders.

However, best practices of rural development in Thailand also demonstrate contradictions. According to one expert, success in agricultural development has also brought as a social issue some risks in the use of chemicals, and raised issues of sustainability (Dilokvidhyarat). The emergence of local people's movements has resulted from some development programmes promoted by the Thai government which have had destructive or negative impacts. The construction of the Pak Mun dam along the Mekong River is one case in point.

Rural Development in the Age of Globalisation

Villages in Malaysia and Thailand have played their international roles long before the term 'globalisation' came into popular usage. In Malaysia for instance, villagers have been employing labourers from Indonesia to work in palm plantations and vegetable farms for a long time. A long history of exporting rice in Thailand also demonstrates how globalisation has had a significant impact on rural life in the country. The success story of agribusiness led by CP in the poultry and aquaculture industries is another example of direct relation between globalisation and rural development in Thailand.

CONCLUSIONS AND LESSONS LEARNED

On the basis of their effects on rural development, this study found five best practices of rural development: three in Malaysia and two in Thailand. The three best practices in Malaysia are: the AIM and its role in poverty alleviation; the competition in village innovativeness; and the JKKK’s work in rural development.

The AIM has been an effective microfinance institution in helping the disadvantaged hard-core rural poor improve their income. The competition in village innovativeness is a novel approach to help accelerate rural development. This approach has facilitated widespread learning for rural development best practices, not only for those who are involved directly with rural development, but also for other stakeholders. The JKKK has played a strategic role in Malaysian rural development. It has been a strong rural institution where rural people could participate in their development. The institution facilitates the planning, decision making, mobilising of rural resources, and management of rural development.

The two best practices found in Thailand are the creative approaches used to generate agricultural innovations and the participation of the community in community forestry development. The creative approaches used in generating agricultural innovations have led to Thailand's success in agricultural development and its becoming the largest agricultural exporter in Asia, especially in rice, poultry and black tiger prawns. The involvement of the community in community forest development has led to better forest management and socio-economic performance of rural communities.

These five best practices could be considered a 'learning resource' by some other Asian countries such as Indonesia to promote more effective rural development. In particular, there is a need to learn about the effective
roles played by all stakeholders such as rural community organisations, the government, NGOs and the private sector.

Notes

1 Even though “best practices” have been perceived differently by different people, best practices in this study were determined based on at least three approaches, namely: document analysis—which refers to the use of terms such as “success stories”, “successful cases” and “the best practices”; experts and rural peoples’ perceptions—perception questions asked of the key informants of the study such as “Could you mention three best practices of rural development in this country?” and “Why do you perceive these as best practices?”; and the researcher’s frame of reference—which refers to the researcher’s knowledge and experience on “bad practices” of rural development. “Best practices” do not necessarily mean “best” in all aspects of the practice such as technical, social, economic, and environmental impacts. Amanah Ikhtiar Malaysia has been considered a “best practice” in Malaysian rural development because of its success in reducing poverty regardless of its viability and sustainability.

2 The term used for the AIM group members to reflect a very non-formal and close relation (N. H. Idris).

3 Of course there are many ineffective JKKK, especially at the less successful villages such as those highlighted by Rijini Ramlan through his article “Memperkasa JKKK sebagai penggerak daya wawasan” in Berita Harian, 23 July 2003. To some people, the JKKK is also seen more as a political instrument; however, the role of this rural institution in converging development resources is critical to the success of rural development in Malaysia.

4 This text is derived from the paper “Success Story of Bamboo Forest Management” by Dr. Somsak Sukwong, Executive Director of RECOFTC.

5 The bamboo is a wild native species, *Thyrsostachys siamensis*.

6 The *Hed Kone* (Termitomyces spp.) is commonly found in bamboo forests. This mushroom is a worldwide genus and is associated with termite mounds or termite underground nests. It is always found in the same location and more or less at the same time of the year. It has a fragrant smell and is used to make soup. Because of its highly specialised association with different termite species, artificial cultivation has not been attempted. At Khao Rao Thien Thong, five species of *Hed Kone* associated with different kinds of termites have been identified by local people.
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INTRODUCTION

Orang Asli: The Indigenous Minority in Peninsular Malaysia

Public discourse in Malaysia concerning Orang Asli is a discourse about an ‘other’ community with such attributes as being backward socially and economically, having no progress, low education, the poorest among the poor, and that they are animists or pagans. In these discourses, the Orang Asli is seen as the object of help and compassion. It is headline news in the mass media when some individual Orang Asli succeeds in attaining higher education, or a group of Orang Asli converts to Islam, etc. Briefly, the Orang Asli is seen as the object or target of external dominion in the public discourse.

Who are the Orang Asli? The Orang Asli constitute the indigenous minority in Peninsular Malaysia (West Malaysia). The term ‘Orang Asli’, however, is a new name given in 1960 to different indigenous groups in the Peninsula.\(^1\) Although categorised by one single term, each group has its own way of life, cultural items, history, and language. Each group also feels that it is different from the others. The term ‘Orang Asli’ is a collective name that refers to 18 different ethnic groups that are officially categorised, for administrative reasons, under three main categories, namely, Negrito, Senoi and Aboriginal Malay (Table 1).

They are a minority because, with a population of 147,539 in 2003, they make up just 0.6 per cent of the national population. They are indigenous since the people are the original inhabitants of Peninsular Malaysia. The Orang Asli has lived in this country before the arrival of other groups: the Malays, the Chinese, and the Indians. In this sense, the Orang Asli people are certainly the original inhabitants of Malaysia.

<table>
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<th>Proto-Malay/Aboriginal Malay</th>
<th>Negrito</th>
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<td>2.71</td>
<td>100</td>
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</tbody>
</table>

Source: JHEOA.

Historical Description

The Orang Asli played an important role in the trade of forest products. It is believed that prior to the 16\(^{th}\) century, the trade in forest produce was small and based on barter exchange (Dunn). Following the growth of Malacca as the major trading port in the 15\(^{th}\) century, the increased demand for “exotic” products from the East probably brought further integration of the interior Orang Asli into the international forest produce trade. A wide range of “local produce” was traded. Other non-timber produce collected by the Orang Asli included bamboo, nipah, aloewood, pepper, ginger, forest fruits, and bees’ wax (Dunn).
The Orang Asli also played an important political role as the first people to inhabit this Peninsula in early civilisations, long before British colonial rule (Andaya and Andaya; Edo). Many historical notes also mention the participation of groups of Orang Asli in the political and economic structure of old Malaya. Parameswara, the founder of Melaka, tightened his link with the Orang Laut's devotion to the Malay rulers of Malacca and this was an important factor in the kingdom's prosperity. In fact, Hang Tuah, the most famous hero in Malay folklore, was himself of Orang Laut background.

In Rembau (Negri Sembilan) there was a curious anomaly of an Orang Asli (Temuan) chief reigning over a population of Malays. The Orang Asli people in Melaka also had political control over their territories. In addition, there are accounts of how Jakuns and Biduanda came to be Penghulu and Chiefs in Malacca with titles such as Lelah Maharajah and Setia Rajah. In Naning (part of Melaka), four Orang Asli tribes had held dominion over this territory since the early Portuguese times. In Johor, the Sultan went to an Orang Asli village at Ulu Bernam and married Puteri Mayang Selida and took her to Johor; they had four sons.

In Pahang also, oral tradition has it that the Orang Asli in this area had a similar status as those in Melaka and Negeri Sembilan where the Tok Batin (Orang Asli chief) had the same standing as a Ruler or Raja of the Orang Asli. The northern Orang Asli groups considered themselves the original inhabitants and independent of the Malay Rajahs. Thus, the Orang Asli people were not always impoverished and dependent (Nicolas 69–76).

The Constitution and Laws Related to the Orang Asli

The Malaysian Constitution of 1957 categorises three different groups of people, i.e. “Aborigine”, which refers to an aborigine of the Malay Peninsula (Orang Asli), “Malay” for a person who professes the religion of Islam, habitually speaks the Malay language and conforms to Malay custom (Article 160), and “native” for the indigenous people in Sabah and Sarawak (Article 161a). In this Constitution, there is no other definition for Orang Asli, while the definition for the natives is clearly explained.

Specifically, the “Malays” and the “natives” have special rights and protection (Articles 153 and 161 A). For example, Article 153 (1) states that “it shall be the responsibility of the Yang di-Pertuan Agong to safeguard the special position of the Malays and natives of any of the States of Sabah and Sarawak and the legitimate interests of other communities in accordance with the provisions of this Article.” The Yang di-Pertuan Agong is the elected “Supreme Head of the Federation” (Article 32), and usually holds office for a term of five years.

However, there is a ‘special law’ for Orang Asli. The Aboriginal Peoples Act 134 of 1954 (amended in 1974) is the legislation that directly and completely governs the Orang Asli. According to this Act, an Orang Asli is legally defined as:

1. Any person whose male parent is or was a member of an aboriginal ethnic group, who speaks an aboriginal language and habitually follows an aboriginal way of life and aboriginal customs and belief (this category also includes a descendant through males of such persons).

2. Any person of any race adopted during infancy by aborigines, who has been brought up as an aborigine, habitually speaks an aboriginal language and habitually follows an aboriginal way of life and aboriginal customs and belief, and is a member of an aboriginal community.

3. The child of any union between an aboriginal female and male of another race, provided that such a child habitually speaks an aboriginal language and habitually follows an aboriginal way of life and customs and belief, and remains a member of an aboriginal community.

On 13 October 1939, an enactment to protect indigenous groups in the state of Perak, The Aboriginal Tribes Enactment 1939, was published in the official gazette of the Federation of Malay States and in the official gazettes of Perak, Selangor, Negeri Sembilan and Pahang states (No. 22, vol. XXXI, Notification No. 4967).
According to Rachagan, this enactment was paternalistic in nature and was a part of the colonial control mechanism to form a “protected guardianship” toward Orang Asli to continue their way of life in reserved lands and special aboriginal areas. Administration of the Orang Asli was then handed over to a wali (guardian) and an assistant of the wali who had responsibility to the Resident and the Raja (King) in the State Council.

In 1954, a new ordinance was issued (Aboriginal People's Ordinance, No. 3/1954). This new ordinance came about due to the influence of the Emergency period, i.e. a time of communist insurgency which began in 1948. The communist insurgents were forced to operate from areas deep in the jungles, where they sought the help of the Orang Asli. Some Orang Asli groups were known to provide food, labour and intelligence to the insurgents. The Ordinance aimed to protect the Orang Asli from infiltration of the insurgents. However, this ordinance recognised that Orang Asli affairs should be controlled by the states (part 4 of The Ordinance).

In 1957, soon after the independence of Malaya, administration regarding the Orang Asli came under the Federal State's purview (list 9, federal list number 16). Since 1957, the ordinance has been amended three times (legal note 332/1958, No. 16/1967, and No. 134/1974).

Current Situation
The Orang Asli as a social group has been changing to adapt to both their internal and external environments. This change has been closely linked with development. It is generally accepted that there has been marked improvements in education, health and village facilities for the Orang Asli. The role of the government in improving the living conditions of the Orang Asli is the main factor in this improvement.

Now, some Orang Asli have engaged in higher education, become businessmen and attained social status similar to their fellow citizens from other dominant ethnic groups. However, the number is too low relative to the total population of Orang Asli. Many of them still live in very poor conditions.

In addition, as mentioned by Nicholas, ever since the five-year Malaysia Plans were implemented, the Orang Asli never failed to be listed among the most impoverished of Malaysians. Regrettably, recent statistics still indicate that the Orang Asli continues to be impoverished.

Today, the greatest threats faced by the Orang Asli are the loss of their cultural identity and dispossession of their traditional homelands. The uncertain status of their homelands, the basis for their economy and cultural identity, has significant implications on their progress. The Orang Asli are guaranteed no rights whatsoever to their lands under the Aboriginal Peoples Act (Nicholas 168; Bah Tony).

As Hood Salleh pointed out, there are two theoretical views among social scientists and the public community in Malaysia with regard to the Orang Asli. The first sees Orang Asli as Malays. The second sees Orang Asli as people who have their own needs on which development should be based rather than on assumptions made by outsiders; for example, land tenure security is one of their basic needs.

These two views have implications on the development of the Orang Asli. As perceived by some researchers, their development is currently based more on what the government assumes the Orang Asli need rather than what the Orang Asli do need. The development thrust does not address the main problems of the people and, in many cases, has caused the loss of Orang Asli land.

THE ORANG TEMUAN
This paper is a case study of the Orang Temuan, one of 18 ethnic groups classified as Orang Asli in Peninsular Malaysia. They are one of the ethnic groups categorised under the Proto-Malay. Other groups included in this sub-group are the Jakun, Semelai, Kanaq, Temoq, Orang Kuala and Orang Seletar. The Temuan are described by Carey as a large tribe of Proto-Malays, most of whom are found in Selangor and Negeri Sembilan. However, there are also fairly large groups of Temuan living in Pahang, Malacca and Johor, and this wide geographical distribution is a special characteristic of the Temuan.
Settlement Areas
All of the indigenous people who live in the Hulu Langat district are Temuan. They live in nine villages which are separate from one another and surrounded by the dominant Malay villages, rather like small islands surrounded by populations of the dominant group (Table 2). The settlements are mostly located in the mountainous forest fringe along the side of the Semenyih-Jelebu Highway (this road connects the Selangor and Negri Sembilan states) and is a part of the hutan simpan (forest reserve). This area is located not far from Kuala Lumpur, only around 60 kilometres east of the capital city.

Table 2: Temuan Villages in the Hulu Langat District, Selangor

<table>
<thead>
<tr>
<th>Name of Village</th>
<th>Name of Batin</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kuala Pangsun</td>
<td>Manja b. Abdulah</td>
<td>351</td>
</tr>
<tr>
<td>Sungai Lalang</td>
<td>Barin b. Udah</td>
<td>152</td>
</tr>
<tr>
<td>Broga</td>
<td>Aleh b. Abdulah</td>
<td>325</td>
</tr>
<tr>
<td>Donglai Baru</td>
<td>Mohd. Iban b. Suri</td>
<td>149</td>
</tr>
<tr>
<td>Genting Peras/Tanjung Rambai</td>
<td>Umbo b. Basoh</td>
<td>112</td>
</tr>
<tr>
<td>Gabai</td>
<td>Halim b. Taman</td>
<td>87</td>
</tr>
<tr>
<td>Padang</td>
<td>Anjang b. A. Judin</td>
<td>73</td>
</tr>
<tr>
<td>Paya Lebar</td>
<td>Ipang b. Bintang</td>
<td>117</td>
</tr>
<tr>
<td>Kachau</td>
<td>Kilong b. Aman</td>
<td>131</td>
</tr>
</tbody>
</table>

Note: The population data, as of 2002/2003, indicates the number of people in each village.
Source: JHEOA Hulu Langat.

Not all of these villages are sited on original homeland. The Temuan of the Donglai Baru village, for example, originally lived at Kuala Pangsun. Their original homeland has been turned into the Kuala Pangsun dam. Meanwhile, the original homeland of the Temuan of the Sungai Lalang village is now the site of the Semenyih dam.

When going along the Semenyih-Jelebu highway, we can see the Temuan passing by on motorcycles, usually without helmets, or engaged in selling durians, petai (Parkia speciosa) and other forest products. Since their settlement is located to the right and left of the main road, they use the road almost every day for their daily matters. This road is also the only road that connects them to the nearest towns (Kajang, Semenyih, Pekan Batu 14 and Pekan Batu 18). Other than living in a village settlement, some of them have built houses outside of the villages, along the side of the main road.

History of the People
The most complete history of the Temuan can be found in Baharon’s dissertation. However, the history of the people in Hulu Langat (Genting Peras) differs a little bit. What is the same is that the people came from Sumatra, made the journey across the Straits of Melaka and explored “Malaya Island”, opening forested land, building settlements, carrying out swidden agriculture, and then moving again into the interior of “Malaya Island”, breaking up into many villages. The historical account obtained through my interviews/field data is as follows:

. . . the origin is Pagaruyung (a place in West Sumatra); with a raft made from banana trunks, the ancestors sailed to Malaya. In the beginning they stayed in the seashore area, in the area of what is now Negeri Sembilan; after that, they moved to another place in the north of Negeri Sembilan (now Kuala Lumpur), then when the sea level rose and the area was under water, they moved to and stayed at Mount Menuang. When the sea level went back to normal, they moved again to Kuala Lumpur and then to Mengkuang Kajang (now Kajang Town), then opened new areas in Dusun Tua at Hulu Langat, Sungai Jerang and Dusun Sikin. From Sikin, the members of this group spread out like branches of a tree, some of them to places like Gabai, Paya Lebar, Tanjung Helang (near the Semenyih dam), and some of them to Pangsun, Congkak, Parit Gong, Cenah and some places in Negeri Sembilan . . .

The leader in this journey who became a legendary figure for the Temuan was Enggoi or Le Nggoi. His grandson, Batin Pah Galang, was another legendary leader. He was born in this new place (Malaya). The story of Batin Pah Galang is familiar not only to Orang Asli in this area but is also well known among Temuan in other places in Negeri Sembilan. Batin Pah Galang, as believed by the people, also gave names to some places like Gabai, Paya Lebar, Tanjung Helang (near the Semenyih dam), and some of them to Pangsun, Congkak, Parit Gong, Cenah and some places in Negeri Sembilan. . .

The Work of the 2003/2004 API Fellows
One informant said, “In the past the British government called us Orang Sakai and not Temuan or Orang Asli. However, the Temuan’s territory was formally acknowledged by the British colonial government; after the British left, the Malays ruled.”

Officially, the Tanjung Rambai village is called the Genting Peras village (Kampung Genting Peras). However, to the Temuan, Tanjung Rambai is the correct name and the people refer to Genting Peras as a place near the village which is at the border of the Negeri Sembilan and Selangor states.

The Tanjung Rambai village is quite a new village built by the people from the Paya Lebar village located around seven kilometres downstream of the current village. There are several reasons why they moved to this new place. Some said that there was internal conflict between the elders, and so one of the elders, Batin Basoh, made a decision to move to another place with some of his followers. Another reason was that Batin Basoh’s followers felt that the old village was too close to the neighbouring Malay villages. Yet another reason was that they felt their previous village was not suitable anymore for habitation, because of flooding from the Lui River.

They then moved from Paya Lebar village in 1987 and built settlements near the Semenyih-Jelebu Highway. After staying in this new place for not more than a year, they felt that they were residing too close to the road and thus it was unsafe for their children since there were many cars on the road. This place also did not have enough water supply for their daily needs. Some returned to Paya Lebar village while four families moved further down the hill and built houses along the road in what is now called Kampung Ongkel.

In 1988, many of them opened up another place about a kilometre from the main road and built a new settlement there. It was only in 1990 that the government helped them to build houses and other facilities in that area. This new settlement was named Kampung Tanjung Rambai.

In the Tanjung Rambai village, there are 15 families (with a total population of 85 people) living in 13 houses. All of these people have relatives in the Paya Lebar village. The Paya Lebar village and Tanjung Rambai village look like one village in terms of social interaction, although physically the two settlements are about seven kilometres apart. Almost everyone owns a motorcycle, which is the main mode of transportation for them to visit each other.

INCOME DEPENDENCY ON LAND AND NATURAL RESOURCES: FACING UNCERTAIN CONDITIONS

Basic Economy

Land resources are the main sources of survival for the Orang Asli in the Hulu Langat area. Land resources are not only important for their daily income, these also provide for some basic needs like game and many other foods for protein, and plants for medicine and jampi (incantation). The people maintain relationships with natural resources like the forest and its products, the river, the kebun and dusun. Mountainous areas, hills, and big trees inside the forest are believed to be places of the Moyang Keramat (holy spirits) from whom they ask for help, protection, healing, and other spiritual matters.

There is no doubt the land resources are their “soul” as expressed by one of the people: “Memang betul, hutan, gunung, bukit-bukit itu hidup kita, tempat kita cari makan, cari apa haja buat ubat. Kalaulah dirosak hutan itu, habislah kita” [It’s correct that forested areas, mountainous areas, and hilly areas are the basic resources for our life, a place where we look for food, a place where we find medicinal materials. If the forest is destroyed then we will be finished].

Basically, the land resources of the Temuan in this area can be categorised into three different types of ecosystems: the kebun, the dusun and the forested area. The kebun is a garden area located around the village where the people practise horticulture. On this piece of land they grow rubber, a variety of fruit trees such as durians, nangka (jackfruit), cempedak (similar to jackfruit), many species of banana and many types of vegetables such as rimbang (a type of eggplant) and chilli. These provide a source for their daily income.
Each family tends one or two gardens, where one *kebun* is not more than a hectare in size. Traditionally, the *kebun* is the private property of each family and other families have no right to use the *kebun* without the permission of the owner.

The *kebun* were established by the people when they decided to live in this new area 16 years ago. They established the *kebun* by clearing (slash and burn process) the forested area of big trees, other wild plants and bushes. At that time, the leader (Batin Tuha) took the lead in this forest clearing and allocated the land to all the families. It was common that anyone in the group could give the right to manage the *kebun* to other members based on an agreement. Since they get daily income mostly from this horticulture activity, the people spend almost all their time in the garden.

The second ecosystem that is their land resource is the *dusun* or old orchard. Most of the fruit trees in this area are old trees which were planted by the earlier settlers and maintained by subsequent generations of descendants. Most of the *dusun* are located inside the forested areas and some of them are on the left and right sides of the Semenyih-Jelebu Highway. The *dusun* located inside the forested areas are quite a distance from the village and can only be accessed by foot. For instance, the *Dusun* Gengop (belonging to the Wak Embong family) and Hirai (belonging to the Anau family), located in the hilly forest next to the Semenyih Dam, is a distance of around 15 kilometres from the Tanjung Rambai village.

The third ecosystem that is their land resource is forested land in the area located mainly in the mountainous areas and which is legally called the Hulu Langat Forest Reserve. Besides horticulture, the people also collect forest products to earn income. The forest is also the main source of game for their protein. The area from which they collect forest products is wide, stretching from the forested area in Titi (Negeri Sembilan), southeast of their village, to Cheras (Selangor) in the southwest. In collecting forest products, the people use motorcycles as the major means of transportation.4

The daily activities of the Temuan of Tanjung Rambi—men, women and teenagers—are related to the three ecosystems, to generate sources for their daily income and to meet their subsistence needs. In the morning, they usually leave their homes to visit their *kebun*, forest or *dusun* in the fruit season to collect everything that can be sold to earn money. In the afternoon, they head back home to take a rest or pack the products, and sometimes go back to the forest again if needed.

Their commodities are not only sold directly to markets in the nearest towns (Kajang, Batu 14 or Batu 18) but also to the middlemen who come daily to their village. There are two types of middlemen who manage the economic relations of the people. There are the regular middlemen, who come to the village periodically, and the occasional middlemen, who visit only when they need to. There are many occasional middlemen who come to the village and ask the people to collect products such as *buluh padi* (a type of bamboo), *gaharu* (agarwood), rattan and even *batu sungai* (river stones for aquariums). Most of these middlemen are Chinese from Kajang (a town located 30 kilometres from the village) and from Kuala Lumpur.

During my period of fieldwork, there were two regular middlemen who maintained economic relations with the people. One of them was a Malay middleman who came to the village daily to buy many types of vegetables collected by the people. Another one was a Chinese middleman who only took certain commodities such as some types of banana, honey, and some fruits, mainly durians and *cempedak* during the fruit season. The Chinese middleman visited the village three times a week.

The relationship between the regular middlemen and the people of Tanjung Rambai was a mutual economic relationship. They built a relationship based on mutual trust and the Chinese middlemen were even allowed by the people to plant bananas in their gardens on a profit-sharing basis. The Malay middleman also sometimes took the commodities first and paid only a day or two later. However, the people
complained that the price of their commodities had not increased since 2002. On the other hand, the price of goods such as rice, tobacco, cooking oil, and other goods which they consumed daily had increased significantly.

**Fruiting Season**

The fruiting season is the most awaited time for the people in this area. Earning money during this time is easier compared to other times in the year. During this season, all the people would be busy with activities from guarding the garden, protecting the fruit trees from pests, collecting fruits and selling the commodities to the middlemen. However, this season lasts not more than three months each year. Durian is the main commodity during this season since this fruit has the highest price in the market and is in high demand. During this period, one household could earn up to RM100 daily.

The durian fruit can be found in the Temuan’s three ecosystems (*kebun*, *dusun* and forest). However, the *dusun* is the main place where the old durian trees grow while the *kebun* has mostly young trees. Durians from trees located in the *dusun* are of a higher quality in terms of taste and consequently fetch a better price. During the durian season, some households build a hamlet in their *dusun* and stay there to guard and take care of the trees.

Wild durian trees located in the forested area are common property and everyone can take the fruit. But the fruit often cannot be sold since many pests such as *beruang* (bear), *kubung* (flying lemur), *tutpai* (squirrel), and *landak* (porcupine) damage the fruit. Furthermore, the number of durian trees in the forest has decreased significantly due to logging activities.

In 2004 the durian season was from mid-May to mid-July. People said that the quantity and quality of the fruit in this season was not as good as the previous year and they did not know exactly why. Besides the durian, other fruits that have economic value are *manggis*, *rambai*, *duku*, *rambutan* and *cempedak*, and these fruits are also planted in their *kebun* and *dusun*.

However, like the durian, the quantity and quality of all these fruits was not good in 2004. In addition, the people were disappointed because some fruits in the forest such as *petai*, *keledang*, *mengkapas*, and *tampoi*, were also not as good as those from the year before. Moreover, many of these trees did not bear any fruit.

**Other Economic Activities**

Horticulture and collecting forest products are the main economic activities for the people in Tanjung Rambai. However, they have other economic activities that help meet their daily needs. Whenever possible, the Temuan hunt and trap game in the forest around the village for their subsistence. They use various tools, mainly *sumpitan* or *temiang* (bamboo blowpipe), *panas* (a weapon consisting of a rubber bow and very sharp bamboo arrows), *tombak* (spear) and *jerat* (trap, snare). Each household has these hunting tools. The following table (Table 3) shows a list of game hunted and tools used.

<table>
<thead>
<tr>
<th>Game</th>
<th>Tools</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Babi hutan</em> (wild pig)</td>
<td>Trap and spear</td>
</tr>
<tr>
<td><em>Kambing hutan</em> (wild goat)</td>
<td>Trap</td>
</tr>
<tr>
<td><em>Kijang</em> (small antelope)</td>
<td>Trap</td>
</tr>
<tr>
<td><em>Rusa</em> (deer)</td>
<td>Trap</td>
</tr>
<tr>
<td><em>Beruang</em> (bear)</td>
<td>Trap</td>
</tr>
<tr>
<td><em>Labi-labi</em> (fresh water turtle)</td>
<td>Fishhook</td>
</tr>
<tr>
<td><em>Fish</em></td>
<td>Fishhook</td>
</tr>
<tr>
<td><em>Tiung</em> (type of monkey)</td>
<td>Blowpipe</td>
</tr>
<tr>
<td><em>Musang</em> (civet)</td>
<td>Panas</td>
</tr>
<tr>
<td><em>Cigi</em> (type of monkey)</td>
<td>Blowpipe</td>
</tr>
<tr>
<td><em>Landak</em> (porcupine)</td>
<td>Panas</td>
</tr>
<tr>
<td><em>Bienak</em> (lizard)</td>
<td>Panas</td>
</tr>
<tr>
<td><em>Pelandak</em> (mouse deer)</td>
<td>Panas and trap</td>
</tr>
</tbody>
</table>

*Babi hutan* (wild pig) is the easiest animal to hunt because the population is still large to the extent that it has become a significant pest in some of their *kebun*. Game is hunted mainly for food and if the Temuan hunt more than they can eat, they sell the meat to the nearest towns and certain animals to the neighbouring Malays.

In this village, there are 12 young people who work daily as contracted labour in Kuala Lumpur. All of
them work as gardeners with a monthly salary of RM700. They usually go to Kuala Lumpur early in the morning and head back to their village in the evening. Most of the adults in this village have had experience working as contracted workers in towns. However, all of them did not continue to work in towns since the salary was not enough for their families. The other reason they stopped was because they had no time to maintain their kebun if they worked in the town as contracted labour. However, some work as temporary workers if there is demand.

Employment comes mainly from the neighbouring Malays in a variety of jobs like clearing gardens, and building houses and hamlets. The wage ranges from RM20–25 a day. Employment as daily workers also comes from logging companies who hire them mainly as chainsaw operators and to guard logging camps. It can be concluded that the Temuan of Tanjung Rambai, like their counterparts in other villages in this district, do anything to earn money.

Managing Land Resources in Uncertain Conditions

Besides the issue of government efforts to change their “beliefs”, the issue of the security of their traditional lands is the most interesting topic discussed seriously by the people of Tanjung Rambai every time. They talk among themselves on every occasion about the future of their traditional lands, the Malay encroachers, and other related issues. This is understandable since their dusun, kebun, and even villages are situated on land without any legal status of ownership.

Meanwhile, encroachment on their traditional lands, mostly their dusun, by outsiders still happens even at present. What makes this worse is the fact that there is no space anymore for them to berundur (literally move to the back) as they and their ancestors had done to avoid conflict with the Malay encroachers in the past.

As a consequence of their land not having any legal status, the Temuan here can be resettled to other places or their land converted to other uses, such as logging and other projects without them receiving any compensation. The situation where there is no reserve status for their village has created insecurity in their current and future life. The Temuan feel that living on land without any legal status or reserve status likens them to living on land belonging to others or squatting.

The Temuan people of Tanjung Rambai have had a terrible experience related to their traditional land and resources. Their traditional homeland had been damaged by activities which did not profit the people. According to the elders, the forested area around their village had been logged by some logging companies. All types of big trees had been cut down, even the durian trees.

The logging did not benefit the villagers and the activity was done without consulting the people. If the people asked the logging companies why they logged in that land, the company would answer that they had a permit from the government. In contrast, if the people needed to cut a tree from the forest for any use or open up the forest for their kebun, the government did not allow them to do so and even accused them of being penceroboh haram (illegal encroachers).

The people have not been inactive in response to this situation. They have made many efforts to obtain reserve status even when they were at their old settlement, the Paya Lebar village. However, their efforts have never been successful. The only answers they received was from officials of the Jabatan Hal Ehwal Orang Asli (JHEOA) telling them that they should wait since there were many procedures and consultations with official departments that needed to be conducted.

One of the elders interviewed imitated the answer of an official: “Tunggu dulu, susah untuk bagi reserve, sebab boleh ada clash” [Wait please, it’s difficult to give reserve status because a clash might happen].

The Temuan of Tanjung Rambai feel that the government has treated them as different citizens since they have clearly seen that many lands around their area have been gazetted as Malay reserve land.
According to a JHEOA official, reserves or any legal status are not a fundamental need for the Orang Asli because the people can plant everything and collect everything from the forest and these activities are guaranteed by the Aboriginal Peoples Act.

The official also said, “Jadi untuk apa ada reserve, tak kan jadi masalah ada reserve ataupun tidak. Justru ada kemudahan bagi Orang Asli kerana tanah-tanah mereka tidak dipungut cukai kerajaan. Jika tanah dibagi ke Orang Asli nanti dijual oleh mereka, lagipula reserve pun juga tidak boleh dijual, itu milik bersama” [So why should there be reserve status for them, there isn’t a problem whether there is reserve status or not. What matters is that there are facilities for the Orang Asli as no taxes on Orang Asli land are collected by the government. If we give legal status to the Orang Asli, they will sell it although legally, the land cannot be sold; it is common property].

The statement above shows a situation where the government has its own standpoint and assumptions on why the reserve status has never been given to the Orang Asli. Naturally, the Temuan of Tanjung Rambai disagree with the government’s stand. They not only need legal status for their traditional lands, they even need private ownership to protect their lands from encroachment.

The people are confused and frustrated with their efforts to get any legal status for their land. They are confused since officially, while they are considered the first people to settle in this area, the neighbouring migrant Malays have obtained land titles easily. One Temuan said that the government had different views toward their people: “Iyalah mereka piker kita ini orang bodoh, tak perlu tanah, mereka piker Orang Asli nak makan, baju, rumah haja” [They [the government] think that we are stupid people, and do not need land (legal land status); they think that the Orang Asli only need food, clothes and a house].

Some Temuan say that they do not know how to solve the problem and they do not know whom to complain to. As one of them said, “Kita mahu mengadu, tapi hujung pangkal itu niap tahu, kemana mahu mengadu” [We want to protest, but we do not know the procedures, where we should make our complaints].

RESPONSE TO THE DOMINANT SOCIETY AND THE GOVERNMENT

The Temuan of Tanjung Rambai feel that they are a different bangsa (ethnic group) compared to other Malaysians. Although in general their physical looks, language and other cultural aspects are quite similar to the dominant Malays, it does not make them similar as a social ethnic group.

The people maintain their distinct identity as an ethnic group in many ways in their everyday lives. They use their own language, practise their own belief system, marriage customs, and other cultural activities. Briefly, they have their own way of life and worldview although their lives are surrounded by the dominant community, the Malays. Another factor that contributes to this condition is the national state policy regarding the Orang Asli where the people are considered “special” citizens of Malaysia.

Response to the Dominant Community

The Malays are considered a dominant community which has close connections with the Temuan of Tanjung Rambai both physically and socio-culturally since the past. The Malays are regarded by the Temuan as the dominant ethnic group in Malaysia and, without exception, in their area of the Hulu Langat district. They see them as dominant because there are large numbers of Malays and the national language and religion of Malaysia are also related to the Malays.

Most of the Malays living in the area around the Temuan’s territory are descendants of the Kerinci and Minangkabau, as mentioned earlier. To the Temuan of Tanjung Rambai, there are not many differences between them as Temuan and the dominant Malays. The only difference is that the Malays profess Islam while they still practise their original beliefs. As one of the elders said, “Perjalanan itu serupa haja, hanya makan itu lain” [Our way of life is similar, only the food is different].
The statement refers to the Temuans’ choice of game, which is their main protein source. Wild pigs, monitor lizards, monkeys and many other animals are prohibited as food in Islam. The Temuan also consider the Temuan and the Malays in this area as coming from the same ethnic roots and sharing the same original homeland somewhere in West Sumatra.

The Temuan of Tanjung Rambai describe the relationship between themselves and the Malays as abang and adik (older and younger brothers), where the Temuan are older brothers and the Malays the younger siblings. They have a parable relating how the Malays, the Kerinci, Mandailing and Minangkabau, arrived in this area after the Temuan found it, as told by one of the elders:

Ibaratnya, kata orang tua dulu, kita datang, membuka hutan di kawasan Hulu Langat ini, baru tiga bulan kemudian Orang Luar datang, jadi kami memang orang yang pertama-tama membuka kawasan ini. Kata orang tua dulu, kita dengan Orang Luar itu abang dan adik, asalnya sama, jadi saling menghormati, jangan menghina macam sebut Sakai.

[In one of our parables, our elders said that our people arrived and cleared the forest in Hulu Langat first and then ‘three months’ later, the Orang Luar (Malays) came. So we are the first people here. As our elders have said, we and Orang Luar are older brother and younger brother, our origin is the same, so we should appreciate each other, don’t insult us in ways like calling us sakai].

The term sakai is thoroughly rejected by the Temuan although the British administration officially used this term to refer to the indigenous groups in Peninsular Malaysia including the indigenous groups in this area. “Dulu jaman British, ‘Orang Luar’ panggil kami sakai, kadang orang bukit, tapi kami marah dan tidak suka dipanggil sakai, sebab itu menghina, ibaratnya kami ini makan bangkai” [During the British period the Orang Luar called us sakai, and sometimes Orang Bukit [mountain people], but we dislike being called sakai because the term means that we eat carcasses].

Generally, the Temuan of Tanjung Rambai dislike their Malay neighbours. The current generation seems unable to forget past experiences of the aggressive attitude of their neighbouring migrant Malays toward their people. Their oral stories tell of how, in the past, their men were killed while their women and children were captured by outsiders.7

However, the main factor that has created this aversion to their Malay neighbours is the encroachment of their traditional lands. The people mention that the encroachment by the Malays has been happening since the past when the Malays first arrived in this area. This habit of encroaching on their lands has continued to the present. One of the Temuan said, “Mereka itu seringkali ganas dan kami tak nak berkelahi, maka itu kami selalu berundur” [They are always very offensive and we don’t want to clash with them, that’s why we always retreat to avoid them]. Another mentioned that “Orang Melayu itu suka mengesek esek, memang sejak dulu” [Malays have a habit of encroaching (on land), since long ago].

According to Alberto Gomes, an anthropologist who conducted field research in 1976 among the same people while they still lived at the earlier village, Kampung Paya Lebar:

During the time of study, some Malays demanded for some Temuan ‘sawah’ (wet paddy field), however the Batin (village leader) refused to comply with the demands. The Malays, angered by this refusal, began to disturb the Temuan at night. However the Temuan retaliated by threatening to shoot the Malays with their blowpipes. This, as expected by the Temuan, has stopped the Malay trouble-makers from creating further incidents (15).

The competition for land has continued up to the present where the land of the Orang Asli has become more and more insecure. In response to their Malay neighbours, the Temuan of Tanjung Rambai took the option of moving from their original place as their strategy to avoid conflict with the Malay encroachers, although they lost the original land as a consequence. Their strategy to avoid the Malays is called berundur (literally, move to the back).

However, to berundur needs land which at present is not available any more, as expressed by one of the
Temuan: “Kita seperti burung, hinggap sana hinggap sini, tapi kini kemana nak berundur, kita sudah di sempadan, sebelah kampung sudah kawasan Negeri Sembilan, kawasan orang lain” [We are like birds, perching here and there, but now there is no place any more to perch on, we are already at the border now, next to our village is Negeri Sembilan’s territory, belonging to other people].

Also, currently, the Malays have encroached on at least two dusun traditionally belonging to the Temuan. One is Dusun Manjing, located around three kilometres from the Temuan village and accessed only by an old logging road. Another one is Dusun Jaang, located around ten kilometres from their village, accessed only through a Malay village.

In responding to the dominant society, the Temuan of Tanjung Rambai has a feeling of fear of the dominant Malays. As the people have said, they are afraid because the neighbouring Malay population is much larger than the Temuan’s. In many cases, especially in the competition for land resources, the Temuan people have kept away from conflict. In the past, they had always moved to new places because of this strategy of avoiding conflict with the Malays. Their way to avoid this conflict has continued to the present.

During my field research period (in June 2004), an incident happened: a motorcycle belonging to a Temuan was stolen. The people found that the thief was a Malay from the neighbouring community. When the Temuan asked the Malay to return the motorcycle, the Malay threatened him by saying that the Orang Asli has no legal proof of ownership of the motorcycle and, if reported to the police, the Orang Asli would be charged by the police for illegally owning a motorcycle. In the end, the Orang Asli gave up the effort not because of fear of the police charge but because he was afraid that there would be a clash between his community and the Malays.

The Temuan in this area employ the term Orang Luar (literally, outside people) to refer to Malays but this category excludes Malaysian Chinese and Indians. Historically, this term was used by the Temuan to distinguish themselves, Orang Dalam (literally, inside people), from the Malays. Moreover, their dislike of the Malays has seen the birth of other, often derogatory, terms in the Temuan language to refer to them, especially in their presence. Three terms are used interchangeably to refer to the Malays, i.e. Jobo’, Jelondong, and Jerot. These terms are used by the Temuan of Tanjung Rambai as well as by Temuan in other villages in this area.

Nonetheless, although they dislike the Malays, they also depend on them, but on an individual basis. This is true of the Temuan in Tanjung Rambai and other Temuan in this area. An individual Malay toke (middleman) has a relationship with an individual Temuan as a seller of forest and horticulture products. The Temuan buy their daily needs at the store belonging to a Minangkabau Malay in the Sungai Lui village (around 10 kilometres from their village). Their regular toke is also a Minangkabau Malay. Sometimes individual Malays hire individual Temuan to clear gardens, build garden fences and other jobs. Individual Malays also sell goods to Temuan such as food, ice cream and clothes, while goods are also sold by individual Chinese (VCDs, cassettes and meat) and some Indians (clothes, cakes, etc).

The Temuan’s response to the dominant society therefore depends on the nature of the relationship. According to the results of my fieldwork, the Temuan tend to generalise the habits of Malays in terms of encroachment, their hunger for land, and their low regard of the Temuan as a people who are backward and less civilised because they still believe in ancestral spirits, saying that they have no religion. On the other hand, though, the Temuan also maintain mutual relations with their Malay neighbours, especially economic relations with individuals (particularly the Minangkabau Malays) and Malays from other parts of the area. In their dealings with the Temuan, the Minangkabau Malay is considered a “fairer” type of Malay compared to the Kerinci Malay who is regarded as the most “dangerous” of Malays.

Response Toward the Government
As mentioned, the relationship between the Orang Asli as the indigenous minority and the nation-state is one of domination by the latter. The State controls almost all aspects of the Orang Asli’s life. The people
in the research site are part of an indigenous people who live under domination and protection. The impact of being dominated for such a long time and being a protected people may be different from that experienced by other groups in other parts of the Peninsula.

The Temuan see the government in two contrasting ways. First, the *kerajaan*8 (government) is seen as “the helper” for all their needs. In one way, they are “special” citizens who do not have to pay taxes on their land or taxes for collecting and selling forest products, who are entitled to free health services and education, free housing built by the government and other facilities that other citizens do not have. One villager compared their current condition to the past, “Sekarang semua senang, tidak seperti dulu, apa haja barang ada, apa haja boleh dijual jadi uang, kerajaan bantu macam macam” [Now, everything is easy, unlike in the past. Many goods are available in the market, many forest products can be sold and we get money. The government helps a lot].

However, on the other hand, the government is seen by the Temuan as an external agent that dominates and controls their lives, even the sensitive aspects of life, land and belief systems. It is in these aspects that the people dislike the government.

Basically, there are two major factors that give the people a negative perspective of the government. The first factor is the uncertain condition of their lands which is the source of their basic income and the site for their villages. People feel that the government always refuses their requests for land titles or reserve status. The second factor is the government policy and related efforts to Islamise them through many ways.9 In this sense, the government regards the Temuan’s belief system a non-proper faith and which should be replaced by a formal one.10

The Temuan also think that the government has a disrespectful view of their beliefs. They dislike the way government officers or persons from certain organisations persuade them to convert to the official religion of Islam. These officers usually give them charity such as money, food and generators for electricity and ask them to convert. Wak Embong, one of the elders, expressed her feelings thus, “Berulang kali aku bagi jawab ke mereka. Kalau encik nak sedekah kami terima, tapi kalau untuk masuk ugamah belum lagi tehpikir oleh aku, entahlah kalau orang lain, itu terpulang ke mereka” [Many times I have replied to them, if you want to give us charity, we will take it, but as for converting to Islam we don’t think so; I don’t know about the others, it is their choice].

Why do they resist a ‘new religion’? Their reason in rejecting Islam and other formal religions was simply expressed by one of the people: “Kalau kita Temuan masuk ugamah, habislah sudah Orang Temuan” [If we Temuan convert to Islam, we are finished].

Another reason expressed by the people in rejecting a new belief system concerns the foods that are prohibited by Islam, as explained by Yaya:

Jadi kalau kita masuk ugamah belum tentu juga nasib kita baik, masih begini juga makan ke hutan juga. ... Iyalah kerajaan bagi uang kalau masuk ugamah, tapi kalau uang sudah habis? Kembali kalau masuk hutan, tengoklah Orang Asli yang sudah masuk ugamah di kampung kampung lain, mereka juga masih ikut cara lama, makan barang-barang hutan juga. Lagi pun tidak mudah masuk ugamah, kalau masih melanggar aturannya kitalah yang jadi mangsa, seperti contohnya pakek saya di Kenaboi menjadi gila dan matinyapun entah di mana, masuk dalam hutan

[If we convert, it doesn’t mean that our living conditions will improve, we will still need to look for food inside the forest... It’s true that the government gives us some money if we convert, but after the money is finished (what we can do)? Back to the forest again. We can see some of the Orang Asli in other villages that already converted ... they are still practicing their old ways, eating forest animals as usual. Again, it is not easy for us to convert; if we do not follow the rules we will be victims (of sin), like my uncle in Kenaboi Village who became mentally sick (after converting to Islam and not following Islamic laws) and who died someplace that no one knows, inside the forest].

There were also attempts by Christian missionaries to introduce Christianity by visiting the people regularly and giving them charity and also ideas to improve their income levels.11 In fact, the Temuan have also refused to convert to Christianity. Their
reason is similar to that of rejecting Islam. As one elder said, “Belum tepikir untuk memeluk ugama, Islamkah, Kristenkah, macam mana nak tinggalkan cara-cara moyang moyang dihut?” [We don’t think of converting, whether to Islam or Christianity; how can we abandon our ancestors’ belief system?]

**Political Orientation**

As citizens of Malaysia, the Temuan participate in the pilihanraya (the general election) which is held every five years. Their political orientation is more towards the pragmatic where they support the political party which can give them help directly or at least make political promises, rather than ideological aspirations. In this context, they have been voting for the United Malay National Organisation (UMNO) since other political parties do not promote themselves among the Temuan and their ideology is also far different from that of the Orang Asli; for example, the Islamic Party.

In the general election year of 2004, all Orang Asli villages in the Hulu Langat district were visited by UMNO candidates who campaigned and asked for support from the people, making them promises as usual. However, when the Temuan participated in the general election and voted for Barisan Nasional (BN), it did not mean that they had a sense of identity with the Malays. Rather, they wanted to get help from some candidates from the party (UMNO) and the government to meet their needs such as a generator for electricity, renovation of the village bridge, in some cases money, and other facilities.

One of the elders said this to the candidates that came by:

**Boleh Datuk kami mengundi BN, pasti menang di sini, tapi tolongkah kami betul betul dalam kampung kami, tengoklah kampung kami apa yang ada, rumah sudah mina niap dapat, api elektrik niap ada, tapi entahlah sekarang niap ada banyak lagi... BN sudah menang**

[We can vote for BN, Datuk. BN will win in this place, but please help our village. You can see the condition of our village. We asked for houses but did not get houses, we asked for electricity but did not get electricity ... finally BN wins the election, but there is no progress (made on the promises)].

The nuances of that statement are obviously those of powerless constituents whose support of a political party does not mean that they understand and agree with the party’s ideas and programmes. Rather, they carry the pragmatic hope that there will be repayment for their participation.

**CONCLUDING REMARKS**

The case of the Temuan of Tanjung Rambai illustrates how small groups of Orang Asli face the current environment. There is no legal status given for their traditional lands; instead they face massive encroachment of their lands by neighbouring Malays. Meanwhile, government policy towards the people directly impacts on their response toward the dominant community and the government itself.

The integration policy and many programmes to improve the Orang Asli’s conditions will fail if the standpoint of the government remains the same. An evolutionist paradigm and discriminative policies should be altered to a perspective that sees the indigenous people as the same human beings as the dominant society. As suggested by Nicholas, the natural integration of the Orang Asli into the mainstream national society should be a natural process without any attempt to set artificial targets or to apply dominant perceptions of what constitutes “integration”.

Paternalistic schemes, where the government is the protector of the people, must be adapted to the empowerment scheme where the government plays the role of facilitator and ruler to ensure the people have rights, especially concerning their lands. Land is essential to the Orang Asli’s existence, identity, and wellbeing. Orang Asli claims to their traditional land must be recognised.

**Notes**

1. The term ‘Orang Asli’ emerged during the Emergency Period in Malaya due to the communist insurgency from 1948 to 1960 that pulled some indigenous peoples in forested areas into the conflict.
Malays are the dominant ethnic group in Malaysia and are legally regarded as bumiputra (sons of the soil).

These three ethnic groups originally came from Sumatra (part of Indonesia now). The Mandailings have their motherland in North Sumatra, while the Kerincis come from the south-west of Sumatra, and the Minangkabaus, West Sumatra.

The distance from their village to Titi is around 30 kilometres.

The Jabatan Hal Ehwal Orang Asli (JHEOA) translates to the ‘Department of Orang Asli Affairs’.

Most Malays living in villages around the Orang Asli village in this area are descendents of the Orang Kerinci and Minangkabau. The people’s identity as Kerinci and Minangkabau are still maintained; they use their own dialects even while the standard Malaysian Malay language is also commonly used. The Mandailing’s descendents in this area can no longer be identified.

This oral history also mentions how the Batin Pah Galang (their legendary leader) killed outsiders in revenge. The place where the Batin killed the outsiders is still in existence, and is known as Genting Peras (around three kilometres from their current village on the border of Negeri Sembilan and Selangor).

The people use the word kerajaan in referring to the government as well as the State (negara); orang kerajaan usually refers to government officers.

Islamisation is part of the government’s integration policy. Islam is the official religion of Malaysia and the propagation of Islam among the Orang Asli population is part of the terms of reference given to the Department of Orang Asli Affairs (see also Hooker).

Basically, they are animists (see also Baharon; Carey). They believe in moyang keramat (holy spirits) that live in the mountains around their settlements. They ask the moyang for help, protection, healing and other spiritual needs.

Christian missionary activities have not really been explicit since proselytisation among the Orang Asli, except for Islam, is prohibited by the State.

The ruling coalition dominated by UMNO.
REFERENCES


GLOBALISATION AND LOCAL BANKING INSTITUTIONS: THE CASE OF THAILAND
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INTRODUCTION
Globalisation is a process of economic integration that facilitates the international ‘exchange’ of goods, services and capital, and it is often accompanied by ‘conversion’ of the economic transaction structure (such as regulatory and contract systems) of various countries to a common framework. Globalisation originally took place among industrial countries in the context of promoting trade and investment as it was in their own interests to negotiate a set of rules to promote mutually beneficial exchanges. Notable features of the current wave of globalisation are that firstly, the aspect of conversion to international standards is gaining importance; and secondly, an increasing number of developing countries are joining the trend.

The early ‘exchange’ phase of globalisation accelerated after the Second World War. Creation of the General Agreement on Tariffs and Trade (GATT) was an effort to establish a common trade framework under which individual countries could exploit their international comparative advantages. The function of the GATT as a trade-enhancing forum has been succeeded by the World Trade Organisation (WTO).

The current phase of globalisation, on the other hand, has witnessed a greater focus on the ‘conversion’ factor in developing countries. Industrial countries demand that the regulatory framework in developing countries be revised so that goods and capital can flow into their markets more easily. The financial sector regulation is one of the target areas for conversion with the purpose of lowering the entry barrier into developing countries’ financial markets.

This paper is an effort to investigate the consequences of conversion-based globalisation in Thailand. At the time of the currency crisis in 1997, Thailand was required to implement several economic policy measures in return for the financial aid package coordinated by the International Monetary Fund (IMF). The IMF was particularly interested in promoting financial sector restructuring, by which it claimed to install “international standards” for the Thai regulatory framework.

This case is significant because the initiative for conversion was not taken by the Thai government. Rather, it was ‘imposed’ on them by an outside force. This is a rare case of ‘involuntary’ globalisation whose intention was explicitly declared by the party that promoted it.

This ‘involuntary’ or ‘forced’ nature of current globalisation may bring harmful consequences to developing countries. Governments of developing countries have a distinctive policy objective, i.e. promotion of economic development as a means to improve people’s standards of living. This development priority makes their economic policies qualitatively different from the ones pursued in industrial countries: they are often designed to create fundamental economic institutions that would enable efficient resource allocation in the economy.

To the extent that globalisation implies the adoption of economic systems existing mainly in rich countries, where basic economic institutions have been firmly established, there is a gap between preconditions of
globalisation and environments surrounding developing countries. If globalisation on the conversion dimension is imposed on them, developing countries may have to forego opportunities to create economic institutions that are essential to profit from their comparative advantages.

The next section discusses the policy that the Government of Thailand had pursued in its effort to promote financial sector development broadly in the country. This will be followed by a description of the economic programmes adopted after the crisis, together with an analysis of their consequences on the behaviour of the banking sector, as well as the reorientation of the government’s development policy. The concluding section summarises the findings.

FINANCIAL SECTOR DEVELOPMENT IN THE PROVINCES: THE THAI GOVERNMENT’S PRIORITY

Since the 1950s, Thailand has enjoyed an extended period of stable economic expansion. For over three decades, from 1951 to 1984, its annual gross domestic product (GDP) growth averaged 6.71 per cent and never fell below 4 per cent after 1958. This impressive long-term macroeconomic performance was accompanied by improvements in people’s living standards. For example, the percentage of the population below the poverty line, which stood at 59 per cent in 1962, was down to 26 per cent in 1986. Life expectancy at birth was 68 years in 1990, compared with 52 in 1960.

The economic growth further accelerated in the mid-1980s. The average GDP growth rate from 1985 to 1996 was 8.69 per cent and the economy expanded even at double digit rates from 1988 to 1990.

A large part of the expansion of economic activities was, however, concentrated in Bangkok and its surrounding provinces. Although the government succeeded in attracting foreign direct investment (FDI) to the country as a catalyst to growth, a majority of FDI-financed enterprises was established in the central region of the country that includes Bangkok. This has resulted in a widening income gap between the central part and the rest of the country. As demonstrated in Figure 1, per capita GDP in 1994 was 129,072 baht for the central part of the country, while it was 30,350 baht for the northern region, 20,568 baht for the north-eastern region, and 41,186 baht for the southern region.¹

This inequality created a host of problems ranging from mass labour migration to Bangkok from provinces in the northern, north-eastern, and southern regions, to pollution and congestion in Bangkok. Hence, the government gave emphasis on the importance of balanced development and the alleviation of income inequality in its development agenda.

One of the policy measures to address the Bangkok-provinces development gap was financial sector development in poor regions. For local economies to transform themselves through industrialisation, it was important to have the mechanism of financial intermediary. Those who aspired to start viable projects should have access to finance.

In provincial Thailand, however, this condition had been hard to meet. All commercial banks in Thailand were headquartered in Bangkok, which reflected the capital’s dominance in modern Thai economic history. As profit-seeking entities, these banks did not have incentives to establish themselves in poor provinces unless they were convinced that there were opportunities to provide financial services at profit. The dilemma for the policymakers as well as for potential entrepreneurs in provinces was that, without opportunities to obtain finances, economic activities would be severely constrained, which in turn would discourage banks to provide services.
In an effort to tackle this vicious circle, the Thai government requested assistance from local commercial banks to extend financial services to less developed rural parts of the country. In 1975, the central bank—Bank of Thailand (BOT)—introduced a mandatory agriculture credit system, under which it was required that a specified share of bank loans be allocated to agriculture-related activities. The percentage requirement was initially set at 5 per cent, which was gradually raised up to 13 per cent in the mid-1980s.

The BOT also used its authority to approve branch opening applications for the benefit of poor regions. It encouraged banks to open branches in areas which did not have financial infrastructure by preparing a list of target districts. The cooperation of individual banks in establishing branches in these locations was an important factor in the BOT approval process of new branches in Bangkok. The BOT further required banks to lend a certain share (60 per cent) of the fund they received as deposits from provincial branches to finance economic activities in the same region.

The government could expect the banking sector's cooperation for their policy of financial development in provinces for the following reasons. First, the government protected the domestic banks from competition, which led to guaranteed profits for them. The government had not approved new entries into the banking industry since 1966. Nor did they approve the entry of overseas banks into the Thai market. In this environment, local banks had resources to extend support to the government's development priority.

Second, the government restricted foreigners’ equity participation in the local commercial banks. The maximum shareholding allowed was 25 per cent, which made it difficult for non-Thai owners to exercise control over management decisions. This might have contained the resistance from shareholders against expanding the branch network that itself could be unprofitable.

The third factor was the convention of Thai banks to extend credit based on collaterals such as real estate and stocks. Provincial bank clients often lacked modern managerial skills to provide cash flow or risk analysis, and banks' reliance on collateral provided opportunities for them to gain access to credit. Finally, banks complied with the central bank's request for branch expansion as it was also in their own interests at that time. Credit demand in booming Bangkok and its vicinity exceeded deposits that banks could mobilise in their metropolitan branches, and they found it to their benefit to open provincial branches to mobilise extra deposits.

As a result, the number of bank branches increased in the provinces, together with deposits that banks were able to mobilise as well as credits extended to clients there. This would have constituted a shift in the direction of removing the development obstacles that poor regions had been facing.

THE CURRENCY CRISIS OF 1997 AND ITS IMPACT ON COMMERCIAL BANK OPERATIONS

In the process of rapid economic growth, however, the Thai economy had fallen into a trap that set the stage for speculative attacks on its currency, the baht. The inflow of short-term capital that had financed an asset price bubble of the early 1990s was sustainable only as far as overseas investors had trust in the peg regime, i.e. a fixed exchange rate between the baht and the United States dollar. This confidence in the peg was crucial for the continued flow of overseas capital to Thailand, particularly because the country was running a large current account deficit, a factor usually associated with the devaluation of a currency.

The contraction of Thai exports in 1996, however, reminded investors of the risk of betting on the peg system. Prices of real assets stopped growing about the same time, and finance companies that borrowed heavily from abroad in order to lend to property developers fell into serious solvency problems in early 1997. These events led to a shift in perceptions that an exchange rate adjustment was imminent, provoking massive capital outflows. The BOT attempted to defend the baht-dollar peg by selling its dollars. When its foreign reserve was almost depleted, however, the government yielded to market forces and was forced to abandon the peg system in July 1997.

The Thai government asked the IMF for financial assistance in order to obtain foreign reserves. The IMF arranged a rescue package that combined credit of billions of dollars with policy conditions with which
the government must comply. The government was required to raise taxes and reduce its spending in order to deliver a budget surplus, as well as to raise interest rates to pursue a tight monetary policy. These were austere macroeconomic measures that the IMF had regularly imposed on crisis countries.

On top of these macroeconomic measures, it also asked the Thai government to carry out various programmes, including financial liberalisation and privatisation of state enterprises. It was an effort to transform the Thai economy from Asian “crony capitalism” to the American economic system of open markets. The IMF believed that conforming to international standards would be in the best interests of Thailand, especially in the area of financial sector management.

Under pressure from the IMF, the government moved to overhaul the financial system. Bank ownership restriction was removed in October 1997, allowing foreign ownership of commercial banks. Banks were forced to disclose the amount of their non-performing loans (NPLs) with stricter criteria for “non-performing” declarations and to negotiate debt restructuring with their clients. The government closed down 56 finance companies in December 1997, and their assets were auctioned at a discount.

As a result, the financial industry was the most severely affected sector of the Thai economy by the currency crisis and the IMF package. Before the crisis, there were 15 commercial banks and 92 finance companies in Thailand. By the beginning of 2000, the majority of banks had either been acquired by foreign banks or taken over by the central bank for a subsequent sale. Only the six largest banks (two of which were government-owned) maintained the existing management control. As for the finance companies, 23 remained in operation at the start of 2000, only a quarter of its pre-crisis size.

The change in prudential regulation was substantial as the IMF judged the existing operations of local banks as not up to ‘international’ standards. Thai banks used to declare loans ‘non-performing’ only after their repayments were overdue by more than 12 months, and prepared provisions in anticipation of the loss of the assets. The IMF told the central bank to strengthen the criteria and to require banks to adopt a three-month benchmark. This regulatory change substantially increased the amount of NPLs among bank assets. As a large amount of capital had to be set aside for the potential loss, banks were forced to seek sources of additional capital in order to meet the capital-asset ratio standards specified by the Bank for International Settlements.

The removal of foreign ownership restriction in banks, another IMF-related measure, proved useful for foreign investors to make inroads into the Thai financial market by assisting local banks to raise capital. In the process, three local banks were purchased by foreign financial institutions.

The operations of all commercial banks were revamped. This had apparent consequences on credit accessibility for clients in the provinces. First, loan approval authority was removed from branches, to be concentrated at their headquarters. Before the crisis, branch managers had the power to make decisions on loan applications up to a certain limit specified by the bank headquarters. Under the new regulatory environments, these managers were stripped of this authority. The bank management found it necessary to exert greater control over the quality of loan portfolio in order to reduce the possibility of providing credit to risky clients. As the credit evaluation function was centralised and the role of branch managers diminished, information transmission from clients in the provinces to the headquarters became more difficult.

Second, the branch network was restructured. As banks now faced greater competition from overseas financial institutions as well as among each other, they did not have extra resources to assist the government and establish provincial branches for the development purpose. The presence of foreign shareholders with greater monitoring power over bank managers provided similar disincentives to maintain unprofitable branches.

The recent change in branch numbers in Bangkok and the three regions (Figure 2) confirms this. Between June 1997 and December 2003, the bank branch network in Bangkok was maintained with reduction of only six branches (from 932 to 926 branches). On
the other hand, banks closed as many as 130 branches (from 1,330 to 1,200 branches) in the northern, north-eastern and southern regions combined. It has become extremely difficult for the government (and the central bank) to create a financial sector base in provinces with assistance from commercial banks.

The share of government-owned banks in the banking sector at the end of 2003 exceeded 30 per cent in terms of assets, which is more than double the pre-crisis level of 14 per cent (as of the end of 1996). The government found these banks an easy tool for their development initiatives. They relied on the KTB particularly, as it was one of the largest commercial banks in Thailand with an extensive branch network in the country.

This situation is, however, quite paradoxical in view of the ideology behind the IMF programme. The IMF embarked on restructuring the Thai financial sector based on the conviction that a sound financial sector, where market forces would allocate funds among competing demands, was a prerequisite for sustainable economic growth. After the IMF programme was implemented and Thailand had repaid all its debts by July 2003, the government ended up with a greater presence in the banking sector. In view of another IMF conviction—that the government should not interfere with the operations of the financial sector (apart from the role as regulator)—this consequence is quite ironical.

The recent experience of the banking sector in Thailand can be summarised as follows. Initially the government protected the sector, and used it as a means to establish financial infrastructure in the provinces. Then came the currency crisis, and the IMF forced ‘globalisation’ into the sector, and the regulatory framework was revised to conform to that of industrial countries. The sector that emerged after the IMF programme was, however, characterised by a greater role of the government itself, which is using state banks as a vehicle of development policies.

The government’s development initiative to promote financial intermediaries in the provinces had to be revised when the IMF imposed ‘globalisation’ at the time of the 1997 currency crisis. Local commercial banks could no longer be persuaded to help the government, nor did they have the capacity. As the government remained convinced that bringing financial services to the people outside Bangkok was an important development priority, it decided to use its own finance arms.

It turned to policy-based financial institutions, such as the Government Savings Bank and the Government Housing Bank. Although these financial institutions have been in existence for a long time, they were not given a prominent role in the past. The government started channelling funds to provinces through these public financial institutions.

There was another means for the government to direct credit to the provinces. After the completion of the IMF programme, three banks remained under government ownership. The largest, the Krung Thai Bank (KTB), which was established as a state-owned bank in 1966, expanded substantially in size as the government used it to absorb assets of insolvent financial institutions. The Siam City Bank was nationalised after it became insolvent, and later merged with the Bangkok Metropolitan Bank that had also been nationalised earlier. The smallest government bank, the Bank Thai, was created by combining the assets of collapsed financial companies.

This situation is, however, quite paradoxical in view of the ideology behind the IMF programme. The IMF embarked on restructuring the Thai financial sector based on the conviction that a sound financial sector, where market forces would allocate funds among competing demands, was a prerequisite for sustainable economic growth. After the IMF programme was implemented and Thailand had repaid all its debts by July 2003, the government ended up with a greater presence in the banking sector. In view of another IMF conviction—that the government should not interfere with the operations of the financial sector (apart from the role as regulator)—this consequence is quite ironical.

CONCLUDING REMARKS

The recent experience of the banking sector in Thailand can be summarised as follows. Initially the government protected the sector, and used it as a means to establish financial infrastructure in the provinces. Then came the currency crisis, and the IMF forced ‘globalisation’ into the sector, and the regulatory framework was revised to conform to that of industrial countries. The sector that emerged after the IMF programme was, however, characterised by a greater role of the government itself, which is using state banks as a vehicle of development policies.
The issue is whether the enlarged state presence in the financial sector is desirable for the Thai economy in the long run. The answer is unambiguously negative, as bureaucratic intervention in the banking operation is usually associated with inefficiency and very often with corruption.\(^6\)

The previous policy of encouraging (or coercing) commercial banks in the direction of banking in the provinces had the merit of maintaining elements of private sector decision-making. Even if banks were guided toward operations in otherwise unprofitable locations, the selection of lending projects was at least based on commercial viability. Local clients’ exposure to this banking principle must have been valuable, as they were able to develop managerial skills through interactions with bankers. This benefit would be lost when financial development is carried out by government-owned banks.

Thailand was on a rapid path to economic development, and the government tried to create basic institutions that would serve as financial intermediaries in the provincial areas with assistance from the banking sector. Arguably, the banks would be less efficient due to potentially unprofitable operations in the provinces, for which the government compensated by way of preferential treatment. The sequence envisioned must have been to install the financial system in the provinces first, then bring the whole sector gradually up to a stricter prudential standard at a later stage.

Intervention by the IMF, however, upset this sequence, and left the government with no option but to play a more active role by itself. This experience points to the danger that globalisation, if forced from outside, may have a negative impact that would hinder the existing development efforts of a country.

Notes

1. Thailand has 76 provinces as administrative units. The northern region consists of 17 provinces, the north-east covers 19 provinces, and the southern region, 14 provinces. These three regions (50 provinces) represent about two-thirds of the nation’s population.

2. Each province is divided into districts. As of 2000, there were 795 districts in Thailand.

3. The BOT defined nine “regions” for this regulatory purpose. Bangkok and its surrounding five provinces are not covered by this rule.

4. A current account deficit implies that a country’s hard currency receipts from exports are not sufficient to cover its payment for imports.


6. One piece of anecdotal evidence is the deterioration of the loan portfolio at the Krung Thai Bank. It is reported that there have been cases of “lending irregularities” (*Bangkok Post*, 11 September 2004). The BOT subsequently rejected contract extension for the bank’s president for a second term (*Bangkok Post*, 28 September 2004).
INTRODUCTION

Thailand’s Development and Urban Poor

Over the past 20 years, Thailand has become a modern industrialised country. As the economy shifted from agriculture to industry, huge numbers of people from rural areas migrated into cities. These people mostly filled jobs at construction sites, factories and informal sectors with unstable low incomes. This meant they could not afford housing, and the great number of the poor had no choice but to find shelters in informal settlements. In this way, informal communities spread across cities.

According to a survey by the Community Organizations Development Institute (CODI) (Figure 1), in 2000 there were about 5,500 low-income or squatter communities all over Thailand, where 6.75 million people lived in 1.5 million households. The number of poor communities with no serious tenure problems was 1,750; its population was 1.62 million people. The number of poor communities with tenure problems was 3,750; among them, 1,360 communities were on public land (36 per cent), 1,400 communities were on private land (37 per cent) and 990 communities were on mixed land (26 per cent). Thailand’s urban poor population was about 37 per cent of the total urban population of 22.3 million.

The Thai government addressed this issue by setting up several housing development projects, by providing public housing, real estate sector housing, and community and local partnership housing and so on. However, in order to solve the housing problems of poor communities, providing only physical improvement is not enough. The conventional top-down approaches have not worked at all.

The Community Organizations Development Institute

CODI was set up by the Thai government in an attempt to take a new approach to, and develop a new process for addressing urban poverty. CODI manages community funds to provide loans to savings and credit groups for both rural and urban poor communities. It is a public organisation under the supervision of the Ministry of Social Development and Human Security. However, its independence in decision making is secure. CODI’s board members consist of several stakeholders: senior government staff, academics and community representatives.

<table>
<thead>
<tr>
<th>Communities</th>
<th>Households</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Communities with no serious tenure problems</td>
<td>1750</td>
<td>0.36 million</td>
</tr>
<tr>
<td>2. Communities with tenure problems</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.1 Public land</td>
<td>1360 (36%)</td>
<td>1.14 million</td>
</tr>
<tr>
<td>2.2 Private land</td>
<td>1400 (37%)</td>
<td></td>
</tr>
<tr>
<td>2.3 Mixed land</td>
<td>990 (26%)</td>
<td></td>
</tr>
<tr>
<td>3. People living outside established communities</td>
<td></td>
<td>0.37 million</td>
</tr>
<tr>
<td>TOTAL</td>
<td>5500</td>
<td>1.87 million</td>
</tr>
</tbody>
</table>

Source: CODI.
Since its inception in 1992 (then known as the Urban Community Development Office or UCDO), CODI has built linkages between communities and community networks all over Thailand. By 2000, 950 community saving groups had been established and more than 100 community networks had been set up, covering 53 out of 76 provinces.

CODI puts emphasis on the potential of the community people themselves to manage development projects and solve their own problems by themselves. The process involves several steps. First, the community people organise themselves by setting up savings and credit groups. Second, they register these as cooperatives. These community groups then form a regional network, and the network will propose its development plan to CODI. After CODI approves this proposal, it gives out loans with low interest rates directly to the community cooperative.

By building and utilising its network, CODI nurtures and strengthens the community process not only by providing loans but also by expanding opportunities for the poor to meet and learn from each other. At the same time, CODI involves several social actors such as local authorities, academics, non-governmental organisations (NGOs) and other development organisations in working together (Figure 2). CODI workers play the roles of community organiser, negotiator and facilitator among these various stakeholders. What CODI does is support and strengthen the necessary community process while, at the same time, building civil society.

**The Baan Mankong Programme**

In 2003, the Thai government launched a nationwide programme, Cities without Slums, to solve the housing problems of the urban poor communities. The *Baan Mankong* Programme is one of the main strategies under this programme, and it is carried out by CODI. It has a target to improve the housing, living conditions and tenure security of 300,000 households, in 2,000 poor communities, in 200 Thai cities within five years.

In this *Baan Mankong* Programme, the main actors are the community people themselves, and the local authorities are the partners. An important aspect of

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*Figure 2: How CODI Links Groups Together*

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Sources: Somsook; CODI.
this programme is that it involves the collaboration of communities, local authorities and development agents. CODI acts as development facilitator and also as a government mechanism to distribute the budget directly to the local communities (Figure 3).

In 2003, the first year of the Baan Mankong Programme, there were 10 selected pilot projects (a total of 1500 housing units) and national preparation started in 20 cities. The development projects varied from place to place. One of the pilot projects in Bangkok was carried out by the Klong Lumnoon Community (Figure 4). Residents of the community had come from rural areas to Bangkok and settled on this private land in 1983. At that time, the area was not urbanised at all. However, by 1997, as Bangkok expanded as a city, the land price in the area became high. The landowner decided to develop the land commercially. He found out that there were people living on his land and tried to evict them.

Some residents accepted compensation for ‘their’ land and moved away, but 49 poor families who could not find a new place to live remained. In 2000, the eviction struggle became heated. Two community members were put in jail. One of the community residents, Pa Paeng, 68, recalled, “We didn’t know what to do. We didn’t know whether there was anyone who could help us or not. Then, some people from outside came to help. They told us whom to contact...They introduced us to people from the Canal Network.”

The Canal Network is Bangkok’s large network of canal-side communities. The members are community residents just like them. These people have many experiences of being evicted and having negotiations, demonstrations and so on. They showed them how to organise themselves, how to deal with the district authorities and helped them to form a savings and credit group.

The Lumnoon community people filed a court case against the landowner to bail the two members out of jail, but they lost. They demonstrated at the Parliament House and stayed there one night, demanding a stop to the eviction and to let them stay where they were as well as release the two. Many other community members came to join the demonstration. Through these processes, the Lumnoon people felt strengthened and empowered to work on their own problems by themselves.

With CODI and the District Office acting as mediators, they started to have several negotiations with the landowner. Pa Paeng continued, “At first, we never thought that we could really buy this land. We were not sure. Then the Network taught us to organise a saving group. Saving...something...We didn’t know what that meant! We never had that experience, you know. But they told us how to do it...and finally around the end of 2002, we could buy this land with the loan from CODI. At that time, our savings group had more than 200,000 baht.”
After registering their savings group as a cooperative, the community took a loan from CODI at an interest rate of 1 per cent per year to buy the land, which the cooperative on-lends to individual families at 3 per cent per year, using the remaining 2 per cent for coordination, social activities, hosting visitors and religious ceremonies. Finally, the landowner agreed to sell a small piece of the land at one-tenth of the market price of 750 baht/m$^2$ (US$20/m$^2$), in exchange for their returning the rest of the land (land sharing).

After purchasing their land, they built a 520-metre concrete walkway into their new settlement. The community people realised the importance of everyone coming together to work together. Now they have activities to clean up the nearby canal.

CODI provided a young architect to work with the Lumnoon people. Together they designed their community with many more public spaces, such as a community hall with a meeting room, small library, day care centre and playing field. They are also going to have a garbage bank for recycling, and each block of the houses will have a water treatment system. In these ways, they show that they are not only concerned about housing security, but also about community welfare and the environment. They are aiming to strengthen community bonds for the future.

CONCLUSION
We can learn from this case that the members of a community are not just passive beneficiaries, but the core actors in the whole process. CODI staff believes in the community’s potential, in supporting the informal process from outside while trying to build civil society which can work in real partnership with the community.

The Baan Mankong Programme does not aim only to improve the physical side of life, but to strengthen the community bonds. The real pro-poor development should be managed and controlled by the poor themselves. Outsiders should provide support to make its weak processes strong, and provide some resources which the poor cannot easily access. They should expand opportunities for the poor to learn from other experiences.

Through these processes, the poor can use their potential fully and obtain the communication skills needed to negotiate with different stakeholders to enable them to solve problems by themselves. I think one of the concepts of ‘development’ is to be able to have good communication skills, such as negotiation skills, to solve problems with several stakeholders.

Mami Nakamura produced a video of the Klong Lumnoon Community as part of her API Fellowship. Please refer to the stills and her script from the video in the enclosed CD.

Notes
1. CODI Video, Baan Mankong Programme [2003]. All data is from CODI [2004].
2. Baan Mankong = Secured Tenure.
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Creating Community Forests: A Comparative Analysis of the Socio-Political Structure in Thailand and Indonesia

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Introduction

In many Southeast Asian countries, large portions of the forests have been exploited for economic development and populations have become more dense, resulting in the countries now struggling to ensure sustainable use of limited forest resources. As the government's monopolistic management of forests has failed, the participation of local people has become essential. Nowadays community forestry, or community-based forest management, is becoming popular and many such examples can be found in Southeast Asia.

As the forests are a familiar natural resource for local people, community forestry is also considered a symbol of democratisation and decentralisation that has progressed in this region since the 1990s. Various actors, such as policymakers, local officers, non-governmental organisations (NGOs), middle-class intellectuals, and villagers, have different ideas and methods concerning community forestry. The relationship among these actors in the policymaking process is different in each country. This paper tries to analyse the socio-political structure of community forestry in Thailand and Indonesia in a comparative way and consider a proper forest management system by way of cooperation among various actors.

In Indonesia, in line with the government's decentralisation policy, a substantial part of the authority for forest management was transferred to district governments. As a result, what is happening in each region in the country is quite diverse due to social, political, cultural and ecological conditions. For the Indonesian portion of this study, I focused on one district, West Kutai (Kutai Barat), whose forest policy is generally considered to be the most successful case of community-based, sustainable management in Indonesia. Though one district cannot represent the entire country, the West Kutai case has important implications about sustainable forest management by district governments in Indonesia.

On the other hand, policymaking in Thailand is quite centralised: Bangkok-made policy is applied to each region. Any legislation applies all over the country and, therefore, policy debates are also concentrated at the national level. Thus, for Thailand, I will mainly focus on national level movements by briefly referring to the reality or local people as witnesses.

A New Policy in a New District: Community Forestry in West Kutai, Indonesia

Decentralisation and Forest Management in Indonesia

Since the Dutch colonial era, all forests have belonged to the State. Since independence, the Indonesian Constitution of 1945 and several important laws, such as the Basic Agrarian Law of 1960 and Basic Forest Law of 1967, provide for the State authorities to control the forests. These laws also respect, to some content, the customary rights of local people, so far as they are in accordance with the welfare of Indonesian nationals. However, in actual fact, the customary rights have been paid little attention and centralised forest management has given concessions to large logging companies (Wrangham).

After the collapse of the Suharto regime in 1998, drastic decentralisation of public administration was implemented as a part of reforms called reformasi. The Regional Government Law of 1999 and Fiscal Balancing...
Law of 1999, the basic framework for decentralisation, still maintain the principle of State control of forests. However, substantial management in practice was transferred to districts (kabupaten). The revised Basic Forestry Law of 1999 emphasised local communities' rights over the forests.

However, in many regions, deforestation was accelerated after the reformasi due to overlogging, both legally and illegally. Many district governments were eager to generate revenue through new taxation structures or by issuing their own logging concessions, and paid less attention to deforestation (Barr et al.; Casson; McCarthy).

**Community Forestry Policy in West Kutai**

The West Kutai district is comprised of the middle and upper Mahakam river basin, and was divided from the former Kutai district in 1999. Its forests still remain in relatively good condition. The Dayaks form the major indigenous population. They are swidden cultivators who maintain a customary law system called adat. West Kutai introduced a community forestry scheme, which is generally considered to be the most successful application of community-participated forest management policy in Indonesia.

Besides logging concessions issued by the central government, the West Kutai government also issued its own concessions, mostly to local people or small companies from its establishment until 2002. These concessions inevitably damaged the forests and caused conflicts over the resources, both within and between communities. However, a community forestry policy was also being considered at that time. After a temporary district head (bupati) was appointed in 1999, and a regular one elected in 2001, the community forest policy was implemented.

The most remarkable point about West Kutai's community forestry policy is that substantial policymaking was done by a multiple-stakeholder working group called Kelompok Kerja Program Kehutanan Daerah (KK-PKD), consisting of representatives from the district government, NGOs, logging companies, academics and local communities. Since its establishment, the KK-PKD has organised meetings for its members only as well as ones that are open to the public. It has also published several books analysing the problems faced in establishing community forestry, and proposed a new management plan. For example, the decisions made by the district government, stopping the approval of new logging concessions for large companies, and drafting the District Regulation on community forestry, were based on the discussions in the KK-PKD.

The District Regulation on community forestry was legislated in 2003, and the laying out of its detailed terms and conditions were almost complete in January 2004. This scheme is in a form of concession called Community Forestry Utilisation Permit (Izin Usaha Kehutanan Masyarakat or IUKhM). However, unlike logging concessions so far, IUKhM presents various categories of forest use, taking into consideration the customary law system and resource use for daily life.

**Socio-political Background of Community Forestry Policy**

West Kutai's community forestry policy is highly rated as being almost the sole case for successful implementation of a community-based sustainable forest management policy. Then, the question that arises is why West Kutai could realise such a policy while many other districts could not.

The most important factor in West Kutai's favour is the structure of the district government. The government formed after the bupati election in 2001 is dominated by local Dayak people. In addition, all higher ranking officers, mostly Dayak, are university graduates or have higher educational qualifications. Many of them have moved from the provincial government.

It is also remarkable that officers holding key positions such as District Secretary, Head of Development Planning Office as well as bupati, have had experience in working on collaborative development projects with foreign donor agencies. Such experiences have led to close cooperation with NGOs and enabled them to introduce KK-PKD as a policymaking system.
District assembly members are less educated and experienced. Only a few are university graduates. They have various backgrounds: teachers, local officers, businessmen, etc., but most have spent their lives in local areas, namely the countryside. Thus, they are no match with district government officers in differences over policy. Moreover, having long been peripheral in what was formerly the Kutai district, there was no one with local political influence in West Kutai. At present, assembly members are satisfied with the rent sharing of public works and do not oppose the district government’s policy.

Traditional leaders, such as village headmen or customary law headmen in communities, also have little influence in the district level political scene. They are all blue blood family members of Dayak groups, while few high-ranking government officers and assembly members have such lineage. Now, however, education and administrative experience, which are not limited to certain families but require tolerance and ability, are more respected rather than lineage.

Top-down Community Forestry Policy by the Decentralised Government

West Kutai’s community forestry policy, such as policymaking through the KK-PKD working group and IUKhM community forestry scheme, can be evaluated as progressive in terms of community-based forest management. Ironically, though, the biggest problem of community forestry in West Kutai is lack of local people’s understanding of it. For example, some villagers regard the IUKhM community forestry scheme as being the same kind of logging concession scheme as those that they have seen so far. Other villagers, who are still engaged in illegal logging, report that they do not care about sustainable use of the forest and if forests disappear, they can generate income by other means such as cash crops.

Although several villagers are participating in the KK-PKD as members, they are recruited by the KK-PKD core members from among the villagers who often participate in open meetings or workshops and showed intelligence and eagerness. Thus, they neither really reflect the local community’s ideas nor have legitimacy as its representatives. The KK-PKD and the district government concentrate more on advocacy of community forestry and dealing with the central government than encouraging villagers to understand the necessity of sustainable use of forests and to organise themselves to manage their own forests in a sustainable way.

Some NGOs have project sites in the district, though not with many villages, and keep regular contact with the villagers. However, the officers report it is quite difficult to make the villagers understand the importance of sustainable forest use. In fact, in 1998, before reformasi, Sistem Hutan Kemasyarakatan, an NGO, once succeeded in organising the villagers for sustainable forest management, including legislating village regulations recognised as adat. However, after the Suharto regime collapsed, the villagers neglected the regulations, and now illegal logging prevails. It might take some more time to cool down the villagers’ fervour of enjoying this ‘new’ wealth.

The community forestry policy in West Kutai can be realised at community level through the strong leadership of the District Forest Department, especially its head, Ary, with the support of the bupati, NGOs and academics both in the aspects of advocacy and practice. Otherwise, community forestry in West Kutai remains a top-down approach by the decentralised district government.

MOVEMENT AND LOCAL PRACTICES OF COMMUNITY FOREST IN THAILAND

Centralised Forest Management

While the decentralisation of public administration has proceeded in Thailand, forest management is still under the complete control of the central government. All forests belong to the State. The core structure of the current forest management was established in the 1960s: Forest Act of 1941, National Forest Reserve Act of 1964, National Park Act of 1961, and Wildlife Conservation Act of 1960 (revised as the Wildlife Conservation Act of 1992).

The Royal Forest Department (RFD) was solely in charge of forest administration until its division into two new departments in 2002: the National Park, Wildlife and Plant Conservation Department (hereafter, “National Park Department”) and the Department of Marine and Coastal Resources. The control of
commercial logging based on the Forest Act and spatial control of forest lands through the National Forest Reserve system formed the core of forest management until the end of the 1980s.

**The Shift to Nature Conservation and the Emergence of the Community Forest Movement**

At the end of the 1980s, the popular anti-logging movement and the serious flood disaster in Southern Thailand made the government stop all commercial logging in 1989 (“logging ban”). After the “logging ban” was imposed, the RFD became conservation oriented. Since the late 1980s, protected areas (national parks and wildlife sanctuaries) rapidly expanded. Protected areas were also designated without considering existing villages and farmlands, which caused conflicts between local people and the RFD.

On the other hand, after the “logging ban”, the community forest movement also emerged. In fact, there are several kinds of long enduring practices by the local people to conserve the forests, for example, protecting ancestral forests and watershed forests, as well as various forest resources on which their daily lives are dependent. The movement requires that community forests gain official approval at the same time that villagers begin to demarcate the forests adjacent to them as community forests and develop management systems such as written regulations and committees.

This movement actually first began among villagers in Northern Thailand to protect their forest resources. The Huai Keao village case in 1989 is commonly referred to as the starting point of the community forest movement in Thailand: the first case that the RFD officially recognised as a community forest managed by villagers. The villagers had resisted a plan for an industrial timber plantation to replace the natural forest long utilised by Huai Keao villagers (Montree et al. 155). After that, community forestry practices spread widely all over the country, especially in Northern and Northeast Thailand.

Villagers establish community forests in order to protect their resources from outsiders. After succeeding in stopping commercial logging, the local people declared that they should be qualified to manage their own forests. NGOs have been continuously assisting them since the beginning of the anti-logging movement. The RFD also began to consider community forest as a way to manage abandoned logging sites after the “logging ban” and the Huai Keao case. Both the governmental and non-governmental actors share a basic idea of the benefits of community forest, and local practices of community forestry continue to spread.

**The Political Process of the Community Forest Bill**

While community forest practices by local people were spreading, the government and the NGOs were debating the Community Forest Bill, which gives legal status to, and provides for necessary terms and conditions for local people to manage community forests.

After more than ten years of debate, the Bill was passed by Parliament in 2001. However, it was vetoed by the Senate and sent back to Parliament in 2002. Its status is still pending. The Community Forest Bill is not only an issue among direct stakeholders but involves a much broader controversy entangling the whole society, as a more general value conflict in the present Thai society involving democracy, human rights, science and environment is reflected in it.

The main focus of the debate is on protected areas. The RFD first drafted the Bill in 1991. Although several committee meetings were held, including with representatives from community supportive NGOs, the RFD’s draft did not agree to the establishment of community forests in protected areas (RFD; RFD Division of Community Forest). NGOs opposed this point and drafted their own version of the Bill. While the RFD proceeded with the process towards legislation based on its own version, NGOs successfully persuaded the government to transfer the initiative of drafting the Bill to the Office of the National Economic and Social Development Board (NESDB). As a result, a conference to draft the Bill was organised in Chiang Mai in 1996, participated by the representatives of the RFD, community supportive NGOs, conservation NGOs, farmers’ groups and academics. The conference resulted in a new integrated version of the draft Bill allowing community forests in protected areas. However, during the administrative process afterwards, some groups on the community side again objected to some detailed points.
Finally, they drafted one more version with the cooperation of local people and in 2000 directly submitted it to Parliament with 50,000 signatures following the promulgation of the new Constitution of 1997. This 'people's version' was taken into consideration together with the government's version and approved by Parliament as a somewhat mixed Bill in 2001 (Secretariat of the Parliament). However, the Senate disallowed the establishment of community forests in protected areas, made serious amendments and sent the Bill back to Parliament in 2002 as mentioned above (Bangkok Post).

In this process, the NGOs played a remarkable role. In particular, community supportive NGOs formed an alliance that functioned well in putting pressure on politicians. This alliance, a part of the NGO Coordinating Committee on Development (NGO-CORD) is a national-level umbrella organisation and consists of many small organisations assisting community forest management in rural areas, and a policy-oriented organisation in Bangkok named the Project for Ecological Recovery. The former gives legitimacy to the alliance as the “voice of the people” and the latter, policy advocacy.

The politicians, keen on meeting people's needs, began to negotiate with the alliance, which resulted in the latter sending their representatives as members of an ad hoc committee for the Community Forest Bill both to Parliament and the Senate.

On the other hand, conservation NGOs seemed to have faded out after the Chiang Mai conference in 1996. They had a scientific view of forests or ecosystems and doubted local people’s ability to manage the forests in an ecologically sustainable way. Though their attitudes to community forests varied, these organisations disagreed with the establishment of community forestry in certain ecologically sensitive areas. This idea is shared by most foresters, that is, those who were educated in scientific forestry, with most coming from Kasetsart University.

This group took action in the final stage, only after Parliament approval. They got into the Senate’s ad hoc committee for the draft Bill, and actively campaigned on this point, including at the general meeting of the Senate. Many Senators are retired government officials, and thus tended to be sympathetic to them. This resulted in the Senate's rejection of establishing community forests in protected areas.

After the Senate's resolution on 15 March 2002, Nithi Iaosiwong, one of the most influential intellectuals, criticised this Senate decision as reflecting the ideas of the middle class (chon/khon chan klang) (Bangkok Post; Community Forests Network Thailand 50-77). Nithi said that the urban middle class cannot imagine local people's life as being inseparably related to forests and the rest of the natural environment. Thus, they believed nature must be reserved and separated from local people.

Nithi's criticism exposed a split in middle class opinion in Thailand. Indeed, NGO activists and academics, including Nithi, who support local people are also from the middle or upper class. The middle class as a whole is believed to be the leader of democratisation from 1992. Even in environmental issues, they fought against projects harmful to both the natural environment and local people's welfare, for example, dam constructions. The opposing values in the community forest issue revealed the split in the middle class for the first time.

Advocacy or Practical Interest?
Despite the long controversy, community forest practices have been prevailing and, in so far as villagers do not apparently damage the forests, forest officers have usually tolerated de facto community forests in protected forests. Practical problems are rarely found. However, community supportive NGOs argue that such loose administrative measures are inadequate because they rely on each forest officer’s discretion.

The importance of this issue as a development of democracy is also stressed since this is the first case of people's direct submission of a draft law to Parliament following the promulgation of the Constitution of 1997. The 'people's version' was drafted through communication between NGO staff who are legal specialists, and local people presenting their own ideas on the Bill.

An NGO staff said this was a totally new style of drafting legislation. Basically, Thai laws so far are designed for the state to control and govern the people. However,
this ‘people’s legislation’ was a totally opposite way of thinking: the people themselves provided for their own rights and duties.

Therefore, the community forest movement, especially with regards to the Bill, was advocacy-oriented and was an attempt not only to improve local people’s actual access to the forest resources, but also to reform the socio-political structure of Thailand. However, it is also important to note that NGOs have been cooperating with farmers’ groups and assisting villagers to develop their community forests. This resulted in the farmers legitimising the movement even though they might not understand advocacy.

TOWARDS HARMONISING ADVOCACY AND PRACTICES: CONCLUDING DISCUSSION

Compared with the top-down community forestry of decentralised West Kutai, the Thai case can be called the “bottom-up movement for national advocacy struggle”. This contrast vividly reflects the difference in socio-political conditions between Thailand and Indonesia.

In Indonesia, the central government lost power after the political turmoil following the Suharto regime’s collapse, followed by the decentralisation of public administration. Each district government can principally realise its own policies and construct its own legal institutions, though there are some struggles over authority with the central government.

West Kutai could introduce its community forestry policy in such national-level political circumstances. In a newly established district lacking powerful political influence, locally elected bupati and his staff, highly educated and experienced technocrats, could realise their NGO-like advocacy. However, local people do not really understand this advocacy from the ‘outside world’. The West Kutai case is exceptional both from the aspect of the uniqueness of its policy and its socio-political condition. However, the West Kutai case shows a possibility that other districts can introduce various suitable policies based on their decentralised power and local election system.

On the other hand, in Thailand, all laws must be applied all over a country that contains diverse realities. Even though decentralisation of public administration is now ongoing, fundamental authority over the forest resources has not been transferred to the local authorities. In order to legally secure local people’s rights, even in certain provinces or districts, movements at the national level are required.

National-level politics is much more complicated and full of influential persons, thus it is impossible for a group of NGOs (including foreign donors) to ‘take over’ the government, as has occurred in West Kutai. Thus, NGOs must negotiate with existing politicians as the representatives of the people. This is the reason why the West Kutai case is in an “advocacy first”, top-down style, while, in Thailand, there first had to be bottom-up practices on which advocacy arguments could be based.

In both cases, the middle class played important roles. In East Kalimantan, a Dayak intellectuals’ association was formed in the mid-1980s consisting mostly of provincial government officials or academics who had university or higher qualifications. A Dayak NGO was also formed in the same period. Both have been working for the socio-economic improvement of inland Dayak communities. Thus, during decentralisation at the end of the 1990s, Dayak intellectuals had grown to significant numbers, and they were ready to be in charge of governing a new district, “Dayak’s district”, West Kutai.

People from the middle class were also critically important in the community forest movement in Thailand. First, as local NGO staff, they helped the villagers establish somehow ‘sophisticated’ community forests, which had written regulations, clearly mapped boundaries, and management organisations and plans. Then, the debate of the draft Bill was principally among the middle class, whose focus was essentially not specific forestry or environmental issues but about the socio-political order.

The difference in ecological conditions also cannot be dismissed. In West Kutai, there still remain rich forests to the extent that commercial logging is compatible with sustainable forest use, while in Thailand, forests are such scarce resources that there is a national consensus that commercial logging cannot be an option in any
way. It might be more difficult for the people of West Kutai to understand the necessity of sustainable use of the forests than Thais. Indeed, it is rarely reported that local people, living within still abundant tropical forest resources with sufficient infrastructures for logging, successfully organised community-based sustainable forest management.

There is also a need to bridge local people and middle class intellectuals, both in West Kutai and in Thailand. In Thailand, although the advocacy controversy is also important, more attention should be paid to design a practical system that can realise the substantial interests of local people. This might not necessarily be in the form of laws, but rather flexible networking or coordination among various actors such as conservationists and groups supportive of communities, academics and forest officers so that all can participate and discuss with each other. West Kutai needs to encourage the local people to recognise the necessity to manage their forests in a sustainable way for their own interests, and persuade them to organise themselves for sustainable forest management.

The two cases thus have opposite characteristics but are complementary to each other. The comparative analysis provides many implications on how community forestry should be carried out.

First, balancing advocacy and practices in terms of active interaction is critically important. Policy advocacy must always consider what people really need in terms of listening to their voices and carefully observing the reality of their daily life. Then, such policy that reflects people’s need might contain requests to the local people to change their ideas or behaviours for their long-term welfare, whether among the local people themselves or for a more collective interest. When intensive communication and mutual understanding are systematised, proper and the most efficient distribution of roles and authority among politicians, forest officers, NGOs, and local people should also be considered.

Notes

1. Interview with the head of Personnel Affairs Office and other executive officers of West Kutai District.

2. This is according to the West Kutai District Assembly Secretariat and supplemental interview at the Assembly Secretary Office. The data is from January 2004.

3. Interview with several executive officers of West Kutai.

4. Interview with many Dayak university graduates, including government officers, NGO staff and academics.

5. Interview at the KK-PKD office.

6. Interview at the Sistem Hutan Kemasyarakatan office in Samarinda.

7. The decentralisation in Thailand is far different from that in Indonesia. In Thailand, although considerable portions of administration and budget were transferred to City Municipalities (Thesaban) and Sub-district Administration Organisations (Ongkan Borihan Suan Tambon), they are under the control or supervision of the Ministry of Interior. Compared to district governments in Indonesia, autonomy of these organs is quite limited. For details, see JICA.

8. Besides these community supportive NGOs, there are conservation NGOs that put more emphasis on conservation of nature or ecosystems. Later arguments distinguish these two.

9. Interview at the Project for Ecological Recovery, a Bangkok-based NGO; and the RFD (Webpage).
REFERENCES


BACKGROUND AND SIGNIFICANCE
With its authentic historic monuments, the Rattanakosin area plays an important role in the identity of the old town of Bangkok. The conservation of the Rattanakosin area started in 1982, the year of Bangkok’s bicentenary anniversary. In that year itself, many studies related to Rattanakosin’s history, arts, and architecture were done. Different government sectors proposed several conservation plans. The result was the Master Plan for Conservation and Development of Krung Rattanakosin, which was made public by the Rattanakosin Committee. Since then, conservation activities along the lines of policy plans have been consistently implemented.

Then came a period of change in 1997-1998 when the first bottom-up approach for conservation was started. Citizens’ groups were formed to “wake up” their hometown (Askew 301-304), and they were supported by the local government that was formed following the decentralisation policy.

Today, the government authorities pay more attention to public participation. In the Strategic Plan for Conservation and Development of Krung Rattanakosin and the Old Towns (2004-2008), a public participation plan was added to the main plan. Furthermore, the Draft Plan of Public Participation for Conservation and Development of Krung Rattanakosin (2004-2006), was launched as a new tool for conservation.

However, public participation is an ongoing process, and the plans still need to be adjusted to generate long-term results. The sectors need to study effective bottom-up approaches to conservation in other Asian countries with similar situations, to apply in conservation efforts in Thailand. Hence, the focus of this project is to study *machizukuri*, the bottom-up approach to conservation in Japan, for an understanding of how to revitalise historic districts by allowing inhabitants to participate in conservation processes. Lastly, a bottom-up approach to conservation that is suitable for the Rattanakosin area is proposed.

MACHIZUKURI: THE DEVELOPMENT OF COMMUNITY PARTICIPATION
In over one hundred years of architectural and urban conservation in Japan, concepts and practices of conservation have been transformed by economic and social changes. From the Nara period until the Meiji Restoration period in 1868, responsibility for the construction and repair of official buildings, including the most important Buddhist temples, were in the hands of government agencies. Since the early Meiji era, conservation has been part of people's duties under the laws adopted from Western countries.

Stage I: Giving Citizens Responsibility for Cultural Conservation
At the beginning of the Meiji era (1868), the government and the people cultivated modern methods of development, and tended to ignore the need to protect cultural properties and traditions. From 1880, the Japanese government realised the importance of protecting its cultural heritage and granted funds for the maintenance of Buddhist temples and Shinto shrines (*koshaji hozon kin*). By 1894, 539 temples and shrines had received subsidies for repairs and reconstruction.

In 1897, the government enacted the first law for the protection of cultural properties. The Law for the Preservation of Ancient Shrines and Temples (*koshaji hozon hou*) provided for legal protection and the
granting of subsidies for preservation works. According to this law, the first historic buildings and art treasures in the possession of shrines and temples were protected as national treasures. Before the enforcement of this law, historic treasures were destroyed not only by the replacement of old structures with new constructions but also through the export of art treasures. Since then, the Law for the Preservation of Ancient Shrines and Temples has proved an effective tool in preventing the destruction of historic treasures (Henrichsen 12-13).

In 1929, the Law for the Preservation of National Treasures (kokuhoo hozon hou) was enacted; the protection was expanded to cover the treasures owned by local public bodies and individuals. Nevertheless, these early laws still protected only art objects and buildings as tangible cultural heritage.

Later, the Law for the Protection of Cultural Properties (bunkazai hogohou) of 1950 was legislated. This law also included the Law for the Preservation of Historic Sites, Places of Scenic Beauty of 1919, and used the term “scenic zoning” to protect historic areas such as the designated historic site of the Meiji Shrine, Tokyo, and the scenic area of the historic core of Kyoto. Legal categories such as “intangible cultural properties” and “folk cultural properties” meant that, for the first time, the traditional performing arts and applied arts were protected.

Later, the establishment of the Agency for Cultural Affairs supported the owners of cultural properties in being more responsible in protecting properties that allowed public access. It should be mentioned that at the end of the first stage—before the Second World War—the definition of cultural properties was expanded beyond religious buildings, and the responsibilities for preserving cultural properties began to change hands to the citizens of Japan.

**Stage II: The Role of Grass-roots Movements in Townscape Conservation**

From 1960 to 1970, economic expansion brought widespread loss of precious historic environments. This led to the formation of grass-roots movements for the protection of historic environments all over Japan. Public concerns were not only for the protection of high value buildings but also for whole historic areas; therefore, the issue of preserving groups of historic buildings was discussed for the first time in Japan.

The second half of the 1960s and the early 1970s saw the emergence of local citizens' protests against the destruction of the scenic beauty of their surroundings and against the new construction in three areas: Kamakura, Kyoto and Nara. Even though the protests in Kyoto and Nara were unsuccessful, these initial townscape conservation movements brought about the passage of the Law for the Preservation of Historic Landscape in Ancient Capitals (koto ni okeru rekishiteki fuudo no hozon ni kansuru tokubetsu sochihou) in 1966. The law protected eight ancient capitals: Asuka, Ikaruga, Kamakura, Kashihara, Kyoto, Nara, Sakurai and Tenri.

Because of this law, in 1967 Kyoto became a good example of a city that embraced two significant areas designated as the Historic Landscape Preservation District and the Special Historic Landscape Preservation District, covering 60 square metres and 15 square metres respectively. The significance of the city ordinance is that it played an important role in protecting an urban area, which is “space”, rather than “art objects” or “buildings”, which were what laws were formerly enacted to protect (Nitschke 160-62).

In 1968, the City Planning Law was passed. This important law supported decentralisation of planning authority to local governments. Thanks to this law, master plans of urban areas can be designed at the municipal level with only a notification of decisions to the prefectural governor. In essence, this will encourage the passing of Historic Preservation Machinami Ordinances (machinami jorei) in a number of local areas.

In 1973, local governments which were interested in townscape conservation joined forces to found the Japanese Association of Towns with Historic Townscapes (rekishiteki keikan toshi renraku kyogikai). In 1974, local townscape conservation groups formed the Japanese Association for Townscape Conservation (zenkozu machinami hozon renmei), originally consisting of the Friends of Tsunago Society, the Inai-cho Preservation Society, and the Arimatsu Town-making Society.
Active local governments and citizens' groups played important roles in the amendment of the Cultural Properties Law of 1950 and in the introduction of a designation for particular areas called Important Preservation District for Groups of Historic Buildings (dento teki kenzo butsu gun hozon chiku [Denkenchiku]) in 1975. The implementation of Denkenchiku is a unique system of townscape conservation of Japan because it allows the protection of urban areas, not just of individual buildings. Even though this law comes under the purview of the national government, the system in implementing this law is decentralised and is carried out by municipalities. It is also supported by local townscape conservation groups in each area.

Stage III: The Spread of Active and Democratic Townscape Conservation Groups and Machizukuri as Key Words in Urban Planning

Because of the City Planning Law of 1968, which decentralised the power of urban planning to local governments during the 1970s, numerous local governments supported the establishment of machizukuri groups. After the economic slump of the 1990s, numerous townscape conservation projects by local governments and citizens' groups (machinami hozon kai) emerged throughout Japan.

MACHIZUKURI: THE EXPANDING CONCEPT OF COMMUNITY DEVELOPMENT

Machizukuri is a combination of the noun machi and the verb zukuri. Several academics have stated that machizukuri is consistently related to Japanese urban planning; therefore, it is quite difficult to define its meaning in relation to other languages or to adapt its concepts to other social meanings in different contexts. Since the 1990s, the concept of machizukuri has been used widely in urban planning activities in Japan, from planning projects in rural areas to those in urban areas, from urban development projects to architectural conservation projects, and from large projects to small projects initiated by the people. The concepts and rhetoric of machizukuri have been transformed by changing contexts through time, as follows:

1960s: A number of citizens' groups opposed urban planning projects, known as toshikeikaku projects, which were initiated by the local governments. Consequently, local people worked towards preserving historic buildings and townscapes. When machizukuri first came into use, machi was written in Chinese characters (kanji) and carried the meaning of 'street'; zukuri was written in modified Japanese characters (hiragana) and carried the meaning of 'to build, to create'; hence 街つくり (machizukuri). The hiragana in this term helped to soften the image of the word. Nevertheless, the combined term still expressed the hard feelings of opposition to construction activities.

1970s: Experiences of urban planning with participatory processes in the previous period made citizens realise that they gained better results than urban planning projects that took place under the government's orders. The concepts and rhetoric of machizukuri then evolved to become more positive.

In this period, machi continued to be written in Chinese characters and carried the meaning of 'communities' or 'neighbourhoods'; there was no change to the written form and meaning of zukuri. The term 街つくり (machizukuri) represented urban planning that dealt not only with physical elements but also with communities. People's participation covered infrastructure development and disaster prevention. Moreover, activities derived from decisions made by inhabitants helped to preserve the ambience of buildings and townscapes.

1980s: The national government started supporting citizens' projects by establishing the Urban Design Department, an authority to which people could propose ideas for urban planning. The national government used machizukuri to implement the Japanese-style welfare system among local communities, and relied on families, volunteers and traditional neighbourhood organisations in their planning. In this period, machi and zukuri came to be written entirely in hiragana, まちづくり (machizukuri). Its meaning encompassed construction, public activities and the daily lives of citizens.

1990s to the present: In three decades of decentralisation, the Japanese have collected experiences of participatory urban planning. Based on the lessons learned, they changed the term toshikeikaku, which translates as...
‘urban planning’, to *machizukuri*, the new term that precisely fits the Japanese context. Over the course of the 1990s, a great variety of *machizukuri* activities have gradually expanded. As such, *machizukuri* can be written in characters that refer to foreign words (romaji). The concepts of *machizukuri* have spread to penetrate international perceptions of urban planning.

**MACHIZUKURI AT WORK: CASE STUDIES OF ARCHITECTURAL AND URBAN CONSERVATION IN KYOTO AND NARA**

From the 1960s until the present, Japanese urban conservation by way of the *machizukuri* method has been defined as “processes with the partnerships among local residents, investment sectors, and the government authorities” (Kyoto City, *City Planning*). Even though the government in Japan is centralised, since the early 1960s, public participation in city governance in Japan has been supported. Urban planning laws enable citizens to participate in the decision-making process. Therefore, citizens willingly join in a variety of activities; for example, health, welfare, disaster prevention and city planning (Kyoto City, *Master Plan 8-9*).

In this context, wherever *machizukuri* is implemented, it is composed of “hardware activities” (construction works and urban planning works) and “software activities” (the regeneration of historic centres and the creation of networks of people involved in conservation (Nishimura).

The following section shows two case studies of *machizukuri* implementation: one in the historic centre of Kyoto, the other in the historic district of Nara (Nara-machi). The case studies show good practices of conservation in areas where inhabitants have continued to live. These two areas are not under the central government’s system of Important Preservation District for Groups of Historic Buildings. Instead, they have been regenerated by way of *machizukuri*, with strong input from their inhabitants.

**The Historic Centre of Kyoto**

Kyoto is one of the most important historic cities in Japan with its valuable cultural heritage. Kyoto was established in the 6th century after the capital was moved there from Nagaoka-kyo, Japan’s second capital. The emperor Kanmu modelled Kyoto after Chang-an, the capital of the Tang Dynasty. By the 12th century, the people took over when soldiers wrested power from the Imperial Court. Led by merchants, the people formed self-governing bodies and grouped around shrines and temples to defend themselves against wars and natural disasters.

During the 15th century, after the ten-year Onin War, the merchants had to rebuild their city which had almost been destroyed when it served as a battleground. In the 16th century, during the reign of Toyotomi Hideyoshi, Kyoto was transformed into a castle town and groups of people organised themselves into neighbourhood communities called *machi*.

After the death of Hideyoshi and the subsequent rise of the last shogun, Tokugawa Ieyasu, the government moved to Edo, as Tokyo was once called. However, the emperor still stayed in the Kyoto Imperial Palace. The Kyoto merchants and craftsmen pursued their trades and became prosperous. The 300 years of the Edo Period (1603-1867) was a period of rich culture. However, the people of Kyoto had to reconstruct their city seven times because it kept getting razed by fire.

In the Meiji Restoration Period (1868-1912), hard times occurred when the emperor moved to Tokyo, and Kyoto rapidly declined. In attempting to revitalise Kyoto in a period of economic stagnation, Kyoto was ‘reborn’ by her townspeople as a commercial and industrial city. In 1889 Kyoto was established as a self-governing body, Kyoto City. The planning tasks for the city were initiated by the first mayor and these included widening the main street and preserving the ‘national’ scenery. During the war, Kyoto hardly suffered damage unlike a large number of Japanese cities. In 1950, it legally declared itself the International Culture and Sightseeing City.

Since the 1960s, Kyoto City faced problems of population migration, industrial stagnation and transformation of its townscape. To solve those problems, the Kyoto City Master Plan was developed in 1985. This practice of drawing up a master plan has continued to the present, and the current master plan (2001-2010), which details planning along ten-year
periods, is still maintained for development, with the strong involvement of Kyoto residents. It proves the power of the people of Kyoto, who have taken part as leaders in every change that has happened to the city.

Therefore, the conservation movement in Kyoto has been strong among the people since the 1960s. The activists fought for preserving an old train station and against the construction of the new one. This movement eventually led to the enactment of the Ancient Capital Law in 1966, controlling not only districts for preservation, but also all areas of the city. In 1967, Kyoto designated a 60-square metre urban centre as a Historic Landscape Preservation District. Today, the regeneration of the living urban centre is the main objective of the conservation and development policy of Kyoto. Beneficial conservation through partnership is presented below.

**The Conservation Process**

Due to decentralisation and the reduction of the budgets for conservation and development at the municipal level, Kyoto has attempted to adapt its administration to conform to this conservation policy (Kyoto City, City Planning 34). At the planning level, citizens are allowed to participate in developing the policy plans of Kyoto; for example, local ordinances and district plans. In the plan-making process, citizens’ groups and academics help to ascertain that the plans are clear, impartial and suitable for all groups of people. In addition, conservation plans, which are contained in the master plan, ensure that conservation activities are consistent with the direction of the development of the city.

At the implementation level, Kyoto established a new section called the Town Making Promotion Section. This section coordinates government sectors carrying out conservation and urban planning works, including the Synthesis Policy Making Section, the City Planning Section, and the Townscape Controlling Section. Not only does the Town Making Promotion Section collaborate with local government sectors, it also set up a new authority—the Kyoto Centre for Community Collaboration (Machizukuri Centre)—to implement policy plans by linking with local people. It is a place that provides common spaces for citizens’ groups to participate, and for the collection of information on urban and architectural projects.

**Conservation Activities**

**A. Hardware Activities: preserving historic architectures and townscapes**

The passage of these legislations have helped in preserving the historic architecture and townscape in Kyoto:

1. A new building code for Central Kyoto: The new building code for Central Kyoto was enacted by Kyoto with the participation of citizens. The process of passing the law took one and a half years. Before outlining the ordinance, several seminars were held among the local government, people and citizens’ groups. Afterwards, draft plans were approved through public hearings. Details of the law include the following:

   - Regulating the height and form of buildings in Central Kyoto: The maximum height allowed for buildings in Central Kyoto are either 20 meters within a 20-metre setback or 30 metres from a 20-metre setback. The form of new buildings has to blend with the form of the traditional townhouse (kyo-machiya), and to allow good ventilation in public spaces.

   - Preserving traditional townscapes and landscapes: the new building code helps to keep the shape of townscapes by maintaining continuous facades and roofs. Having uniformly covered walkways makes people feel comfortable when they walk around the shopping areas.

   - Revitalising the historic centre: in the past, Central Kyoto used to be a vibrant commercial district with well-known traditional shops and restaurants. Today, rows of shophouses are interrupted by housing units and car parks. To overcome this, the new law proposes this incentive: developers can construct higher buildings if the ground floor and second floor are used for commercial purposes.

2. A revised fire prevention law for the Gionshibashi District: In Central Kyoto, Gionshibashi was the first district to have an amended fire prevention law. According to this revised law, inhabitants in the district are allowed to use traditional non-fire prevention materials to replace damaged building parts. Therefore, the townscape can be preserved because the same type of materials as the original ones still
exist. Conditions for allowing communities to revise their fire prevention law are that communities have to provide effective volunteers for disaster prevention and the areas must not be susceptible to fire. In the future, Kyoto plans to have this law applied in other districts.

3. The passing of the district plan for the Gionmachi-Minamigawa District: District plans (chiku keikaku) are Kyoto-supported plans that each community needs to approve. District plans contain land use controls that are satisfactory to the community and define the specific details of the Kyoto master plan.

A characteristic of district plans is that they are appropriate to the character of old towns. Since areas in new towns are separated into many parts—such as residential areas, commercial areas, and industrial areas—small areas in old towns can be utilised by inhabitants for various uses, such as areas for living or for working. In addition, in the past, each community in the old towns made their own regulations, so the regulations became a basis for district plan development.

Drawing up district plans is the responsibility of the Town Making Section. The Section will provide guidelines to the residents. When the draft plans are finished, the section gets approval of them through public hearings before being finally enforced. At present, only three district plans in Kyoto have been launched. Difficulties faced in making the plans are that communities must be firm enough to participate in brainstorming meetings, to solve problems and to unanimously make decisions.

Apart from preserving historic buildings and townscapes through legal mechanisms mentioned above, the responsibility of preserving private buildings is also shared jointly among inhabitants, the private sector, academics and the local government authorities. Here are two notable examples:

1. The Symbiotic Community: The Symbiotic Community is a housing project in Central Kyoto which started as a research project on appropriate housing units carried out by academics and the government sectors. Residents were invited to join in at the early stages of the design process to reduce conflicts. The Symbiotic Community is characterised by a harmonious design built in traditional townscape forms, and links between houses (private spaces) and streets (public spaces). In the programme, there are both plans for keeping the “order of townscapes” and the “order of spaces”, and for promoting activities, including meetings between local residents and newcomers, and cultural events that provide a lively atmosphere for the aged (Takada).

The Symbiotic Community is managed by the Commission on Community Symbiotic Land Utilisation comprising “the Decision Making Entities” (communities, stakeholders, citizens’ groups and developers) and “the Support Entities” (academics and the governmental sectors).

2. The Revival of the Traditional Townhouse (Machiya): The local government, led by the Kyoto Centre for Community Collaboration, is taking various approaches towards revitalising traditional townhouses (machiya). The objective is to propose ways whereby people can comfortably stay and keep a modern lifestyle, while adding value to old buildings. The Centre published copies of the “Information Booklet for Maintenance of Kyo-Machiya” and disseminated them to inhabitants. Furthermore, the Centre organised consultation programmes, providing information on renovation and maintenance of old buildings, and instruction on taxes and expenses during construction projects.

The Kyomachiya Sakujigumi is a citizens’ group that takes part in developing systems of renovating machiya. The objective is to collaborate with owners and architects. In its four-year operation, 30 machiya were renovated and used for housing and commercial functions. The organisation pays much attention to the authenticity of materials, workmanships and suitable use of materials in all projects.

B. Software activities: creating networks of people and revitalising the historic centre

“To diversify, revitalise and perpetuate local communities” is the future prospect of urban planning
in Central Kyoto (Kyoto City, City Planning). This concept shows that Kyoto plays an important part in developing values for the citizens' living conditions, even creating tourism programmes which bring in a healthy income to Kyoto every year.

1. Sustaining local communities: The Machizukuri Centre is a government authority that directly works to strengthen communities in Kyoto. The authority serves as a medium between people and the local government, performing various kinds of public works, for instance, preserving environments, enhancing quality of life, taking care of the elderly, and doing architectural and urban conservation projects. People's participation in two kinds of local community groups is encouraged: traditional neighbourhood communities (chonaikai) and citizens' groups (machinami hozon kai).

The traditional neighbourhood communities in Kyoto have been strong in their main roles of distributing welfare from the local government to the residents. In addition, these communities constantly join cultural and religious activities. One festival that showcases the strength of these communities is the Gion Matsuri Festival, where each community will prepare a float to join a parade.

Meanwhile, there are more than 100 citizens' groups established in Kyoto City. The citizens' groups are one part of the whole system of participatory implementation of urban planning projects. Each group performs ongoing duties, and its members can join activities which they are interested in.

2. Reviving historic centres through economic activities: In reviving historic centres to prevent out migration from the city centre, as well as to add value to historic buildings, the government and communities collaborate on many projects, including:

- Creating a network of museums and galleries: this is a project to produce modern art and handicraft in the traditional Kyoto style. The Machiya Club Network is an organisation working to persuade new artists to stay and work in machiya. Moreover, it promotes artists' communities by creating art festivals.

- Creating a system of lease and sale of machiya: this is a project to add value to old buildings through joint investments between residents and developers. The Kyomachiya Joohoo Centre is an NPO which takes part in this system. It collects information about the traditional townhouses and matches them with people who desire to rent or buy these spaces.

Besides reviving historic centres through economic activities, other ways to rejuvenate the life of towns include organising cultural activities and doing research for the raising of the quality of life. The citizens' groups working on these activities are the Kyomachiya Tomonokai and the Sustainable Community Centre Japan (SCCJ).

The Kyomachiya Tomonokai aims for the sustainability of the traditional customs of Kyoto, and to enhance the uses of Kyo-machiya. Activities include promoting cultural activities and strengthening local communities, such as through traditional festivals and Kyoto cuisine. The SCCJ works to improve traditional communities. Information technology is a tool used to help link communities and develop the lives of the disabled and the elderly. The projects start with a research process, after which the knowledge is passed to the public through training programmes.

**The Old District of Nara**

Nara is a valuable old city in Japan. In 710, Heijo-kyo (the old name of Nara) was established as the first full-scale capital city in Japan. Plans for the capital were based on ancient Chinese capitals. Heijo-kyo served as a capital until 784; the emperor then moved his court and government to Nagaoka-kyo and ten years later to Heian-kyo, now known as Kyoto.

After the Nara period, when royal and political sectors had been moved to other places, Nara was left with
only two great temples: Todai-ji and Kofuku-ji. Vital communities were formed around the temples. Since then, traces of the old Nara have gradually disappeared due to the transformation of settlements. However, traditional elements, known as Nara-machi, still exist in ‘the outer capital’—a temple hamlet located eastward and outside of the rectangular main capital layout.

Architectural conservation in Nara was initiated in the 19th century when survey projects of historic buildings were done. In 1919, Nara was declared a site under the Law for the Preservation of Historic Sites, Places of Scenic Beauty. In the late 19th century, modernisation caused the local governments to do large public facility projects, for instance, the prefectural offices and the railway system. Until the Second World War, construction brought conflicts between local people and the local government. This inspired people to work towards preserving the old buildings that were being rapidly destroyed by that time.

Today, the citizens’ groups formed in the period of modernisation continue to work to expand both the number and variety of projects. The following section presents the work of the Nara Machizukuri Centre Incorporated Association (NPA), an NPO working for architectural conservation. It is a good case as it was initiated and implemented by local people, not under the government’s preservation system.

The Conservation Process

The NPA is an NPO and different from the Machizukuri Centre, Kyoto, which is supported by the local government. The functions of the NPA are to build collaboration between people and the local government and to create networks of communities and citizens’ groups. To expand its network, the NPA is part of the Asian West Pacific Network for Urban Conservation (AWPNUC). The NPA conducts research to gain knowledge of architectural conservation, to preserve the environment and to manage communities in historic districts according to the noble principles of machizukuri.

Conservation Activities

A. Hardware Activities: preserving historic architectures and townscape

In Nara-machi, a number of historic buildings are protected under the national programme of Denkenchiku. However, valuable buildings and areas owned by the private sector are preserved by their owners. Private historic buildings are protected via the district plan (chiku keikaku), the result of mutual work by the owners and the NPA.

The District Plan of Nara was first initiated by the local government. In 1985, Nara conducted a survey project for the street construction plan (toshi keikaku doro). In the plan, the streets through the old district were widened from 8 to 16 metres. This continued until 1990, when residents and the NPA established the conservation and development plan (toshi keikan jorei) with a supporting budget from the private sector. It took two years for the plan to be completed, and the NPA proposed it to Nara.

Preparing the conservation and development plan made the NPA strong. Moreover, the concept of participatory work had started spreading. In 1994, the conservation and development plan set standards for the development and conservation of Nara-machi townscape (Nara-machi keikan keiseichiku), standards which received the most public support ever.

The standards consisted of guidelines on architectural and physical elements, boundaries demarcating Nara-machi, and the qualification criteria for subsidies. The architectural guidelines were derived from the character of historic buildings and townscape and emphasised the maintenance of the townscape’s uniqueness. Nevertheless, the architectural guidelines were also flexible. Under them, owners could renovate buildings and replace old materials with new ones provided they kept to the buildings’ original characteristics.

As mentioned above, the NPA successfully enforced the standards because there is no punishment in the community's rules. Instead, the NPA motivates inhabitants to follow guidelines by providing subsidies.

B. Software Activities: Creating networks of people and revitalising the historic centre

1. Sustaining local communities: Activities to sustain local communities are the foundation of public projects, especially in the process of coming up with standards for developing and conserving the Nara-

Power, Purpose, Process, and Practice in Asia
The Work of the 2003/2004 API Fellows
machi townscape. From NPA members' comments, in the early stages of the group, only a few people attended meetings and the local government also paid less attention to supporting local communities. This was normal at the time when citizens’ groups were just starting in Japan because they were not familiar with the participatory process involved in urban planning projects that had been controlled by the government for a long time.

At present, activities to sustain local communities are regularly conducted. The NPA organises monthly meetings to build good relationships between inhabitants and newcomers to the area. Furthermore, the group enhances traditional activities such as festivals of local shrines and events promoting handicrafts of the area.

2. Reviving historic centres through economic activities
• Activities for improving the residents' quality of life: because 25 per cent of the inhabitants in the old district of Nara are elderly people, the NPA has conducted a project to collect information on places where they can enjoy a quality life—traditional shops and restaurants, small clinics and public baths.

• Activities for enhancing tourism: in 1989-1990, when the community made the district plan, it also initiated the plan for open museums (hakubutsukan) covering museums and galleries in the area. The most important museum is Nara-machi Monogatari-kan, which also includes the main office of the NPA, a meeting place, and a children’s library. In addition, renting out spaces for events brings income to the NPA. Another well-known museum is Shiryo-kan. This place presents the history of the community such as collections of signs and antiques from the old shops in the neighbourhood.

The Conservation Process
In Japan, case studies on conservation show it is supported by public participation at two levels. At the planning level, conservation plans are part of the master plan of the city. The local governments frame the overall outline of conservation and development plans and encourage local residents to cooperate in making district plans according to the Historic Preservation Machizukuri Ordinances. At the implementation level, collaborations between local government authorities and inhabitants are established. In Kyoto, the Town Making Promotion Section sponsors the Machizukuri Centre which plays a middleman role. In the old district of Nara, the NPA, a citizens’ group, works as a coordinator.

In the Rattanakosin area, at the planning level, there have been improvements in encouraging people to take part in the urban planning process. Throughout the 1970s, conservation movements were formed by concerned academics and architects to protect the area from destruction during the high economic growth period.

People formed two main citizens' groups: the Conservation Group of the Association of Siamese Architects (ASA), and the Arts and Environment Protection Association. These two groups forced the national government to include the conservation of Krung Rattanakosin in the Fourth National Economic and Social Development Plan. It should be mentioned that citizens were able to influence conservation efforts for the Rattanakosin right from the first stage.

In 1982, a planning process encouraged professionals to take part in, and launch the first conservation plan to the public. It was known as the Master Plan for the Conservation and Development of Krung Rattanakosin. Thereafter, when the local government authorities implemented policy plans by making action plans, there were several methods to persuade people to participate in the conservation process, such as consultation and public hearings. However, the process of implementing conservation plans was still in the hands of the government. This is different from the process of implementing district plans (chiku keika) in Japan, which places importance on a mutual process among the inhabitants, citizens' groups and the local governments.
In addition, the implementation of the Master Plan for the Conservation and Development of Krung Rattanakosin has not seen good results. Through 22 years of operation, only one in 20 plans has been completely implemented. One of the main causes for the plan’s failure is duplication in the efforts of the local government authorities when it comes to conservation. Even if the Committee for Conservation and Development of Krung Rattanakosin and Old Towns (one of the national government authorities), collaborates with other authorities, several authorities have not been working together consistently but have been duplicating efforts to implement plans in conservation sites.

Furthermore, public participation has been ineffective because inhabitants have less chance to gain information on policy plans and to take part in any of the processes. As a result, the plans have not been accepted or implemented willingly by inhabitants (Team Consulting Engineering and Management Co. Ltd. 103-4).

After the above comparison of Japanese and Thai conservation efforts, the following suggestions for applying the Japanese concept in the Rattanakosin area are proposed.

The Committee for Conservation and Development of Krung Rattanakosin and Old Towns can be improved by having the committee assign a collaborating agency to coordinate the local government sectors involved in conservation in the Rattanakosin area. For example, the urban planning section, the Bangkok Metropolitan Administration (BMA), which mainly implements conservation plans, could be designated as a collaborating agency. Alternatively, a new organisation formed by partnerships among local residents, developers and the local government authorities can be assigned to be a collaborator.

Moreover, the assigned collaborating agency should also help promote conservation plans to local groups, so that the Rattanakosin communities are themselves able to support conservation plans.

Conservation Activities
Japan’s approach to architectural and urban conservation by way of machizukuri can be adopted through ‘hardware activities’ and ‘software activities’.

A. Hardware Activities: preserving historic architectures and townscapes
In Japan, urban planning laws involving public participation are known as Historic Preservation Machizukuri Ordinances. Articles are derived from these ordinances which are suitable for the character of each district and are concerned with preserving historic elements and with enhancing functional values. In addition, the process of passing laws place importance on the rights of inhabitants living in their historic neighbourhoods as well as on local pride.

In the Rattanakosin area, since 1976 efforts to conserve the area have mainly followed three concepts: the promotion of green areas and open spaces, the conservation and restoration of old valuable buildings and architecture, and the reduction of building and traffic densities (Synchron Group Co. Ltd.). These concepts resulted in the policy plans under the Master Plan for Conservation and Development of Krung Rattanakosin, and local ordinances. It can be said that almost all of the projects in the master plan are focused on preserving historic monuments and moving out other buildings and communities so there is a clear view of the historic monuments.

There are many examples of the negative impact of projects that abide by the three main concepts. The conservation and improvement of the Mahakan Fortress project forced communities located at the back of the fortress and the city wall to move out. To create an uncluttered view of Wat Bowon Satan Suthawat, there was a plan to demolish the National Theatre and the School of Theatrical Arts. The project of enhancing areas around the Prasumen Fortress includes a plan to tear down shophouses along the city moat but that has not been put into action.

The plan to improve areas by the Chao Phraya River—including the Tha Phra Chan (pier), Tha tien (pier)—
and Pak Khlong Talad (market)—involve moving out communities and old markets near the river. Reducing the density in Rattanakosin by moving the government offices out of the historic district has affected local businesses.

Since only one conservation project was completed, other projects that had potential impacts on the local residents’ way of life and possibly creating conflicts over the use of land by communities have not been successfully implemented.  

The main obstacle in adopting and passing the district plan concept with a participatory approach in the Rattanakosin area is property rights. Because almost all of the citizens in Rattanakosin have no property rights, at least 80 per cent of the land is in the hands of government ministries or the Crown. Conservation and development policies are developed based on the government’s and land owners’ decisions. However, to include public participation in the conservation process should not be overlooked; public hearings and consultation should be utilised.

B. Software activities: creating networks of people and revitalising the historic centre

1. Sustaining local communities: In Japan, the methods used to revitalise the historic centre include sustaining local communities and reviving the economy of the historic centre. In the Rattanakosin area, top-down projects in the master plan and action plans work to move out local communities and tear down buildings that are in use but are of less historic value. On the other hand, since 1997, there have been local movements against this such as the Civic Society of Klong Ku Muang Derm and the Civic Society of Bang Lamphu, Tatien Community. Moreover, in the same period, people power became evident through the registration of 1,700 communities in Bangkok by the BMA.

The Machizukuri Centre is a good example of community collaborations that could be adopted for the Rattanakosin area in that it works as a common area for citizens’ groups to meet and work together. In addition, the local government in the Rattanakosin area should give more opportunities to citizens’ groups to join conservation activities in their neighbourhood.

2. Reviving the historic centre through economic activities: In the master plan and implementation plans for the Rattanakosin area, most of the projects to revive local economies are large-scale projects which are operated by the local government or private sector. Hence, local residents cannot participate in the projects or earn income. The Rattanakosin area could learn from Japan in implementing projects that are small and appropriate for local needs and investments. Regenerating the local economy as well as integrating communities into the historic areas will help the Rattanakosin area become Bangkok’s living heritage.

When Wimonrart Issarathumnoon conducted her API Fellowship project, she was affiliated with the Department of Architecture, Faculty of Architecture, Chulalongkorn University. Her paper is accompanied by photographs and diagrams, which can be accessed on the accompanying CD.

Notes

1 In 1961, the Architectural Institute of Japan (AIJ) established a Sub-Committee for Research on Historic Dwellings. From 1962 to 1965, the Cultural Properties Protection Commission carried out surveys of important buildings, and later in 1968, it merged with the Cultural Bureau to become the Agency for Cultural Affairs (bunkacho), which is an extra-ministerial bureau of the Ministry of Education, Science and Culture (Monbusho).

2 The system of government in Japan is centralised. Because architectural and urban conservation activities are part of administrative processes, decision making regarding conservation at the national level is progressively transferred to the prefectural level and the municipal level (Inaba 3).

3 These laws include the District Plan System (1980), which emphasises obtaining the agreement of residents.
as a basic step in making plans; the City Planning Master Plan System (1992), which makes the city responsible for establishing methods to reflect citizen perspectives in making plans; and the 2002 revision of The City Planning Act, which obliges planners to add rationale documentation to plans submitted for public review (Kyoto City 2005:63).

4 The transformation of Kyoto started with the construction of a water supply project, electric plant and electric railroad.

5 The law for the Protection of Cultural Properties (bunkazai hogohou) of 1950.

6 Collaborations have not worked with the Cultural Properties Preservation section, whose duty is the preservation of cultural heritage.

7 The three district plans are those of Gionshimbashi, Honnou Gakku and Shutoku Gakku. It should be mentioned that the community of Gionshimbashi managed to make a district plan because of the strength of the community and due to its being listed under the Important Preservation District for Groups of Historic Buildings of the central government (Denkenchiku). Therefore, the townscape of Gionshimbashi is preserved in better authentic condition than other areas, which are not in a preservation system.

8 In 1998, institutes and a company proposed studies for specific plans for historically significant areas in Bangkok, namely, the Tatian and Pakklong Talad communities, Sam Prang communities, Thaprahan and Thachang Communities, and Banglamphu Communities and submitted these to the City Planning Bureau, Bangkok Metropolitan Administration.

9 In the Committee for Conservation and Development of Krung Rattanakosin and Old Towns, representatives from each government sector dealing with urban planning and conservation jointly participate. The committee has the right to make final decisions on conservation and development plans in the Rattanakosin area.

10 One project that was completed is the Conservation of Multipurpose Space for Cultural Activities in front of Wat Sutat Thep Wararam and Bangkok Metropolitan Administration Office by Team Consulting Engineering and Management, Co. Ltd. in 2004. (The Report of Revised Plan of Conservation and Development of Krung Rattanakosin (Final Paper). Office of Environmental Policy and Planning. 103-4.)
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DAM OPPOSITION NETWORKS AND TRENDS IN THAILAND AND JAPAN
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WHAT LED TO THE STUDY OF DAM ISSUES
I started working on dam issues in Malaysia in 1999, when the U$500-million Selangor Dam was proposed to supply water to the capital city instead of spending a quarter of the money to fix leaking pipe networks that contribute to nearly 40 per cent of the water lost. I joined a citizens’ group called Save Our Sungai Selangor (S.O.S. Selangor) to stop the building of the dam. However, it was an uphill struggle for the group, because the state government had a 30 per cent stake in the dam project. The construction went ahead despite cheaper and more logical solutions proposed by non-governmental organisations (NGOs).

During the course of this work, I was introduced to people working on dam issues from other countries. Issues in Thailand and Japan were particularly interesting and inspiring after losing the ‘battle’ back home. Therefore, when I had the opportunity to apply for a research grant through the API Fellowship Programme, I proposed to study dam opposition movements in Thailand and Japan.

THE THAILAND EXPERIENCE
It has been about 40 years since the first dam was built in Thailand. Since then, people affected by the building of dams have been struggling against this development monstrosity that has often created more problems than it has solved. Isolated cases of dam opposition in Thailand coalesced into a national movement. Among them, the campaign against the Pak Mun Dam has been playing a major role in shaping the direction of the dam opposition movement. Other than the Pak Mun area, I had the opportunity to visit Rasi Salai Dam, the Songkhram River Basin, and the Salween River. Though each area has a story to tell, I found that they were connected or inspired by the Pak Mun Dam campaign.

Pak Mun Dam
Communities in the Pak Mun area depend on the abundant seasonal fishery of the Mun River and Mekong River. Since the Pak Mun Dam was commissioned in 1994, it has altered the rivers’ seasonal flow, disrupted fish migration and destroyed the livelihood of thousands. The dam was build to generate electricity. With only 136 MW installed capacity, the dam’s impact extends to a vast area as it seals off a catchment area of 117,000 square kilometres. The local ecology supporting livelihoods of the local communities has been seriously disrupted.

The Pak Mun villagers initially demanded monetary compensation but they soon realised that compensation was not the long-term solution because they were living in an agricultural economy that did not rely much on cash. Most of them had limited education and specific skills that they learnt from older generations. The sudden loss of their occupation as farmers or fisherfolk meant they had lost their livelihood. They had no choice but to put up a long protest struggle that lasted for nearly a decade.

The major development of the Pak Mun campaign was the introduction of community research. This was due to the fact that dam opposition protests could not last forever and there was a great need for alternative activities to sustain the movement. Community research was a brilliant way to keep the network going and empowered the local people to prove that the dam was destructive. They collected concrete evidence in a participatory and systematic manner.
For the first time, instead of just protesting against the dam, the people had their own bargaining chip when they met the officials with data of fishery and ecology to refute claims of official reports that the people and environment were not affected. A prime example was the book on fish species in which the locals documented more fish species than the scientists and provided information on how those species and the ecology depended on each other in ways that had been sustainable for years. The government was later pressured to open dam gates for a year to conduct studies on fishery, social impacts and impact of the dam on Thailand's electricity supply.

The Pak Mun Dam gates were shut again in 2002 and the government agreed to open the gates for four months every year despite the villagers' recommendation for the dam to be decommissioned and a separate government-sponsored research report recommending that the dam gates be kept open for a further five years to restore the river.

The unique community research model in Pak Mun is called the Tai Baan research, which means 'the villagers' research'. This research is unique because the researchers are the local people while the NGO workers and other non-locals are the research assistants, providing technical help such as photographing and documenting. The researchers are those who know the environment and their particular fields such as fish, plants, local culture/history and other agricultural activities. They decide what and when to observe and collect data according to their everyday life.

This methodology is more comprehensive than conventional research sampling methods that focus on limited species or aspects according to certain hypothesis. The documented information was then presented to the villagers to discuss, verify and form conclusions.

Rasi Salai Dam
Not long after the Pak Mun Dam was completed, another dam was built further upstream of the Mun River in Rasi Salai. The dam is meant for irrigation. However, the reservoir rests on a huge salt deposit, causing soil salination and rendering hectares of land unsuitable for any cultivation.

Learning from the Pak Mun experience, the Rasi Salai communities practised Tai Baan research instead of just protesting. The research went on for four years and documented the effects of salination on farm lands and the social impact due to the loss of agricultural land and income. The researchers used this information to keep local people informed and to draft demands for negotiations with the government. The hard work paid off when the government agreed to open the dam gates indefinitely pending research on the social and environmental impacts of soil salination.

Songkhram River Basin
Tai Baan research has not only been valuable for the anti-dam campaigns. It has also provided valuable insights into nature conservation. One good example is how the people in the Songkhram River basin who never faced any dam problems participated in a World Conservation Union (IUCN) project to develop a bottom-up model to conserve the wetlands for sustainable livelihoods. The project is based on the Tai Baan research concept.

The research emphasises the link between wetland management and livelihoods. It highlights how the river is a major source of food security and income-generation for locals via valuable inputs and analysis from the locals themselves. This is particularly important because having a continuous monitoring and data-gathering process through the years is prohibitive for government agencies or research institutions due to lack of budgets and personnel.

The best way to generate results is to integrate the research into the livelihoods of the local people; this will see the gathering of a vast and reliable pool of information while respecting local knowledge. The respect would in turn increase the confidence and esteem of the local people, hence strengthening the local society.

Salween River
Two dams are being proposed by the Electricity Generating Authority of Thailand (EGAT) on the Salween River that forms the border between Thailand and Myanmar. Most of the local communities are minority Karen hill tribes and the area they inhabit is sparsely populated due to the harsh terrain. Therefore, physical accessibility and language barriers work against
many local people being informed about the dams and what they are going to face.

Knowing this problem, the local groups working on social welfare and forest management are adopting the Tai Baan research method to educate and empower the local people and, at the same time, collect as much information as possible before the dam building proceeds.

The process has been progressing slowly due to military presence at the border and hard-to-reach places. Furthermore, the local people are not as informed on dam issues as the people in the Mekong Region. In fact, some cannot even imagine what a dam looks like or why people build it.

**Dam Decommissioning**

Dam decommissioning is the latest talk among the activists because of the success of the Pak Mun and Rasi Salai campaigns. People realised that compensation is no longer the long-term solution. This is because rural Thailand does not rely much on cash, and agricultural produce is the main commodity. In some areas, I was told that there are networks of ‘brotherhoods’ or ‘sisterhoods’ among various nearby villages that encourage people to exchange products in need. Cash compensation is not going to replace their lost jobs. They cannot switch to jobs of a different nature easily because skills and knowledge are handed down.

The sustainability of the rural economy depends on these specific roles of people in the village to guarantee there is no abuse of the local environment so that everyone has enough of everything they need. They want the destructive dams to be removed and the return of the original state of the rivers. Tai Baan research is a good catalyst towards dam decommissioning in Thailand.

**THE JAPAN EXPERIENCE**

When I was browsing the Internet to find some books to find out more about Japanese environmental movements, I found a couple of interesting books and some articles. The books enlightened me on the nature of the Japanese society in building strong and committed networks for special interests. While the construction industry is closely knitted with the bureaucratic and political party networks to push for more development and construction work, the smaller citizen groups in various areas are also forming their own independent networks to champion their cause to oppose destructive and unnecessary development.

**Dam Opposition Network**

The API Fellowship has provided me the opportunity to find out and get experience on the networks of dam opposition in Japan. However, there is no one formal dam opposition network. Networking at the grass-roots’ level is informal and often operates with minimal funding. There is one national network call Sui Gen Ren that connects many local groups and like-minded individuals on development of water resources in Japan. Since many water resource development projects in Japan involve construction of dams, Sui Gen Ren is more like a proxy for dam opposition networks in Japan.

At the national level, there is also an informal group of Members of Parliament (MP) from different political parties who lobby for reviews of unnecessary public projects in Japan. This group of MPs often acts as the medium to raise dam issues in Parliament. They are approached by support groups based in Tokyo which are connected to movements far away from Tokyo, such as movements in the Kawabe River and Yoshino River. The support groups in Tokyo are important links to feed relevant information to the MPs. Sometimes, certain MPs would go directly to the local sites to find out more about the movement.

Other than lobbying the MPs, the support groups also help to lobby the relevant government ministries/officials and at the same time raise public awareness on dam issues. I was lucky because my host in Tokyo signed me up as a volunteer in one of the annual awareness and fund-raising concerts organised by the support groups in Ueno, Tokyo.

During the concert, I managed to connect directly and indirectly to a few major groups that subsequently enabled me to arrange many interviews in the Naka River, Nagara River, Sagami River, Yoshino River and Kawabe River.
**Naka River**
The Kito village movement, located at the upper stream of Naka River, is one of the oldest movements against dams in Japan. It started about 30 years ago when the government proposed a dam a few kilometres upstream of the village. Fearing impacts on the local environment and economy, many farmers in Kito village opposed the project. The village population was split into two because some believed that the dam project would pump some cash into the local economy.

Those who opposed the dam argued that the short-term cash was actually a long-term problem because the village would then depend on government handouts in the form of more construction projects that would destroy more of the local environment. Hence, there had to be an alternative and, furthermore, the need for the dam was not justified because the locals actually did not need it as they already learned from the bad experiences of two dams further downstream of the same river.

The strategy used by the villagers to oppose the dam was to win a majority say in the village council because the council had the right reject the project. The village head was also important in being the voice of opposition in meetings outside the village. Therefore, the villagers campaigned and fielded their own candidates in the village council and village head elections. With that they managed to say “no” to the government very consistently and the project was postponed year after year. The government then decided to scrap the project recently as the need for the dam could not be justified any more after 30 years.

**Nagara River**
Unlike dam opposition in Kito village, which is localised, the Nagara River estuary dam opposition has been a rather popular movement since the 1980s. After the protest by the fishing community at the dam’s impact on the estuary at the beginning, the movement was picked up by people who were not direct stakeholders.

A committee was formed by mostly kayaking, canoeing and fishing enthusiasts to protect one of the last rivers in Japan that has not been dammed. Camp-out symposiums at the riverside were organised during summer time, where participants enjoyed themselves and gathered to protest against the dam. The activities were organised in a way that was ‘fun’ to protest. Hence, thousands of participants were attracted to the protests from many parts of Japan. During that time, famous writers and outdoor adventurers were also vocal against the dam.

Other than organising protests and publicity stunts such as hunger strikes and the kayak protest at the dam construction site, the movement also deployed international outreach strategies. International conferences/meetings were organised to invite foreign experts to talk about dams. Exchange of foreign experience in dam opposition also took place. The idea of dam decommissioning was introduced then, which was unheard of among the anti-dam activists.

Direct engagement through public forums, debates or dialogues with dam proponents, politicians and government agencies was another strategy to expose the illogical justification of the dam. The issue was widely reported in Japanese media due to that strategy.

Despite all that hard work, the dam construction went ahead. However, the local activists still have hopes to free the Nagara River. They are working on decommissioning the dam because it is merely a matter of opening the sluice gates.

**Sagami River**
The Sagami River has been heavily dammed upstream to create reservoirs for water flow regulation in order to supply water to downstream areas for industrial use. The water intake point at the downstream area has also been dammed to slightly raise the water level for the treatment plant. However, the justification for the water needs is a few decades old while the construction of the dams is rather recent. The local people opposed the dams because the industrial activities has been changing throughout the years to being less water-intensive.

The local people were concerned that the unnecessary dam downstream would increase the financial burden of
the local government in the midst of a sluggish national economy, besides destroying the environment. They brought the dam proponent to court but unfortunately they lost the case.

**Yoshino River**

There was a proposal to dam the Yoshino River at its estuary in Tokushima city in the 1990s. Like many other dams in Japan, the justification for the dam was outdated. Learning from mistakes and strategies from other opposition movements such as those of the Nagara River and Sagami River, the concerned citizens of Tokushima city tried a very different approach to oppose the dam.

A committee was formed to organise dialogues and debates between the dam proponents and opponents. The crucial strategy that made the campaign such a big success was that the committee never supported or opposed the dam project. It believed that the citizens of Tokushima city would be able to make their own informed decisions provided that they heard both sides of the story regarding the dam.

The effort then evolved into a lobby to exercise the right to have a referendum to decide on the public project according to the Local Government Act. In order to petition for the referendum, the committee needed to gather the support of at least 2 per cent of the population who were eligible to vote. There were about 200,000 voters in Tokushima city then. Surprisingly, the response was overwhelming and 101,353 people signed the petition because all the neighbourhood shops and many dedicated individuals helped to gather support for the referendum at every corner of the city.

The city council refused the petition initially. It made the public quite angry and they decided to field their own independent candidates for the subsequent city council election. They managed to form a majority in the city council in support of the referendum and finally the referendum was carried out. Again, the local organisers never asked the general public to vote “for” or “against” the dam. They distributed leaflets with pros and cons of the dam as presented by the proponents and opponents of the dam, and only asked people to come out and vote.

The turnout rate for the referendum was 55 per cent and 90 per cent of the votes indicated “no” to the dam. Therefore, the government had no choice but to “postpone” the dam construction “indefinitely”.

**Kawabe River**

A dam for irrigation and flood control was proposed for the Kawabe River, which flows into the bigger Kumo River, which already had a dam. There were three major stakeholders in the Kawabe River dam issue, namely, the farmers, fisherfolk and downstream citizens. Many local farmers claimed that the traditional irrigational ducts that did not involve any dam were sufficient and the new dam would definitely increase their production cost as they would have to pay for the water from the dam. The fisherfolk also protested against the dam because it would disrupt the fishing industry and directly affect their livelihoods.

The downstream citizens, led by concerned citizens from Hitoyoshi town on the Kawabe River, opposed the dam as a means for flood control. The last flood the town experienced in the 1960s was not due to the swelling of the Kawabe River but was due to the sudden rise of water in the Kumo River when the Kumo River dam discharged a large amount of storm water. Furthermore, more flood prevention dykes had been built since then and there was therefore no need to have a flood control dam.

Since the dam was the proposal of the Ministry of Agriculture, the farmers brought the Ministry of Agriculture to court for forcing the dam down their throats and they won the case. However, I was told that the Ministry has not given up looking for a new reason to justify the dam. Meanwhile, the fisherfolk were participating in a prefecture-level hearing regarding their rights on fishery resources. Chaired by an independent committee set up by the local government, the hearing attended to arguments submitted by representatives from both the proponent (the central government) and opponent (the fishing union) of the dam.

The Hitoyoshi citizens’ group played a supporting role to the farmers and fisherfolk in opposing the dam. They also proved that the dam was not necessary for flood control.
control through independent flood calculations and studying local history on previous floods. The concerned citizens also fielded their own election candidates in local elections so they could have more political say in the decision-making of the dam. The local groups were connected to support groups in Tokyo and Fukuoka. The support groups helped to arrange meetings and facilitate visits to the cities for official matters.

**Common Strategies and Positive Developments in Japan**

In Japan, the human rights approach has consistently been used to oppose dams. From livelihoods and caring for the environment to autonomy in making decisions for themselves, the local people are exercising those rights through grass-roots politics. According to academics involved in the campaigns, these local movements are slowly changing the law to recognise more voices of the local people and place more consideration on environmental impacts.

The informal network of people in various movements is transforming the bureaucratic system, which has been traditionally more paternalistic, to a more participatory one. It also makes more people realise that the sluggish economy will not be able to pick up via more construction projects and an alternative is desperately needed.

*Asahi Shimbun* reported in April 2004 that the government has ruled out starting any new dams on the nation’s seven major river systems due to the decreasing demand for water and increasing citizen outcry against new dams. The Ministry of Land, Infrastructure and Transport said its water demand projections were out of date, and that numerous planned dams were not needed at this time. Water demand has been on the decline nationwide for the past decade. Demand for agriculture use has remained almost flat, while demand for industrial use has been declining due to water recycling efforts.

**CONCLUSION**

Japan and Thailand are two very different countries in terms of social, political and economic makeup. Although they are different, the anti-dam movements share one common characteristic: the movement is an ever-evolving and pedagogical process where local people are learning from older campaigns and adjusting to local situations and needs to champion their cause.

Japan has a relatively more established legal/executive mechanism and relatively fewer people who are directly affected by dam construction. Therefore, the national movement depends on civic awareness where networking of people from the bottom to the top is important. Results are noticeable when activists see the movement as a political process and decide to take part in the political/law reform with their anti-dam agenda. Independent election candidates are becoming more common and some activists have started to involve themselves in politics while others became private secretaries of MPs who are trying to make the ‘connection’. According to an academic in Tokushima University that I met, “It is a very interesting ‘game’ between the people and the state”.

Compared to Japan, Thailand is relatively lacking in the legal framework for the people to champion their human rights causes. Even though the Thai constitution has been reformed to recognise the economic, social and cultural rights of Thai citizens, the formulation of related laws to protect those rights are not keeping up with the violations. With the big number of people who are directly affected by dams, dam opposition in Thailand has very strong grass-roots’ bases with the backing of NGOs and sympathetic academics.

Anti-dam campaigns are often confrontational, and this has been met with state oppression. This might be caused by the unequal platform where all interested parties cannot be at the same level to work things out. Traditionally, whoever controls the information wins and those who do not would protest. Therefore, the anti-dam movement has evolved and started introducing activities that will narrow that information gap between the dam proponents and the opponents. This, hopefully, will one day lead to a level where dam proponents and opponents can sit together as equal stakeholders to provide some solutions to problematic dam projects in the country.

At the time of his Fellowship, Hui Seng Kin was programme coordinator for the Malaysian human rights group Suara Rakyat Malaysia (SUARAM) and coordinator for the volunteer environmental group S.O.S. (Save Our Sungai) Selangor.
Interviews

The information presented in this paper has been obtained mostly through interviews and conversations with community members and activists involved in campaigns. The following is a list of people I formally interviewed, grouped under their respective locations or organisations. Where available, the website link is also given.

JAPAN

Kawabe River Support Group
Dr Kumamoto (Meiji Gajuin Univ. professor)
Mr Murakami (business owner)
Mr Oyama (concerned citizens’ group)
Ms Terashima (NGO worker/interpreter)
Mr Umeyama (farmer)
Mr Yoneda (fisherman/affected land owner)
Mr Yoshimura (fisherman)

Kito Village
Mr Tamura (farmer)
Mr Fujita (former village head)

Kyoto
Mr Ichikawa (Research Fellow, CSEAS, Kyoto Univ.)
Dr Ishida (retired Kyoto Univ. professor)
Mr Miyata (student group, Water Advocates)
Dr Takeshi (Doshisha Univ. professor)
Water Advocates website: http://www.wateradvocates.jp

Nagara River Support Group
Ms Heather Suther (English teacher)
Ms Niikura (river activist)
Mr Yokoyama (manager/writer)

Political Parties
Ms Azuma Chieko (interpreter/Green Party supporter)
Mr Kaneta (MP, Democratic Party, Head of the committee to monitor/investigate local construction projects)
Mr Nakamura (Diet Member, Green Party)
Mr Tanaka (secretary to Mr Nakamura/river activist)
Ms Teruyo (interpreter/secretary to Mr Kaneta)

River Activists/Environmentalists
Mr Kondo (environmental/town planning expert)
Ms Masano (writer/former legislative secretary)
Mr Noda Tomotsuke (canoeist/writer)

Suigenren
Mr Murayama (photographer)
Mr Ujie (resident near Sagami River)
Suigenren.org website: http://www.suigenren.org/ [In Japanese]

Tokyo Kawabe River Support Group
Ms Takahashi (writer)
Mr Watanabe (graphic designer)

Yoshino River Support Group
Mr Bando (Musashino Art Univ. professor/graphic designer)
Mr Himeno (legal adviser)
Ms Kawano (housewife/community leader)
Mr Kirisu (Tokushima Univ. associate professor)
Mr Masukawa (Tokushima resident)
Mr Miyazaki (Buddhist monk)
Mr Murakami (local councillor)
Mr Yata (fisherman)
Dr Nakajima (Tokushima Univ. professor)
Ms Ota (environmental NGO worker)
Mr Sano (NGO activst/interpreter)
Mr Suyama (volunteer, Yoshino River/Nature School)
Mr Yamashita (farmer)
Ms Yoshida (Tokushima prefecture councillor)

THAILAND

IUCN
Mr Rathapon (Coordinator)
Dr Richard Friends (Mekong Wetland Biodiversity Conservation Program)

SEARIN
Ajahn Chayan (Advisor)
Mr Chainarong (Director)
Ms Pianporn (Campaign coordinator/interpreter)
Ms Sirirat (volunteer/interpreter)
Ms Vanida (Advisor)
Ms Yaowalak (field officer)
**Pak Mun**
Mdm Paagongtham (women’s village leader)
Mr Paijit (community leader)

**Salween**
Mr Nu (Karen community leader)
Mr Prasit (NGO worker)

**Songkhram**
Mr Jumpon (Forestry Department)
Mr Sanit (fisherman)

**Others**
Ajahn Banton (Director, Human Settlement Foundation)
DECENTRALISATION VERSUS DEMOCRACY: A STUDY OF THAILAND AND INDONESIA
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INTRODUCTION
The notion of governance peddled by the World Bank which equates it with the sheer management of economic and social resources, and hence its depoliticisation, has found many detractors (Hout; Jayasuriya; Rodan). These critiques notwithstanding, this particular model of governance, that brings along with it a whole baggage of progressive sounding complements like decentralisation, participatory democracy and stakeholder consultation, finds acceptance—even if grudging—from many civil society organisations because it comes with a sweetener: the funding that makes their very existence possible.

This is not to imply, of course, that civil society organisations are ready to forfeit their principles in exchange for donor support. Many, indeed, have little to quibble over the institutional view on governance—a reflection of the current hegemonic grasp of neo-liberal ideology. However, for those who hold a more critical stance, the sheer practicalities of survival require compromises—although they continually strive to maintain their independence and determine their own agenda.

Decentralisation, as an integral element in this governance model, is propounded by the respective states—at least in rhetoric if not in fact. This opens up democratic space for civil society to operate although the differing, and sometimes diametrically opposed, motivations that compel multilateral organisations, governments and civil society to champion decentralisation lead to unexpected results.

This paper is aimed at investigating how civil society organisations and grass-roots communities navigate the space made available by the decentralisation process in Thailand and Indonesia: the progress made, the pitfalls experienced and the prospects ahead. The ultimate poser is: has decentralisation made possible greater democracy?

DECENTRALISATION
Coincidence or not, Thailand and Indonesia both promulgated decentralisation laws in 1999: the Decentralisation Act of Thailand, 1999 in the case of the former and Law 22/1999 on Regional Governance as well as Law 25/1999 on Fiscal Balance of Indonesia in the latter instance. However, the motivations behind their promulgation, their implementation process and the response elicited from state and society vary substantially. A comparison of these aspects will lay the basis for evaluating to what extent decentralisation enables democratic participation.

Decentralisation in Thailand
The provisions for decentralisation were incorporated into the 1997 constitution of Thailand, which signified the high point of the democracy movement in the country during the 1990s. Although this constitution has been described as a “mixture of discordant reformist policies” (Kasian Tejapira),¹ it held out the possibilities for the people to have a greater say over policy decisions that would affect their lives. The constitutional provisions sought to “decentralize powers to localities for the purpose of independence and self-determination of local affairs, having regard to the will of the people” (Nelson 8).

Pivotal to this undertaking was the right of the people to greater control of local resources and influence over development projects in their vicinity. Public hearings were to be held to obtain the agreement of the people...
before major development projects could be undertaken. It was further stipulated that 35 per cent of the national budget would be allocated to local governments. Hence, the framework for decentralisation in Thailand included the elements of devolution and deconcentration that were necessary for its meaningful implementation.

However, a huge gap always exists between the formulation of a framework and actual implementation. So was the case with decentralisation in Thailand, where no less than ten pieces of legislation had to be enacted or amended before decentralisation could be put into practice. The sheer enormity of the task meant that two years elapsed between the promulgation of the constitution and enactment of the laws (Nelson). Added to this, many of the keen participants in the constitution formulation process had run out of steam while others found that the actual drafting of the law required expertise and knowledge they did not possess. Furthermore, conservative elements consolidated among themselves to block the changes written into the constitution after realising their implications, particularly with regards to liberalisation of the media and community rights (Pasuk).

It was no surprise then that by the time the Decentralisation Act and Decentralisation Plan were in place, a new Prime Minister had also been installed—a Prime Minister who, while diligent in promoting himself as a populist, was far from supportive of any devolution of power. Indeed, Thaksin Shinawatra’s corporatist mode of government, which he christened the CEO approach to government, was aimed very much for the opposite purpose. He saw himself as the CEO Prime Minister, with his ministers as department heads of Thailand Incorporated. The CEO governors below them were to have complete power over provincial budgets and administration. In short, he would call all the shots.

Thaksin also went on a warpath against the non-governmental organisations (NGOs) and public intellectuals, working hard to discredit them and claiming that the NGOs were making business out of the people’s problems (Suthy). To further cut the ground from under the NGOs’ feet, he proffered his populist offerings: 1 million baht per village, 30 baht per medical consultation scheme, debt moratorium, etc.—schemes that have been variously described as “throwing money at the poor to get growth and social peace” (Kasian), “using the state to provide immediate relief to the needy to buy off political agitation” (Setsan) and “another form of money politics” (Setsan).

Unsavoury as these schemes may be, they have succeeded in winning him a large measure of popular support and even causing divisions among grass-roots organisations. Some NGOs have themselves bought into the populist programme; others realise its adverse effects on the poor in the long term but are unsure how to counter it. The NGOs that come out in strong opposition against it often find themselves viewed with suspicion. The easy acceptance of Thaksin’s populist policies is rooted in the patronage mentality of the people and their continued trust in the elite (Suthy). The situation is hence ripe for a resurgence of authoritarianism—as amply demonstrated by Thaksin’s reaction to the present troubles in southern Thailand.

The adversities that the NGOs, public intellectuals and activist communities in Thailand currently operate under are, of course, nothing new. After all, except for brief periods of respite, the people of Thailand have had to live under a succession of military regimes since the abolition of the absolute monarchy in 1932.

What is lamentable is that the 1997 constitution had held so much promise of a freer and more democratic society. The National Human Rights Commission, the People’s Participation Committee of the Senate, the Counter-Corruption Committee, the Election Commission and the Constitutional Court, among others, were to have guaranteed democratic rights and institutionalised checks and balances in the government. However, they were either increasingly peopled by proxies of the Thaksin government or had their decisions disregarded by the government.

The present setbacks notwithstanding, these provisions of the constitution had lent legitimacy and confidence to civil society to organise in defence of their rights. The democracy movement of the 1990s had nurtured a new generation of activists, often mentored by or having links with the activists who had emerged out of the civil strife of the 1970s. Many of the latter
are now respected public intellectuals who take an active part in supporting the people's struggles—a phenomenon that is quite unique to Thailand. These three groups—the younger activists, the older ones and the grass-root communities—have formed strong alliances to champion community causes. Such forces from below, coming together with development pressures from above that increasingly encroach on the rights and resources of the people, have made for a restiveness which often erupts into conflict if not outright confrontation.

Obviously in the case of Thailand then, although decentralisation had been initiated with democratic impulses, it has not yielded the aspired participatory politics. One key reason is that the Thaksin regime is far from committed to any democratisation agenda. Another is the fact that the concept and practice of decentralisation is still unfamiliar to a vast majority of the grass-roots community. Above all, though, it is the very model of decentralisation that had been conceived, which presumes a homogeneity of interests that can be agreed upon through consultation, that is out of sync with reality. Class conflicts still exist, contestations still persist, and they cannot be resolved through technocratic solutions.

Decentralisation in Indonesia

Unlike the case of Thailand, the decentralisation laws of Indonesia were born more out of political expedience than any reformist inclinations. A besieged Habibie administration, faced with increasing fractiousness in the provinces and beleaguered by previous associations with the dictatorial Suharto regime, sought to placate the restless provinces and to gain some reform credentials by offering decentralisation as a concession (Aspinall and Fealy 3; Schwartz 424).

However, chicanery is reflected in the devolution of power to the districts (kabupaten) rather than the provinces so that there is no risk of secession. Furthermore, the decentralisation process was focused on administrative rather than democratisation aspects. Even within this limited realm, there was no effort to put in place a definite institutional mechanism for participation. Hence, decentralisation in practice was left very much to the whims of the local elite and the wherewithal of the local community.

Consequently, the success level of decentralisation varied greatly from district to district. There were districts where consultation and collaboration became a regular practice as a result of more responsive local governments and active networks of community organisations (Ririn). However, even in the best of circumstances, the consultation process had been found to be very slow in producing results—often causing participants to tire of the endless discussions. Worse, all the time and effort put in did not guarantee better service delivery because of the limited funds to which local governments had access.

There were also districts where the district chiefs (bupati) saw decentralisation as a means of “empowering” and enriching themselves (Hemasari). Hence, dire predictions that decentralisation would produce “little Suhartos” have proven true in these cases (Aspinall and Fealy 5). Their lack of commitment aside, the revolving-door governments in Jakarta were too embroiled in their own troubles to make the proper functioning of decentralisation a priority. Under the circumstances, the decentralisation process flounders on with no clear direction.

In this state of flux, civil society organisations that have a clear agenda are able to harness sufficient resources and the cooperation of relatively responsive politicians and bureaucrats. They have been able to widen the space for participation and put forward policy proposals that are more in keeping with the needs of the people, especially the poor and marginalised. However, these are mere first steps in a long journey and there is probably not going to be a direct progression to liberty.

Nonetheless, what limited latitude that exists is a vast improvement over the oppressive confines of the Suharto regime. This freshly gained emancipation has imbued the activists with a high level of optimism and a definite sense of gratitude that they can now organise openly. The emergence of a young generation of activists as a result of the Reformasi movement also bodes well for the long-term development of the civil society in Indonesia.

A matter of concern, though, is the nature of civic engagement in Indonesia and the dependence on external resources to sustain them. In the aftermath of
the fall of Suharto, multilateral organisations and donor agencies have poured in vast amounts of funds to push their governance agenda. Civil society organisations that are recipients of these funds have no choice but to fall in with the prescribed agenda and *modus operandi* even though they have reservations about them. The test is whether they can increasingly wean themselves from such dependency as the civil society movement matures.

Given the dubious origins of the decentralisation laws in Indonesia, it comes as no surprise that there are now moves to amend Law 22/1999 in order to re-concentrate power in the central government. Are the past few years to be the Prague Spring of civil society participation in Indonesia? Reversals are not to be excluded considering the shallow roots of democracy in the country. It is for the civil society organisations to push the frontiers of democratic participation as far as possible so that if any backlash does occur, the retreat would only be a tactical one and there are enough resources for the long haul.

**MODES OF PARTICIPATORY DEMOCRACY**

Within the contexts and milieu in Thailand and Indonesia, certain dominant forms of citizen participation have emerged, each with its particular strengths and weaknesses. Here, three main modes will be examined to draw comparisons on their efficacy and effectiveness in promoting participatory democracy: they are the multi-stakeholder forum, issue-based NGOs and community-based organising.

**Multi-stakeholder Forums**

The concept and conducting of such forums are highly consistent with the institutional perspective of governance which seeks consensus building and conflict resolution through dialogue and consultation. Such forums, generally known as *Forum Warga* in Indonesia, have mushroomed in the post-Refomasi years because it is the preferred mode of the multilateral and other aid agencies which are seeking to mould the form of democracy in the country.

Undeniably, the *Forum Warga* have offered previously inconceivable opportunities for various segments of society to gather to deliberate on possible solutions to community problems. Many successes have also been achieved, such as: the *Forum Rakyat Boyolali* (FORABI) in Solo overturning a decision by the district government to impose a tax on milk (FORABI meeting); the Indonesian Partnership on Local Government Initiatives (IPGI) in Bandung mobilising residents in Manjalaya to participate in drawing up the land-use plan in the township so that it serves the needs of the people better (Djadjat); and the Nahdatul Ulama managing to increase women’s participation in the public domain (Lakpesdam Nahdatul Ulama).

The forums have helped to inculcate a spirit of participation which also necessitates that the people be better informed about issues that affect them. It can definitely serve as a building block for participatory democracy.

However, there are major flaws in the very concept and methodology of the multi-stakeholder forums. The underlying assumption that diverse stakeholders—often representing conflicting interests and classes—can arrive at a common vision and solution through negotiation is unfounded, if not sinister. Far from being a level playing field, these forums are usually tilted to the advantage of the elite due to the unequal power relations. They serve more as the weapons of the rich.

Another key limitation is the donor-driven nature of these forums, meaning that the agenda is often set by the funding agencies rather than the communities themselves. Indeed, where the funding is channelled to and what issues are to be taken up are often predetermined. Tied up with this is the viability of these initiatives once the funding dries up. Hence, even practitioners of such multi-stakeholder forums cannot avoid casting doubt on both the governance agenda and the form of the *Forum Warga*, neither of which have arisen organically from the civil society movement in Indonesia (Eka Chandra).

Although touted as a means to bring together all parties that have a stake in the issues concerned, these forums have an intrinsic problem in the basic matter of representation. The forums are usually initiated by NGOs and when the NGOs identify stakeholders, they often neglect the marginalised. It is mostly the influential people who are chosen. Hence the forums are still very much dominated by the NGO representatives, government representatives and the middle class. Even
in the much lauded Manjalaya Citizen's Forum, only 6 of the 48 stakeholders were from the lower class (Eka Chandra 87).

In addition, only people experienced in this kind of milieu can make use of the Forum Warga as a platform. It is not a mode for the marginalised (Eka Chandra). In addition, very practical considerations also have to be taken into account. There is very little involvement of the grass roots in such forums because to them the cost of involvement is higher than the benefits. To participate in such forums means foregoing their income for the day—something they cannot afford (Dedi Haryadi).

Thus, taking the case of Manjalaya once again as example, participation of the petty traders—supposedly a key stakeholder—dwindled steadily with the passage of time and with the perception that they were not gaining the benefits they were hoping for. Hence, by default, the forums also became increasingly the platform for the more privileged groups.

In sum, although the multi-stakeholder forums are useful in creating avenues for participation, their long-term contribution to engendering democracy is necessarily limited because they cannot serve as the terrain for critical political struggles, nor are they the most natural platform for the marginalised groups.

**Issue-based NGOs**

NGOs span a wide spectrum and have differing political orientations, but most of them are generally accepting of the prevailing political-economic framework. They are typically involved in developmental activities or in protecting/assisting the disadvantaged groups. Being issue-based, many have a rather narrow focus and are not inclined towards deeper analysis of the big picture. As a result, they are usually no trouble to the authorities.

However, in the course of their work, some NGOs begin to question the validity of the country’s development model/strategy and the merit of capitalism itself. This is especially so when they become deeply involved in protecting communities which have fallen victim to government development projects, such as the Pak Mun dam and the Chana gas pipeline in Thailand. In supporting the protests against megaprojects that intrude into the life of rural folks, the NGOs have challenged the government authorities and have been on a collision course with them.

One of the most significant developments in the NGO movement in Thailand is their increasing alignment with community-based movements, where the NGOs take on supporting rather than leading roles. As elaborated in the paper by Hui Seng Kin in this volume, in the Tai Baan community research approach, the NGOs are cast in the role of research assistants to the local community itself, engaged in documentation and other forms of technical help. This is a very empowering process for the local community.

**Community-based Organisations**

Rooted in the marginalised/oppressed communities themselves, these organisations/groups are better able to address the core issues facing the community from their own vantage point and under their own leadership. With the support of NGOs and public intellectuals, the communities gain the tools of research and analysis that allow them to understand and situate their problems within the larger political and economic framework. Their struggle hence does not remain an isolated problem and they are able to link themselves with other community struggles and lend each other mutual support.

Community members and leaders also overcome the reticence and lack of confidence that are derived from erstwhile conceptions of themselves as being from the underclass. These movements have emerged organically from communities in crisis and are not dependent on external impetus and funding for their sustainability. Fine examples of these community-based organisations are the Committee Against the Thai-Malaysian Gas Pipeline and Gas Separation Plant (Songkhla, Thailand), the Northern Peasants Federation of Thailand and the Urban Poor Consortium of Indonesia.

The Committee Against the Thai-Malaysian Gas Pipeline and Gas Separation Plant is made up of leaders of the fishing community in the Chana district of Songkhla in Southern Thailand. Their aim is to prevent the Thai government from constructing both
the Thai-Malaysian gas pipeline which will traverse their villages, and the gas separation plant, which they fear will pollute the marine environment and hence threaten their livelihood.

What the Thai government has offered as inducement in the form of industrial development has only caused the people further consternation, as they fear the loss of their culture and way of life. Led by the committee, the community has been mounting their resistance against this project for more than five years, and have had to endure state violence and incarceration a number of times in order to maintain their stand.

The committee has developed a strong sense of collective leadership which is based on consensus building. Issues are debated thoroughly before binding decisions are imposed on all members. Over the years, a lot of knowledge has been accumulated through talks delivered by concerned academics, exchange with other community groups, study tours and community research. A lot of confidence has been gained through experience and a lot of solidarity has been built through shared good times and bad (Committee members, Chana).

The same process is taking place at the other end of the country where farmers are organising to reclaim agricultural land lost to speculators, especially during the years of economic boom. More than 3,700 households have participated in the land occupation movement since 1997. The movement has actually existed for more than 30 years but gained momentum after 1997. This was because during the boom years, speculators bought up large tracts of land but after the financial crisis they did not have the funds to develop them. According to the Thai Land Code, land titles can be rescinded if the land is left unused after specific periods of time.

The landless farmers have used various tactics to gain access to the unutilised land, including petitioning the governor, appeals in the media, organising demonstrations and clearing and cultivating the vacant lots. The farmers have shown not only a high capacity for strategic and tactical planning in organising their movements but also a great sense of foresight and discipline, drawing up ethical codes that all members of the movement have to follow in order to prevent discord and sabotage. They have also gained from the experience of fellow farmers who were active in the peasant movements of the 1970s (Suebsakul).

The links to the long tradition and experience of community organising is an important element in the strength and tenacity of people's movements in Thailand. Given their historical background, such movements in Indonesia are of more recent origin. However, there is increasing awareness that the people have to lead their own fights. As a result, emphasis is being given to boosting the ability and confidence of the poor to speak up and participate in consultative as well as confrontational forums, and to take more direct action in asserting their rights. There are also moves to bring state officials to negotiate with the people in their own settings and not the other way round as had been the previous practice (Wardah).

Community-based organisations are more enduring and come closest to the ideal of genuine participation by the grass-roots communities. However, there are also many risks and a lot of human costs involved. The fisherfolk of Chana and the peasants of Thailand have had to suffer incarceration or the threats of it; physical violence and death threats are not alien to them. Often communities, if not families themselves, are split asunder by the different positions they take on matters in dispute. Frequently, they are on a collision course with the state and would most likely fall victim to state violence. However, not to persist with their resistance would be to surrender the last vestiges of their democratic rights.

CONCLUSION

Five years after the promulgation of the Decentralisation Laws in Thailand and Indonesia, any democratic impulses that might have motivated them are hardly in evidence. This serves to prove that democracy, especially people's democracy, will not be delivered by decree—particularly when the ruling regime has little commitment to it. In both countries, the provisions of the decentralisation laws have not been implemented with any consistency. Indeed, there are no institutional mechanisms for their proper implementation, hence making them open to abuse by the political and economic elite.
Under the dominance of the current neo-liberal environment, it is contestations rather than common interests that define the relationship among the ‘stakeholders’ at the two ends of the economic and political spectrum. The kind of polite consultations prescribed by the multilateral organisations in their model of decentralisation are not likely to resolve the very fundamental class conflicts between them—more so when the marginalised communities are not included as an integral part of the consultation process or are unable to find a true voice in them.

Civil society and people’s movements can make use of the latitude made possible by decentralisation but they would ultimately have to go beyond such administrative and legislative provisions to achieve genuine democracy.

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Notes
1 Interview with Kasian Tejapira, Professor of Political Science, Thammasat University, 28 August 2003.
2 The Decentralisation Act provides for local autonomy in policy-making, administration, personnel administration and finance; stipulates the plans and procedures for decentralisation; and allows for direct election for local assemblies as well as recall of councillors.
3 The Decentralisation Plan covers issues such as the transfer of responsibilities and the time frame for it; the development of necessary administrative and financial systems; the supervision of local authorities; etc. The implementation of this plan was stalled by the election of Thaksin Shinawatra in 2001.
4 There has been a marked tendency among academics in Thailand to take public stances in support of the people and this has to do with the central role that the educated elite has always played in Thai politics. However, more to the point in the present circumstances is the fact that many of the best and brightest of Thailand’s students had gone underground following the repression of them in 1976. When they re-emerged from the jungle, a number was absorbed back as academic staff in the universities where they are now playing a critical role as public intellectuals.
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INTRODUCTION
The storing and saving of seeds, central to agriculture, originated in the Neolithic period some 10,000 years ago. Farmers developed techniques gradually over the millennia. Of particular significance was the evolution of plant varieties suited to the peculiar requirements of particular environments. Climate, terrain, soil, vegetation and a myriad other dictates necessitated the evolution of particular varieties of plants. Each variety was chosen, cross-bred and nurtured to meet local needs. Farmers, as the so-called “informal breeders”, were central to the evolution of new varieties; they were the depository of humanity’s evolved knowledge of agricultural techniques and plant varieties.

With this knowledge and their labour, they fed the ever-growing population of the world. Thus were maintained civilisations as diverse as those of Mesopotamia and Egypt, Rome, China, India and Japan.

The enormity of the task the farmer performed was made possible and resulted in a social contract between the farmer and society. The farmer was the provider of food, the guardian of the Earth’s soul and society accorded the farmer the obligation and rights that the task called for. It was the farmer’s right to save, use, sow, re-sow, share, exchange and sell seeds. Indeed, in India, even when a trader buys rice from a rice farmer, the trader would return a handful of the crop back to the farmer so the soul of the rice is not lost. This social contract is still essential to the maintenance of the social, economic and, indeed, political fabric of many societies, especially in the developing world.

In the developing world, agriculture, especially that relating to food crops, continues to be in the hands of traditional farmers. These farmers continue to perform the tasks that they have done over the millennia. Farm-saved seeds continue to be a significant source of seed supply.

When many of these countries became independent, nationalist governments attempted to improve the lot of farmers by undertaking radical reforms. These were aimed at giving security of land tenure to the farmer, improving crop varieties by government-funded research and introducing modern technology in farming practice. The research findings and new varieties of plants developed were disseminated widely. While the green revolution flourished, the farmer’s right to save, use, sow, re-sow, share, exchange and sell seeds was maintained. This traditional practice, passed down for generations, continued to ensure food security, genetic diversity and the conservation of traditional varieties in the developing world.

Over the last two decades, however, corporations have begun to play an increasingly significant role in developing new plant varieties. These ‘formal breeders’ have employed new technologies, specifically genetic engineering, to produce the improved varieties. The result of formal plant breeding performed by private seed companies and even public research institutions, i.e. modern plant varieties, are generally protected by plant breeders’ rights or patents. In contrast, the results of informal breeding, that is farmers’ varieties or landraces, generally belong to the public domain and can be freely used by all.

It is this dichotomy that has permitted corporations to benefit from the knowledge of traditional farmers without compensating them. Gisberger considers this
SAFEGUARDING RIGHTS

an expropriation of knowledge from the true innovators and transfer by “treating” it in a laboratory. “As a result, centuries of tending and selection of seed by communities are not acknowledged and someone who builds on this inherited knowledge, and adds one small step to the process, is allowed by a regime of intellectual property rights (IPR) to become the legal owner of all this communal knowledge”.2

THE CONCEPT OF FARMERS’ RIGHTS
What constitutes farmers’ rights? This is an area of discussion where ideas are still evolving. Many different formulations have been proposed. Drafting appropriate legislation and operationalising the rights conferred by these laws has posed problems to authorities in many countries. The following highlights some salient features that need to be part of a farmers’ rights regime.

The concept of farmers’ rights was first proposed in the Food and Agriculture Organization (FAO) International Undertaking on Plant Genetic Resources in 1983. It was a response to the inequity in the distribution of benefits between farmers as donors of plant genetic resources (PGRs) and commercial breeders who are conferred IPR on new plant varieties that ultimately rely on such PGRs. There was no system to compensate or provide incentives to the farmer as the provider of the PGRs. This initial formulation defined the concept in a broad, imprecise manner, merely recognising the role of farmers as custodians of biodiversity and calling attention to the need to preserve their practices. It did not create a right nor propose a mechanism for the recognition and reward of traditional farmers.

The Convention on Biological Diversity (CBD) in 1992 and the International Treaty on Plant Genetic Resources in Food and Agriculture (ITPGRFA) in 2001 advanced the concept. They called on contracting parties to provide in their national legislation for the protection of farmers’ rights and for benefit sharing. Article 9.3 of the ITPGRFA is of special significance. It provides that “nothing in this Article shall be interpreted to limit any rights that farmers have to save, use, exchange and sell farm-saved seed/propagating material, subject to national law and as appropriate”. For the first time, the right of farmers to save, use, exchange and sell farm-saved seed was given recognition in international law. It, however, remains a right only when explicitly conferred by national law.

Despite farmers’ rights being enacted into plant variety protection (PVP) laws in many countries, the protection in law of farmers’ rights remains weak. This is because laws that have been drafted did not begin as attempts to define and provide for farmers’ rights. They began as regimes to confer plant breeders’ rights as required by Trade-Related Aspects of Intellectual Property Rights Agreement (TRIPS). Farmers’ rights are defined only by way of exceptions to plant breeders’ rights. The vast majority of countries have failed to provide for the farmers’ right to freely sell and exchange protected seeds. Even where they do provide so, the right has been severely circumscribed.

There are certain essential principles that should be included in any formulation of farmers’ rights, especially in countries where the majority of the population is engaged in small-scale or subsistence farming. The following details some of these principles:

Farmers’ Rights over Traditional Varieties/Landraces
Farmers and indigenous communities have rights as breeders over their traditional varieties, landraces and new plant varieties that are derived from their traditional varieties. These rights are not consonant on formal registration and are applicable in accordance with customary practices and traditions of the respective communities. Farmers and indigenous communities have the right to save, reuse, sell and exchange propagating material of traditional varieties and landraces.

Farmers’ Rights over Protected Varieties
Farmers have the right to save, reuse, sell and exchange propagating material of protected varieties in the following situations:
- where they are not sold as protected varieties or for commercial purposes;
- when they are primarily subsistence or small farmers (on the basis of volume of output, farm size, species of plant variety, etc.) who customarily reuse seeds because they lack access to or financial resources to purchase new seed every growing season; and
- where exchanges and sales of seeds take place within the same community or with neighbours and between farming communities.
**Prior Informed Consent**

Commercial breeders who use traditional varieties to develop new plant varieties must obtain the prior informed consent of farmers and indigenous communities. Commercial breeders who apply for the registration of plant breeders’ rights over their new varieties must reveal the source of the genetic material used for the creation of the new variety. Where the source is from traditional varieties, they must show proof that consent has been obtained from the owners of the traditional varieties and benefit sharing rules have been complied with.

**Benefit Sharing**

Farmers and indigenous communities must be adequately compensated where traditional varieties or knowledge has been used in the development of new plant varieties. Mechanisms for such benefit sharing must be established by the State to ensure that appropriate systems are in place to identify the rightful owners of such genetic material and the monetary and non-monetary benefits are equitably shared among them. The State must provide for an equitable system in cases where ownership cannot be attributed to individual farmers or farming communities as a collective. This calls for arrangements that permit the proceeds to be pooled into a central fund and applied for conservation/development activities.

**Limitations to Commercial Breeders’ Rights**

Farmers’ rights need to be categorically protected in statutes that provide for breeders’ rights. The relevant statutes have to make clear that the rights of commercial plant breeders do not supersede the rights of farmers where:

- such rights will infringe upon the traditional practices and rights of farmers and indigenous communities;
- biodiversity and food security may be affected; and,
- based on the precautionary principle, the variety may pose a possible hazard to the human, animal or plant life or health, or contaminate the crops of traditional farmers and indigenous communities.

The statutes must explicitly provide that the rights granted to commercial plant breeders do not preclude the right of farmers and researchers to use protected varieties for private and non-commercial purposes; research and experimentation on a non-commercial basis; and teaching purposes.

**GLOBAL RIGHTS REGIME FOR PLANT VARIETIES**

While the CBD and the ITPGRFA seek to ensure the sovereign rights of nations, their farmers and indigenous communities to PGRs, an international IPR regime, anchored on TRIPS and the International Convention for the Protection of New Varieties of Plants (UPOV Convention), seeks to provide exclusive private property rights to commercial breeders.

There is an inherent conflict between the CBD/ITPGRFA rights regimes (emphasis on sovereign/public rights), and the TRIPS/UPOV rights regimes (emphasis on private rights), though this is being vehemently denied in international circles. TRIPS and UPOV effectively outlaw and criminalise traditional practices of subsistence and small farmers in developing countries. This conflict between developing countries, i.e. the donors of PGRs, and developed countries, i.e. the owners/users of PGRs, will have alarming consequences for farmers and food security of the developing world.

First, farmers will be denied the right to save patented or protected seeds for subsequent planting and will have to buy seeds for each season. Globally, the livelihood and food security of 1.4 billion farmers is at stake. They will loose control over plant varieties to corporations that control the seed market. Seed companies have already sued hundreds of Canadian and US farmers for using farm-saved patented seeds. Farmers in developing countries will not be spared. Six big companies (Monsanto, DuPont, Syngenta, Dow, Aventis and Grupo Pulsar) already own 74 per cent of the patents on major food crops, including rice, wheat, maize, soya and sorghum.3

Second, dominance and control by large corporations will mean a focus on a few varieties. This will have consequences for biodiversity. Farmers who traditionally bred and cultivated their own seeds evolved a great variety to meet the special requirements of the ecosystems in which they cultivate. Commercial seed trade currently accounts for only one-third of the total value of the seed industry. The other two-thirds are seed that are farm-saved or from government institutions.4
The seed companies specialise in the breeding and production of hybrid and genetically improved seeds. These corporations have no incentive to breed a vast variety of seeds. Economies of scale in research and development lead them to focus on only commercially viable varieties. Biodiversity is further compromised by the fact that the seed varieties of these corporations are developed in laboratories. Laboratories can never replicate the dynamic interactions that take place in natural ecosystems to produce an immense variety of seeds.

The Earth’s biodiversity has already been greatly eroded. The FAO estimates that historically, humans used some 10,000 plant species for food, but today only 150 make up the diet of the majority of the world’s population. Much of the biodiversity was lost in the 20th century due to the widespread adoption of a small number of modern cultivars. Failure to protect the role of farmers and public sector researchers in breeding and conserving biodiversity will exacerbate this situation. It is critical that farmers’ access to seeds be protected.

**PLANT VARIETY PROTECTION LAWS**

The PVP law is one of the ways in which IPRs on plant varieties have come to be applied. The majority of Asia’s developing countries did not have PVP laws prior to the adoption of the TRIPS Agreement at the end of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) in 1994. Since then they have been pressured to do so.

Article 27(3)(b) of TRIPS requires member states to provide for PVP. However, it permits the states to choose whether to do so by way of granting patents, by sui generis systems or by a combination of both. This is an important flexibility. Article 27(3)(b) itself is now under review by the TRIPS Council and member states do not have to implement PVP laws until the review is concluded. Yet, many of these states are being pressured through bilateral agreements to adopt TRIPS-plus standards for PVP.

Countries opting for a sui generis form of PVP have also been pressured to adopt the sui generis model (i.e. the UPOV Convention) developed by the Union for the Protection of New Plant Varieties (UPOV). Both the UPOV Conventions 1978 and 1991 do not allow farmers the right to sell or exchange seed, a practice still widespread in developing countries. Furthermore, farmers in countries that sign the UPOV Convention 1991 may use the protected variety for purposes of propagation on their own holdings only if governments permit for this in their legislation by way of a specific exception. Failure to so provide would result in the farmer having to buy fresh seeds every year.

The UPOV Convention is essentially a scheme promoted by commercial plant breeders. It is designed for the large-scale commercial agricultural systems of developed countries where only a small percentage of the population is engaged in commercial farming as an occupation.

For farmers in developing countries, farming is both for subsistence and a livelihood. Patents and the UPOV style protection for plant breeders will spell the end of farming practices evolved over the millennia and endanger food security. It is by a system of sale and exchange that farmers traditionally selected and improved their own plant varieties. This communal and informal tradition of variety development and in situ conservation is being supplanted with the UPOV style IPR legal regime that privatises the ownership of PGRs, and criminalises and punishes farmers for engaging in their traditional way of life.

Very few countries in the Asia-Pacific region have ratified the UPOV Convention. New Zealand, Japan and Australia were members of UPOV prior to TRIPS; New Zealand in 1981, Japan in 1982 and Australia in 1989. China, South Korea and Singapore have become members since TRIPS; China in 1999, South Korea in 2002 and Singapore in 2004. The vast majority of the countries in the region are not members of UPOV.

This paper examines to what extent the PVP laws of three Southeast Asian countries—Indonesia, Philippines and Thailand—provide for farmers' rights.

FARMERS' RIGHTS IN INDONESIA, THE PHILIPPINES AND THAILAND
Developing country member states of the World Trade Organisation (WTO) were committed to comply with the TRIPS Agreement by 1 January 2000. Indonesia, the Philippines and Thailand enacted PVP laws between 1999 and 2002. In all three countries, the governments cited the TRIPS Agreement as the main reason for enacting PVP laws.

Of the three countries, the earliest to comply was Thailand. Thailand's Plant Varieties Protection Act, B.E. 2542 (1999) (hereinafter referred to as the Thai PVP Act) came into force on 26 November 1999. Indonesia followed a year later. Indonesia's Plant Variety Protection Act (Number 29 of 2000) (hereinafter referred to as the Indonesian PVP Act) came into effect from the date of its enactment on 20 December 2000. In the Philippines, the Philippine Plant Variety Protection Act of 2002 (Republic Act No. 9168) (hereinafter referred to as the Philippine PVP Act) was signed into law by the President of the Philippines on 7 June 2002.

The main findings of the PVP laws in the three countries are as follows:

UPOV Breeders' Rights Model Adopted
All three countries adopted the UPOV model even though the majority has subsistence farmers, and farm-saved seeds dominate the seed supply. They have provided for strong breeders' rights protection identical to that of UPOV.

Farmers' Rights Denied
In all three countries, the registered owner of the new plant variety has exclusive rights over it. These rights include the right to propagate, sell, distribute, import and export the new plant variety, including essentially derived varieties. All three countries provide for exceptions to these rights, called “farmers' privilege” in UPOV jargon. However, these exceptions are riddled with conditions and provisos that severely limit the freedom traditionally enjoyed by farmers to save, use, sow, re-sow, exchange and sell seeds. It must be emphasised that these exceptions do not in any way constitute farmers' rights and should not be confused with the struggle of farmers and communities to gain recognition for their rights.

Definition of Breeder Excludes Farmer
The most important consideration in defining the “breeder” is to ensure that the definition is wide enough to include the farmer so that farmers are not denied the right to apply for breeders’ rights. It should also be defined in such a way as to avoid ambiguity. While the definition of “breeder” in the Thai PVP Act is wide enough to include the farmer, the definitions employed in the Indonesian PVP Act and the Philippine PVP Act are ambiguous and may be interpreted to exclude the breeding activities of farmers.

Disclosure of Origin Provided But No Prior Informed Consent
For the purposes of determining benefit sharing between the farmers and communities who have been conserving and preserving local plant varieties and the breeder applying for PVP, it is important to have information on the source or origin of the genetic material of the new plant variety. This will enable the authorities deciding on the application for PVP to determine whether the breeder's new variety is sourced from an existing local variety and to what extent the breeder has developed or improved on the local variety to claim ownership rights over it. This requirement will also assist in determining whether the variety fulfils the criterion of it being “new”.

In this regard, all three countries have provided that information on the source or origin of the genetic material must be included in the application form for PVP. However, none of the three countries has provided for the consent of the farmer to be obtained before the application for PVP is made by the breeder of the new plant variety. This opens up the possibility that farmers may never know that their knowledge or seeds have been used by other breeders and will not be able to claim for their rights.

No Benefit Sharing Except in Thailand
The concept of benefit sharing originates from the CBD. It was further expanded in the Bonn Guidelines on Access to Genetic Resources and Fair and Equitable
Sharing of the Benefits Arising out of their Utilization. Benefit sharing is underpinned by the principle that the owners of the germ plasm that has been used for the development of new varieties are entitled to “fair and equitable sharing” of benefits arising from their utilisation.

The concept of benefit sharing as envisaged in the CBD includes “the results of research and development and the benefits arising from their commercial or other utilization of genetic resources with the Contracting Party providing such resources. Such sharing shall be upon mutually agreed terms.” The Bonn Guidelines specifies a long list of monetary and non-monetary benefits as examples. These include access fees, up-front payments, royalties, licence fees, salaries, research funding, joint ventures, sharing of research and development results, participation in product development, admittance to facilities and databases, transfer of knowledge and technology, strengthening capacity, social recognition and joint ownership of relevant IPR.

Only the Thai PVP Act has provided for benefit sharing but even then, it only provided for profit sharing and not the much wider concept of benefit sharing as envisaged in the CBD and the Bonn Guidelines.

Farmers Commit Offence for Saving and Selling Seeds
In all three countries, farmers who continue their traditional practice of using, selling or exchanging seeds, which do not fall within the exceptions provided in the respective PVP laws, commit a crime and are subject to hefty fines and imprisonment. This seems to be the current trend in other IPR legislation as well.

In Thailand, any person who infringes, without authorisation, the rights of the registered owner of the plant variety, commits an offence and is liable to imprisonment for a term not exceeding two years or to a fine not exceeding 400,000 baht (US$ 9,659) or to both. In Indonesia, anyone found to have deliberately violated the exception provided for small farmers to use the protected variety for non-commercial purposes is subject to a maximum imprisonment of five years and a maximum fine of up to 1 billion rupiah (US$1,097).

Unlike Thailand and Indonesia, in the Philippines, it is incumbent upon the holder of the PVP Certificate to bring an action in court against the infringing party. The court, however, has the discretion whether to impose a criminal penalty on the infringer. The penalty provided is imprisonment of not less than three years but not more than six years and/or a fine of up to three times the profit derived by virtue of the infringement, but in no case should be less than 100,000 pesos (US$ 1,774).

AREAS FOR REFORM
Reject the UPOV Model
The UPOV model is not the only sui generis model in the world. Other alternative models have been proposed. Each country has to devise a model that is effective and adapted to its own system of agriculture and practices of its farming communities.

Recognise Farmers as Breeders
The farming and indigenous communities have long been acknowledged as the conservators and breeders of plant genetic material. For generations, they have freely shared their knowledge and germ plasm. They have no concept of private ownership over knowledge or PGR. They have lived with the idea of communal ownership. It is patently unfair and absurd that a PVP system is introduced with a concept of breeders’ rights that excludes farmers and indigenous communities. There cannot be a sui generis system of plant variety protection that excludes farmers and indigenous communities as breeders. The definition employed must categorically include them within its ambit.
Prior Informed Consent and Benefit Sharing
Developing countries that are rich in biodiversity often fall prey to biopiracy. The PVP laws of these countries must provide that all applications for PVP must reveal the source or origin of the genetic material used in the development of the new plant variety, and that consent of the owner has been obtained. This will serve to minimise the risk of their genetic resources being used to develop new varieties without their knowledge and consent. Such a disclosure requirement as a condition precedent in patent applications is being pursued at the TRIPS Council.

Communities conserving and developing plant genetic resources have a right to share in the benefits derived from their utilisation by other parties. The concept of benefit sharing should include both monetary and non-monetary benefits and should be defined broadly as provided in Appendix II of the Bonn Guidelines. The PVP laws in this instance should be made complementary to national legislation on biodiversity. It is also important to provide that the proceeds of such benefit sharing must go to the community and into public funds that will be used for conservation and development of local varieties that will remain in the public domain.

Protect Farmers’ Traditional Rights to Seeds
There is a clear difference between the concept of exceptions to breeders’ rights and the concept of farmers’ rights. Developing countries depend on agriculture and have large farming populations. They cannot afford to neglect the constituency that ensures the food security of the nation. Farmers’ rights must be stated in positive terms and in explicit language without complicated exceptions and provisos, and without conceding discretionary power to bureaucrats to make important decisions that affect their livelihood.

The PVP laws of most countries provide for farmers’ rights to sow, re-sow, and propagate protected varieties on their own farms for their own consumption. However, they curtail the right to share, exchange and sell protected varieties. This is done by providing that farmers are not allowed to deal with protected varieties for “commercial purposes”. The crux of the matter is what constitutes “commercial purposes”. The normal interpretation would mean that a sale in any quantity, however small, to fellow farmers would constitute a “commercial purpose”.

It is understandable that developed countries, where large commercial farms are the norm, would restrict the rights of farmers to sell protected varieties. Small-scale farmers who plant for their own consumption and for sale in local markets should not be prevented from doing so. It would be senseless to make it an offence to sell their produce to their neighbours. They need to do so to maintain the viability of their farms. Each country needs to shape its farmers’ rights provisions in accordance with the practices of its farming community.

CONCLUSION
There are lessons to be learned from the experiences of Indonesia, the Philippines and Thailand. Before embarking on drafting the PVP Act, there should be national consultation with the participation of all stakeholders (policy makers, academics, farmers, non-governmental organisations, and industry). This is to ensure that the views and interests of all affected parties are taken into consideration. There should also be studies undertaken on the impact of PVP protection on the local economy as well as particular sectors. PVP laws should not deny farmers their traditional rights to seeds, nor should they primarily privatise rights for commercial gain. They should seek to achieve a balance between the private and public interest. They should ensure appropriate public access for non-commercial use.

Agriculture is still the mainstay of the economy of Asian countries. It is critical not only for trade but also for food security. The families of Asia’s 385 million farmers, and indeed all of the population in these countries, depend on their governments making the right decisions to secure their future. PVP laws must ensure the protection of the rights of farmers and the community at large.

Notes
1 This is an abridged version of the findings of the research project. For the full report, see Plant Variety Protection in Indonesia, Philippines and Thailand, published by Consumers International Asia Pacific Office, Kuala Lumpur, Malaysia, October 2004.


5 Article 65(2) TRIPS Agreement. Least developed countries have until 2006 (Article 66(1) TRIPS Agreement). However, many countries have not passed PVP laws as Article 27(3)(b) is undergoing review by the TRIPS Council.

6 In Indonesia, the Explanatory Note to the Indonesian PVP Act states that Indonesia is compelled to enforce the law on plant variety rights by the TRIPS Agreement; in Thailand, interviews with the Director of PVP and academics confirm that Thailand passed its PVP Act to comply with TRIPS; in the Philippines, there were two purposes cited for enacting the Bill: (1) “The bill seeks to protect and secure the exclusive rights of plant breeders through an effective intellectual property system in agriculture”, and (2) “Comply with WTO-TRIPS agreement”. Fact Sheet, House Bill No. 4518, Twelfth Congress, First Regular Session, Committee Report No. 273, submitted to the Committee on Agriculture, Food and Fisheries and the Committee on Appropriations on 5 March 2002. The explanatory notes to Senate Bills Nos. 62 and 967 and House Bills Nos. 7951, 1070, 815, 721, and 202 all refer to the TRIPS Agreement as the imperative for enactment of the Bill.

7 Article 6(5) of the Indonesian PVP Act and Section 39 of the Philippine PVP Act adopt the UPOV definition of essentially derived varieties (EDVs). The Thai PVP Act does not extend the breeders’ right to EDVs. (The principle of EDVs, incorporated into UPOV’s 1991 Convention, is to extend the breeder’s monopoly right over his/her variety to other varieties that are considered similar to it. Within UPOV, it was agreed that a technical committee would establish the means to determine EDVs for the different crops based on industry standards. This means that it is the industry that will determine threshold levels for how much derivation constitutes an EDV for each crop and how to measure it.)

8 Section 39(1) (iv) of India’s Protection of Plant Varieties and Farmers’ Rights Act (Act No. 53 of 2001) explicitly provides for farmers’ rights to protected seeds as follows: “A farmer shall be deemed to be entitled to save, use, resow, exchange, share and sell his farm produce including seed of a variety protected under this Act in the same manner as he was entitled before the coming into force of this Act; Provided that the farmer shall not be entitled to sell branded seed of a variety protected under this Act.”

9 Article 15(7) CBD.

10 For the full list, see Appendix II, Monetary and Non-Monetary Benefits, Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilization.

11 Section 64 Thai PVP Act.

12 Article 73 Indonesian PVP Act.

13 Section 56, Philippine PVP Act and Article 91, Implementing Rules and Regulations of the Philippine PVP Act.

ECONOMIC GLOBALISATION AND ITS IMPACT ON CONSUMER RIGHTS IN THE PHILIPPINES, THAILAND AND INDONESIA
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INTRODUCTION
My research focused on the relevant consumer protection laws and programmes in the Philippines, Thailand and Indonesia. These laws were analysed and the provisions with similar legal framework for consumer protection were compared. Likewise, the relevant programmes on consumer protection were summarised in reference to consumer rights. In addition, brief discussions about economic globalisation, the “global consumers” and their consumer rights, the United Nations’ efforts for consumer protection, and how the Consumer Protection Acts evolved in these countries, were included.

An article published in the Internet states, “An aware consumer is an asset to the Nation. Knowledge is power and ignorance is the root cause of all exploitation.” This is the real essence of consumer protection in the face of economic globalisation as appropriately described in a slogan that says, “A well informed consumer is the best protected consumer.”

The world today has evolved from its past. Many events have reshaped the world’s economy, from an era of protectionism towards what is now commonly known as a free enterprise system. Business enterprises are expanding from one country to another, practically without restrictions except its resources. Suppliers of goods and services have tailored their marketing strategies to harmonise the cultural, social, political and economic differences among persons and countries. Manufacturers and suppliers are investing heavily in marketing strategies in order to create a marketing stimulus for their products and services.

The rapid technological growth is greatly influencing the consumer market, and technology is not only reshaping industries but also contributing to market homogenisation. Closed-door policy and restriction of foreign goods are becoming less popular as countries are not just concerned about domestic but international trade as well. Even the most populous countries in the world, China and India, have opened their markets for international products. In the words of Niren M. Vyas and Allan C. Reddy, these changing events have created a new breed of consumers, the so-called “global consumers”.

Adam Smith in his book The Wealth of the Nations said, “Consumption is the sole end and purpose of all production, and the interest of the producer ought to be attended to, only so far as it may be necessary for promoting that of the consumer.” Accordingly, the great economist is saying that consumers are the kings and queens in the marketplace. Their decisions ultimately determine the kind of goods and services to be produced.

What will be the future of consumers in developing countries? Can economic globalisation offer ordinary bystanders more purchasing power to meet their basic needs or ordinary employees the security of tenure and the opportunity for professional or occupational advancement to improve their living condition? Can it sustain consumption of products and services in terms of affordability, safety and convenience?

Economic globalisation may benefit the consumers as a consequence of the expanding circulation of goods and services, thus enhancing their right of choice based on needs and purchasing power. On the other hand, it may also create serious uncertainty about their safety. As Prof. David Harland said, the capacity...
of goods and services to cause serious injury or death has vastly increased as consumers are often faced with inadequate information to assess whether these goods and services conform to basic safety requirements. The combined growth of mass communication methods and more sophisticated marketing techniques have made consumers more susceptible to misleading claims that may be made by traders.¹

Under these circumstances, “global consumers” expect the State to protect them. They expect not only appropriate consumer protection legislations and adequate programmes, but also the effective enforcement of the laws and efficient delivery of the programmes. The State must balance its interest of sustaining economic growth while, at the same time, regulating it to sustain consumption.

In instances where resources are limited, the consumers would only hope that a larger portion of them would be allocated for consumer protection which, according again to Prof. David Harland, “Governments in poorer, developing countries might, in particular, ask why, in the face of many urgent needs, scarce resources should be devoted to developing policies and setting up institutional structures for consumer protection.”²

All consumers are entitled to their basic needs, such as adequate food, clothing, shelter, health care, education and sanitation that guarantee their very survival. They are entitled to safety against the marketing of goods or the provision of services that are hazardous to their health and life. They are entitled to correct and adequate information in order to make an informed choice. They are entitled to exercise their right to choose and avail themselves of the benefits of competitive pricing with assurance of quality.

They are entitled to representation in expressing their interests in the formulation and execution of government policies. They are entitled to redress and be compensated for misrepresentation, shoddy goods and unsatisfactory services. They are entitled to consumer education to acquire the necessary knowledge and skills to become informed consumers. They are entitled to a healthy environment that is neither threatening nor dangerous and which permits a life of dignity and well-being.³ Finally, they are entitled to sustainable consumption.⁴

The United Nations General Assembly has recognised the significance of consumer protection by adopting a set of general guidelines. They address the following areas of concern, namely; physical safety, promotion and protection of consumers’ economic interests, standards for the safety and quality of consumer goods and services, distribution facilities for essential consumer goods and services, measures enabling consumers to obtain redress, education and information programmes, and measures relating to specific areas such as food, water and medicine.

While they urge governments to develop, strengthen or maintain a strong consumer protection policy, the guidelines also emphasise the importance of ensuring that consumer protection provisions do not become barriers to international trade and are consistent with international trade obligations.⁵

In the Philippines, the Consumer Act evolved from the Consumer Code that was jointly drafted by the Consumers’ Federated Groups of the Philippines and the University of the Philippines Law Center in 1976.⁶ It was approved by President Corazon C. Aquino on 13 April 1992⁷ and came into force on 15 July 1992. The enactment of the Consumer Act of the Philippines took 17 years of consultations and lobby work under two presidential regimes, with the first 11 years under the Marcos administration.⁸

In Thailand, the government already recognised the problem of inequality in bargaining power of individual consumers prior to the enactment of the Consumer Protection Act in 1979.⁹ Parallel to the political movement for more democracy in Thailand in the 1970s, consumerism became a ‘movement’ that culminated in the enactment of the Consumer Protection Act on 4 May 1979. It is said to be the earliest consumer protection act in the Asia-Pacific region.¹⁰ The Act was amended in 1998 to incorporate the mandate of the specific provision on consumer protection in the present constitution and to plug some loopholes that were seen by legal experts and consumer advocates as obstacles to consumer protection work.¹¹

In Indonesia, there was no comprehensive legislation that provided a framework for consumer protection in Indonesia prior to the enactment of the Consumer
Protection Act, although, there were already existing laws and regulations that could be regarded as having the purpose of protecting the consumers.\textsuperscript{15} Subsequent consumer legislations were piecemeal, with several institutions, departments or government officials being empowered to make various regulations concerning consumer protection.\textsuperscript{16}

The Consumer Protection Act of Indonesia was enacted on 21 April 1999 and came into force a year after. According to Prof. Az. Nasution of the Faculty of Law, Universitas Indonesia, it took much time, effort, thought and struggle to achieve a draft law on consumer protection and the prohibition against monopolistic practices and unfair business competition.\textsuperscript{17}

**PROVISIONS IN THE LEGAL FRAMEWORKS**

The provisions of the Consumer Protection Acts and other relevant consumer protection laws and regulations in the three countries may be briefly summarised in the following legal frameworks:

**The Constitution and the Consumer Protection Act**

Consumer protection in the Philippines is constitutionally mandated.\textsuperscript{18} In Thailand, it is a constitutional right of every citizen.\textsuperscript{19} In Indonesia, there is as yet no specific constitutional provision on consumer protection similar to that found in the Philippine and Thai Constitutions.

**The Consumer Protection Act in Relation to Other Existing Consumer Protection Laws**

The Philippine Consumer Act\textsuperscript{20} and the Indonesian Consumer Act are considered superior to other consumer protection laws and regulations,\textsuperscript{21} while the Thai Consumer Act is only a supplemental legislation on consumer protection.\textsuperscript{22}

**Definition of “Consumer”, “Goods” and “Services”**

The Philippine, Thai and Indonesian Consumer Protection Acts define “consumer”, “consumer goods” and “consumer services” differently, and how these terms are defined determines its coverage and extent of protection. The Philippine Consumer Act applies only to consumers who are natural persons and to products, services and credits that are primarily for their personal, household and agricultural purposes.\textsuperscript{23} However, it extends protection to those who are merely users of a product or service.

The Thai Consumer Act applies to all persons, natural or juridical and to products acquired with remuneration or services coupled with the obligation to pay money or other valuable considerations not arising from employment.\textsuperscript{24} While the Thai Consumer Act expressly extends the definition of “consumer” to a person who is merely a user of a product or service, it explicitly requires compliance with the provisions of the Civil and Commercial Code on privity of contract.\textsuperscript{25}

The Indonesian Consumer Act applies to end-users of products and services, human beings and non-human living creatures\textsuperscript{26} and all types of goods, tangible or intangible, movable or immovable, consumable or non-consumable, and all kinds of services, provided that the use or consumption is for personal use, household use, other people, and other living creatures.\textsuperscript{27} The Act also extends protection to consumers who are merely users of a product or service.\textsuperscript{28}

**Laws Concerning Product Quality and Safety**

The Philippine Consumer Protection Act contains specific provisions concerning the adoption of product quality and safety standards, product certification schemes and marking systems,\textsuperscript{29} but delegates the enforcement to concerned departments.\textsuperscript{30} The Thai and the Indonesian Consumer Protection Acts do not have similar provisions. However, both have specific provisions in matters of enforcing violations of laws and regulations concerning product quality and safety standards, product certification and marking systems existing in other statues.\textsuperscript{31}

**Laws Concerning Deceptive Sales Acts or Practices**

The Philippine, Thai and Indonesian Consumer Acts prohibit deceptive sales acts and practices of producers, manufacturers, suppliers or sellers, but vary in scope and manner of protection.

**Laws Concerning Unfair or Unreasonable Sales Acts or Practices**

Both the Philippine and the Indonesian Consumer Acts expressly prohibit unfair and unconscionable sales acts or practices.\textsuperscript{32} In the case of the Thai Consumer Act, these practices may be covered by the provision
SAFEGUARDING RIGHTS

of Section 35 and some provisions of the Thai Unfair Contract Terms Act of 1997, when employed in the execution of written contracts.

**Laws Concerning Chain Distribution Plans or Pyramid Sales Schemes**
The Philippine Consumer Act contains specific provisions regulating chain distribution plans or pyramid sales schemes while similar regulations are contained in the Direct Sales and Direct Marketing Act of Thailand and Ministry Regulation No. 73/MPP/3/2000 of the Ministry of Trade and Industry in Indonesia. Pyramiding, as defined *per se*, is prohibited in the three countries, but the way it is prohibited would seem to imply only to pyramiding that is purely in the nature of an investment.

**Laws Concerning Home Solicitation Sales**
Home solicitation sales are specifically regulated in the Philippine Consumer Act and in the Direct Sales and Direct Marketing Act of Thailand. In the case of the Indonesian Consumer Act, the pertinent provision has reference only to the offering of goods and services through orders, which may include transactions perfected at the customer's residence, workplace, or any agreed places other than the usual place of business.

**Laws Concerning Referral Sale**
Referral sale is expressly prohibited in the Consumer Act of the Philippines. Both the Thai and the Indonesian Consumer Acts do not contain a similar provision. Neither is there an existing law or regulation concerning this.

**Laws Concerning Weights and Measures**
The Philippine Consumer Act gives significant importance on the proper use of weighing and measuring devices primarily because of the rampant practice by unscrupulous businesses in short-changing the consumers with the use of uncalibrated, defective, and intentionally manipulated weighing instruments. The Thai and the Indonesian Consumer Acts do not contain similar provisions, although both countries have specific laws that regulate weighing and measuring devices.

**Laws Concerning Product and Service Warranty**
Aside from the specific provisions on warranty in the Philippine Consumer Act, it also expressly incorporates the provisions on conditions and warranties in the New Civil Code of the Philippines. The Thai and Indonesian Consumer Acts do not have a similar incorporating provision. The Philippine Consumer Act expressly excludes the granting of warranty on professional services while the Thai and Indonesian Consumer Acts do not.

**Laws Concerning Labelling and Fair Packaging**
The regulations on product labelling are quite comprehensive in the three countries. However, the provisions on labelling in the Indonesian Consumer Act also cover services. The provisions on product labelling in the Philippine Consumer Act also apply to product packaging while the provisions in the Thai and Indonesian Consumer Protection Acts are specific to labelling only, without particular reference to packaging.

**Laws Concerning Liability for Defective Products**
Except in Thailand where the particular law concerning this is still to be enacted, the provisions in the Consumer Protection Act of the two countries are quite comprehensive. However, the legal framework of the Indonesian Consumer Act, in the matter of proving criminal liability for defective products and/or services, is more favourable to consumers compared with the Philippine Consumer Act.

**Laws Concerning Liability for Defective Services**
The Philippine Consumer Act expressly imposes on the supplier the obligation to answer any liability for defects in rendering the service or due to insufficient or inadequate information. The Thai Consumer Protection Act does not contain specific provisions on liability for defective services while the provisions in the Indonesian Consumer Act on liability for defective products also apply to liability for defective services.

**Laws Concerning Liability for Product Quality Imperfection**
The Philippine Consumer Act directs the supplier to replace the imperfect parts within 30 days from demand. The Thai Consumer Act does not have provisions on product quality imperfection while the pertinent provisions in the Indonesian Consumer Act seem to deal only on quality imperfection as it relates...
to the required quality standard, label, information and advertisement.⁴⁰

**Laws Concerning Liability for Product Quantity Imperfection**
Both the Philippines and the Indonesian Consumer Acts determine product quantity imperfection on the basis of the actual quantity in relation to its label and/or advertisement. The Thai Consumer Protection Act does not contain any specific provision on liability for product quantity imperfection.

**Laws Concerning Liability for Service Quality Imperfection**
In the Philippine Consumer Act, the liability of service providers attaches from the moment the service is performed. The Thai Consumer Act does not contain specific provisions concerning service quality imperfection while the pertinent provisions in the Indonesian Consumer Act are the same as the provisions on liability for defective products and services.

**Laws Concerning False, Deceptive or Misleading Advertisement**
The regulations on false, deceptive or misleading advertisement are quite comprehensive in the three countries and the manner and extent of its protection are generally similar.

**Laws Concerning Sales Promotion of Consumer Products and Services**
The provisions in the Philippine Consumer Act regulate specific forms of sales promotions.⁴¹ Some provisions in the ministerial regulations of the Thai Consumer Act, although generally pertaining to advertising, cover certain types of sales promotions.⁴² The specific provision in the Indonesian Consumer Act only covers sales promotions carried out by giving prizes through lottery.⁴³

**Laws Concerning Repair and Service Firms**
The Philippine Consumer Act regulates all repair and service firms.⁴⁴ The Thai Consumer Protection Act does not contain specific regulations on repair and service firms. The Indonesian Consumer Protection Act does not regulate service and repair firms but it expressly requires the provision of after-sales services on products.⁴⁵

**Laws Concerning Credit Transaction**
The Philippine Consumer Act regulates two types of credit transactions and the provisions require the full disclosure of the true cost of credit, subject however to some exceptions.⁴⁶ The regulations in the Thai and Indonesian Consumer Acts have reference to the provisions on fair contract but vary in the scope of protection.⁴⁷

**The Implementing Agencies of the Consumer Protection Act**
The Philippine Consumer Act does not create new implementing agencies.⁴⁸ The Thai Consumer Protection Act expressly creates the Consumer Protection Board and three ad hoc committees.⁴⁹ The Indonesian Consumer Act does not create new implementing agencies but designates the Department of Trade and Industry.⁵⁰ However, according to Dr. Inosentius of the Faculty of Law, Universitas Indonesia, it is the council of Islamic leaders of Indonesia or Majelis Ulama Indonesia (MUI) that grants the certification for halal labels.

**The Coordinating Agency**
The Philippine Consumer Act creates the National Consumer Affairs Council, the Thai Consumer Protection Act creates the Office of the Consumer Protection Board, and the Indonesian Consumer Protection Act creates the National Consumer Protection Board as the coordinating bodies in the implementation of their respective Consumer Acts.⁵¹

**Administrative Procedure Concerning Redress**
The process of settling consumer complaints under the three Consumer Protection Acts vary in many respects, such as exercise of jurisdiction, the period of rendering decisions, and initial and further appeals. The Thai and Indonesian Consumer Protection Acts allow class actions⁵² while there is no similar provision allowing the same in the Philippine Consumer Act.

**Laws Against Price Manipulation**
The three countries have existing laws concerning hoarding, profiteering and cartels as forms of price manipulation. Coincidentally, these laws were enacted in the same year.
CONSUMER PROTECTION PROGRAMMES

The programmes on consumer protection are too many to enumerate. The following are some relevant programmes with significance to the rights of consumers.

On Basic Needs

As the prices of medicine in the Philippines are considered to be among the highest in the ASEAN region, the government undertook a programme called Presyong Tama, Gamot Pangpamilya (Drugs for the family at the right price). In Thailand, prices of medicine and food are relatively cheap. Despite this, the government is still concerned about bringing them down to a much lower level. One of the programmes undertaken is the setting up of retail stands in various department stores where producers and traders can directly sell their products, thus cutting out some channels of distribution before the products finally reach the end consumers. In Indonesia, food security is one of the main concerns of the government.

On Health and Safety

Common to the three countries is the government's efforts to promote good practices in agriculture, manufacturing and distribution, in accordance with quality and safety standards, to assure the health and safety of consumers. In the past, the practice of manufacturing and distributing substandard industrial products was rampant in the Philippines. The enforcement of product quality and safety standards was futile as retailers easily escaped liability by the mere expedience of invoking innocence and good faith. In order to plug the loophole, the Department of Trade and Industry issued Department Administrative Order No. 9, series of 1990, imposing the responsibility of circulating substandard products on retailers. The government is also gearing up to implement the Clean Air Act.

In Thailand, the enactment of the Health Protection Act of 2001 has led to the imposition of the 2 per cent surcharge tax on tobacco and liquor products to support and fund projects that will promote public health and change behavioural patterns to improve the quality of life. Government agencies have organised students into consumer protection groups to help monitor the quality of food in school campuses. The Department of Internal Trade of the Ministry of Commerce has launched a nationwide drive to improve the sanitation of wet markets. The Department of Agriculture of the Ministry of Agriculture and Cooperatives has revised its policy and master plan on agricultural pesticides to address the prevailing issue of heavy use of pesticides among farmers and, consequently, on agricultural products.

In Indonesia, the National Agency of Drug and Food Control has adopted the total food safety control approach. The farmers, food processors, distributors, retailers and handlers are taught good practices. The National Agency for Standardization, the national standards-setting body, is continuously developing quality and safety standards. In addition, non-government consumer organisations have conducted research and investigations on various health issues and publicly disseminated the results.

On Institution Building

In the Philippines, many non-government consumer organisations have failed to survive. The role of consumer protection mainly falls on government consumer protection agencies. Due to budgetary constraints, these agencies have to collaborate with local government units to push the consumer protection programmes of the national government in the municipalities. In Thailand, institution building of consumer organisations is in line with the national policy of promoting community participation in national development. The Office of the Consumer Protection Board and non-government organisations like the Foundation for Consumers are assisting in the organising and networking of other consumer organisations.

In Indonesia, the Directorate for Consumer Protection of the Department of Trade and Industry provides assistance in organising non-government consumer protection agencies. Non-government consumer protection organisations, like the Yayasan Lembaga Konsumen Indonesia (YLKI), are actively involved in network development and providing assistance to strengthen the cooperation among consumer organisations at the local, national, regional and international levels.
On Redress
The government programmes are very similar in the three countries. Government consumer protection agencies have designated particular personnel to receive and settle consumer complaints. The use of telephone hotlines and Internet facilities is common. In Indonesia and Thailand, non-governmental consumer organisations are facilitating redress of consumer complaints.

On Consumer Education and Information Dissemination
The programmes in this particular area are very similar. There is the same ongoing effort to integrate consumer education in the school curriculum. In Thailand and Indonesia, government consumer protection agencies and non-government consumer organisations are actively participating in consumer education. Tri-media outlets are common means of disseminating consumer information to the public. The holding of seminars, talk shows and public discussions on important consumer issues of general interest are common activities. There is also a similar effort to create good working relationships among the government, businesses and consumer organisations. In creating public awareness, the use of strongly worded slogans is a common practice.

On Enforcement
The programmes and activities on enforcement of consumer protection laws are very similar. Government protection agencies regularly conduct routine inspections of factories, establishments and wet markets to determine compliance with the laws. Regular monitoring of retail prices of basic commodities is also done but the kind of products monitored varies. There are also similar problems with inadequate budgets.

SOME ONGOING CONCERNS
In the Philippines, the Department of Trade and Industry, in cooperation with the Asian Institute of Management, recently conducted a series of consultative workshops on consumer policy with focus on building consumer constituencies nationwide. In Thailand, the Office of Consumer Protection Board is presently working towards the enactment of the Product Liability Bill; Consumer Protection Bill No. 3 that will provide the guidelines for the creation of a constitutionally mandated independent consumer organisation; and measures for consumer protection in E-Commerce. Meanwhile, the establishment of the National Consumer Information Centre is ongoing.

In Indonesia, much is still to be done to fully implement the Consumer Protection Act. For instance, the National Consumer Protection Board has not yet been created. So far, only nine Consumer Dispute Settlement Boards (Badan Penyelesaian Sengketa Konsumen) have been established nationwide. The Board cannot be established in Jakarta until the conflicting provisions in the Consumer Protection Act and the Charter of Metropolitan Jakarta are resolved. The organisation and operation of the Board interpose two problems: securing human resources who are capable of filling the positions, and whether the local or the national government should be responsible for funding the creation and operation of the Board.

CONCLUSION
The efforts for consumer protection in the Philippines, Thailand and Indonesia are manifestations of the hard work and determination of consumer advocates and non-government consumer organisations to empower consumers. It took at least 17 years of consultation and lobbying to enact the Consumer Act of the Philippines; about nine years to enact the Thai Consumer Protection Act and several years to incorporate a specific provision for consumer protection in the Thai Constitution; and more than 24 years of effort, thought and struggle to achieve a draft law on consumer protection and prohibition against monopolistic practices and unfair business competition in Indonesia.

The laws, regulations, and programmes in the three countries provide a wide array of protection to consumers. Safety standards of local and imported goods and services are provided, improved and upgraded, with corresponding legal responsibility on the manufacturer, distributor, retailer and importer or authorised agent, to answer any liability or imperfection. The production, ingredients and contents of the products, its packing and packaging materials, the labelling, distribution and handling, sale, and advertising are regulated.

Warranty and guarantee are provided with specific provisions for their enforcement. Fraudulent or unconscionable sales acts and practices are prohibited.
and indemnity for violation is provided. The social participation of consumers in the governance of civil society in pursuit of their interests is recognised.

Are these adequate in response to economic globalisation? Maybe yes, maybe no. The spell of difference will depend on how the government pursues its policies, seriously enforce its laws, and consistently implements its programmes, on consumer protection, in the true sense of justice and equity, so that the benefits of economic globalisation are accorded to the consumers who, in the words of Adam Smith, are the “sole and ultimate purpose of all production”.

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Notes
1 <www.advantageconsumer.com>
3 Vyas and Reddy, supra.
5 Harland, supra.
6 National Consumer Affairs Council, “Consumer Rights & Responsibilities”.
8 Harland, supra.
9 Francis Joseph De la Cruz, “Consumer Redress in the Philippines”.
10 De la Cruz, supra.
11 De la Cruz, supra.
12 Kittisak Prokati, “The Development and Scope of Consumer Protection in Thailand”.
15 ASEAN Consumer Protection Seminar, “Consumer Protection in Indonesia”, p. 16.
18 Article 16, Section 9 of the 1987 Constitution.
19 Chapter 3, Section 57 of the 1997 Constitution.
20 Article 170.
21 Article 64.
22 Chapter 2, Section 21.
23 Article 4, paragraphs n & q.
24 Section 3.
25 Section 42.
26 Article 1, paragraph 2.
27 Article 1, paragraphs 4 & 5.
Article 1, paragraph 2.

Articles 14 & 15.

Article 6.

Section 36 in relation to Section 30 of the Thai Consumer Act and Article 8 in relation to Articles 4 & 7 of the Indonesian Consumer Act.

Article 52 and Article 15, respectively.

Article 16.


Articles 67 & 68.

Article 70.

Article 8.

Article 99.

Article 100.

Article 116

Ministerial Regulations No. 3 B.E. 2526 & 5 B.E. 2534.

Article 14.

Article 125.

Article 25.

Articles 131 & 145.

Section 4, paragraph 8 and Article 8, paragraphs 1.h & 2, respectively.

Articles 154 & 155.

Section 9.


Title 5 of the Philippine Consumer Act; Chapter 1 of the Thai Consumer Act; and Chapter 8 of the Indonesian Consumer Act.

Section 41 and Article 46, paragraph 1.b, respectively.

Roungvit Jenpanichkarn, Department of Trade, Ministry of Commerce, personal interview.

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Dra. MDRN. Wahyuhardini, Directorate General Domestic Trade, Department of Trade and Industry, personal interview.

YLKI Report, supra.

65 Akrapong Vechayanont, supra.

66 Dra. MDRN. Wahyuhardini, personal interview.

67 Prof. Hikmahanto Juwana, “The Dispute Resolution Process in Indonesia”. 
INTRODUCTION
This research was carried out in the Philippines and Indonesia from October 2003 to September 2004. This study attempts to investigate the emerging phenomena of people's media and communication rights in the Philippines and Indonesia. These two countries were selected as they form an important part of the Association of Southeast Asian Nations (ASEAN) grouping. Secondly, their varying degree of media freedom and political transformation in recent years provide for a dynamic comparative perspective.

To begin with, both countries share a great deal of similarities in their historical background as colonies of Western powers, namely, Spain and the United States in the case of the Philippines, and the Netherlands in the case of Indonesia. Both countries are also rich in cultural traditions as well as natural resources.

The distinctive differences lie in their religion and language. In the Philippines, majority of its people are Catholic while Indonesia, although a secular state, has the largest Muslim population in the world. As for language, the Philippines chose English and Pilipino as official languages after liberation. Indonesia, on the contrary, chose to invent a new language, Bahasa Indonesia, as a means to integrate the diverse ethnic groups who use several hundred languages.

All of these have significant bearing on the communication culture and the media in both countries. However, let us first look at some theoretical underpinnings on the notion of people's media and communication rights.

PEOPLE'S MEDIA AND COMMUNICATION RIGHTS
The phrases “people's media” or “alternative media” are generally used to distinguish between commercial mainstream media and people organised media which are mostly small, independent, non-commercial and non-profit. People's media in a more specific context may embrace media activism, radicalism, underground or alternative media activities involving numerous innovative channels of communication, creative and subversive content which Downing termed “radical media”.

They are armed with a clear social and political agenda to communicate with their constituents and, to a large extent, to mobilise the masses or the public into action. Rodriguez, however, cautioned that alternative media, also known as “citizens’ media”, “radical media”, “medias libres”, “participatory media”, “community media” or “grassroots media”, should not be seen as the binary opposition of mainstream media. Instead, she suggested in her book, Fissures in the Mediascape, that the term “citizens' media” should be used to define the transformative processes of these media for which participants and communities are empowered.

Citizens’ media articulates the metamorphic transformation of alternative media participants (or community media, or alternative media) into active citizens. That is, citizens' media is a concept that accounts for the processes of empowerment, conscientisation, and fragmentation of power that result when men, women, and youth gain access to and re-claim their own media. As they use media to re-constitute their own cultural
codes to name the world in their own terms, citizens’ media participants disrupt power relationships, exercise their own agency, and re-constitute their own lives, futures, and cultures (Rodriguez 18).

In a contemporary socio-political context, a large majority of people's media, or what Rodriguez called citizens’ media, are connected to people and non-governmental organisations (NGOs), labour unions, grass-roots and middle-class social and political movements on a wide range of issues. These include, for example, land rights, small-scale production in agriculture and fishery, the right to livelihood, ecological movements fighting against deforestation and environmental destruction, urban poor, gender, child rights, cultural and political rights and, not least, issues concerning globalisation, the World Trade Organization (WTO) and Free Trade Agreement (FTA).

The key to people's media is the struggle for the right to speak, to gain freedom of association, idea and expression, to resist and criticise, to oppose state terror, injustice and oppression, to be heard and understood by the public and by the 'established power' at all levels, that would lead to physical and mental emancipation. These rights are basic communication rights. They are enshrined in most national constitutions and in Article 19 of the Universal Declaration of Human Rights, which sets the broader framework on the right and freedom of expression, and the right to access and impart opinion, information, knowledge, culture and the arts.

In 1995, the People's Communication Charter, proposed by communication and media academics and activists, expounded communication rights and freedom as its central tenet. Communication rights in modern society are seen as a key and basic human right similar to education, health care, housing and employment for citizens.

All people are entitled to access to the resources they need to communicate freely within and between their societies; all people need to develop their own communication skills, channels, and institutions through which they can speak for themselves with dignity and respect, and tell their own stories; provisions for all aspects of free, independent and secure communication and culture and mechanisms for their implementation, must be strengthened. (Hamelink, “People’s”)

The Charter goes beyond advocating the right and freedom of expression for the mass media. It criticises the mass media of "disempowerment" that is a serious violation of the human entitlement to dignity, equality and liberty. In essence, the Charter calls for a shift of the concept of communication and media in which communication contributes to the "empowerment" of people and the improvement of the communication environment. This means the people must take responsibility for themselves to create their own media and to shape the cultural environment according to their needs and interests (Hamelink, “People’s”).

Along this conceptual shift, there are concrete praxis demonstrating how civil society, peasants and workers are creating their own media channels as alternative means of communication and as a force to transform media structures. These are people's organisations, NGOs, and social and political movements working expressly on freedom of expression and the right to information pertained in a democratic polity. Set up either by community groups or professionals, the aims of these media organisations are to advocate freedom of speech for the marginalised people in the society, for his/her own community and most of all, for the attainment of the basic communication rights.

These people's media organisations are also connected to each other in the form of a loose coalition or an alliance. Some might be organised into associations or networks with clearly defined goals and organisation structures. This group of organisations could be seen as a distinctive category of people's media organisations. Their mission is to achieve a more democratic media culture and democratic media structure, locally and globally.

Hackett and Carroll, in looking at the examples of the American and British media reform movements, described people's media organisations as critical social movements on media reform. In their view, the programmes and campaigns of these networks and organisations are seen in terms of media democratisation activism. Hackett distinguished four major strands of praxis in his scheme of media democratisation activism (70-71). These are:

- Influencing content and practices of mainstream media, e.g., finding openings for oppositional voices,
media monitoring, campaigns to change specific aspects of representations;
- Advocating for reform of government policy/regulation of media in order to change the very structure of media institutions, e.g., media reform coalitions;
- Building independent, democratic and participatory media—alternative media and support services to give voice to the marginalised, thereby opening new channels of communication independent of state and corporate controls; and
- Changing the relationship between audiences and media, chiefly by empowering audiences to be more critical of hegemonic media, e.g., media education and culture jamming.

This paper intends to look at media democratisation activism in Indonesia and the Philippines between the 1990s and early 2000. This period has been marked as the critical moment of socio-political and economic transformations in both countries. It is clear that the media played a key role during the recent political upheaval and its aftermath. The paper will provide an overview of the ban on press freedom vis-à-vis popular resistance against media censorship. The paper will also look at some recent examples of media organisations working towards the democratisation of media culture and media structures in Indonesia and the Philippines.

INDONESIA

The early years of the Indonesian press have been described as a “political press” in its close connection to the struggle for independence. During the Dutch colonial rule, Tirto Adi Surjo started Soenda Berita (on 17 August 1903), the first local newspaper in the Malay language published in the Dutch East Indies archipelago. The Medan Prijaji followed in the period of the pergerakan, the anti-colonial popular movement in Java. In the early 20th century, journalism and popular movements were interdependent as Shiraiishi described: “journalism is pergerakan and pergerakan is journalism, where pergerakan leaders are born out of journalists and journalists out of pergerakan leaders” (quoted in Dhakidae 11).

The Dutch authorities reportedly pinpointed Medan Prijaji as “energetic, gifted, cunning and more poisonous” than the other papers because the government and officials were vehemently attacked and government regulations ridiculed. Moreover, Medan Prijaji captivated and influenced its readers to think of improving themselves. By way of publishing news on injustice and discrimination in the language of the pergerakan, the paper appropriated and translated the political discourse into political actions such as gatherings and trade union strikes. The consciousness raising of the press was to further Indonesia’s political end in moving toward pan-Islamism and pan-Communism (Dhakidae 36-37).

In the decades that followed, the press was very much a part of the Nationalist Movement in the 1920s-1940s. The prominent characteristics of these newspapers were a commitment to the nation’s independence and a bias against any political neutrality. The press must choose either to side with the colonialists, sana, or to side with the nationalists, sini, in the struggle, perjoangan, to free the nation.

In the 1950s, newspapers readership expanded and so did the number of papers. During this period of Sukarno’s leadership and nation building, the political role of the press was more entrenched when they came under the patronage of the political parties. Dhakidae argued that it was the “political press” before and during the first two decades of Indonesia’s independence that constructed a political public and, hence, these readers became the active citizens and voters of the new nation.

However, press freedom was critically transformed after the coup in 1965. General Suharto’s takeover of power had turned the so-called “political press” into an industry of commercial press. In a sense, the press was ‘neutralised’ or ‘depoliticised’ and institutionalised into the modernisation scheme of Suharto’s New Order. The survivor of the political putsch were the army papers, Angkatan Bersenjata and Berita Yudha, and two Christian papers, Kompas (Catholic Party) and Sinar Harapan (Protestant Party), which grew unchallenged well into the 1980s.

In the process, the new regime entrusted press control to a few business groups who were either supportive of the regime or its cronies. With the advent of new printing technologies and the influx of advertising revenue, the press became a vibrant industry in the 1970s-1980s along with the rise of capitalism in Indonesia despite spurs of newsprint crisis and the oil crisis.
In summary, the decline of the “political press” ushered in business interest in the national press industry and centralisation to Java. In addition, the State imposed strict control on the publishing license, Surat Ijin Usaha Penerbitan Pers (SIUPP) or Press Publication Enterprise Permit (Ministry of Information Regulation No. 1, 1984), coupled with censorship and a total ban of dissident voices. The press in the New Order era was tongue-tied and open resistance was scant. Open resistance towards the New Order only began when the press became economically marginalised in the 1990s.

Press Resistance during Suharto’s New Order
The watershed of journalists’ resistance in the mainstream media occurred after the ban of the Tempo, DeTik and Editor magazines in July 1994. This was due to their reports on the alleged corruption involved in the buying of 39 warships from former East Germany, a project under B. J. Habibie, then Minister of Technology and Research.7

There was an uproar when Information Minister Harmoko banned the three magazines (AJI and Human Rights Watch). Resistance to the ban took the form of an underground press and the formation of a new journalists’ union—Aliansi Jurnalis Independen (AJI) or the Alliance of Independent Journalists.8 The same group of journalists also organised Institut Studi Arus Informasi (ISAI) or the Institute for the Study of Free Flow of Information.

This was the juncture at which numerous underground publications were produced to expose corruption and criticise the misconduct of Suharto and his government. Independen (Independent) later became Suara Independen (Voice of Independence), Xpos (Expose) and the Internet-based AJI News, Siar (Broadcast), Mamberamo, and TNW Watch (Army Watch), for example, were effective means of spreading critical news about the regime at home and abroad (Santoso; Stanley).

The Internet, in its early stage in Indonesia, also played a key role in underground news through newsgroups. News and articles from Suara Independen, for instance, were uploaded to Internet servers in Europe and the US and distributed to readers globally (Tedjabayu). Aiming at Indonesians and students studying abroad, Apakabar, in particular, moderated by John A. MacDougall, was the largest newsgroup, reaching 250,000 readers in 96 countries. It provided news and an opinion forum in the Indonesian language. In addition, many Indonesian NGOs and journalists joined in as active posters of messages and articles.9

Both AJI and ISAI spearheaded the campaign on press freedom as well as human rights, the environment, gender and democratic reform in coalition with a wide range of NGOs. In addition, many international organisations joined the campaign to exert pressure on the Indonesian government.10 During this period, student protests were a regular phenomenon in politically active campuses. At the same time, Satu Merah Pangung broke the silence from arts groups by staging the play Marsinah: A Song from the Underworld in 1994 to protest against the murder of Marsinah, a woman union leader in East Java.11

The chain of events was exacerbated by the attack on the Indonesian Democratic Party (PDI) headquarters in Jakarta in July 1996. It generated more discontent amongst the political elites, intellectuals, students and civil society organisations. When the financial crisis erupted in 1997, the economic downturn became the last threshold of popular dissent. The increase in petrol price in early May and the killing of four students at Trisakti University in Jakarta on 12 May 1998 ignited the riots which led to the fall of Suharto on 21 May 1998 after 32 years of rule.12

Reformasi and the People’s Media
Reformasi ushered in democracy and essentially transformed the mediascape in Indonesia. First and foremost was the legal reform of the Press Law and the Broadcasting Law. Civil society organisations formed a media coalition and campaigned for a new Press Law in 1999 (Law no. 40/1999) and Broadcasting Law in 2002. Since the new Press Law lifted the license control on newspapers and magazines, the press no longer needed a publishing license. The Ministry of Information was thereafter abolished.13 Thus, the Press Law has enabled mainstream press to mushroom.

On the other hand, the new Broadcasting Law has opened up the industry to a wide range of commercial radio and television stations. There are now 11 national commercial free-to-air television stations, including a
24-hour news station—Metro TV—and a range of cable services. In cities around the country, commercial radio is booming.

However, the most radical change in the broadcasting mediascape came with the institution of a new category of radio, low-powered community radio, in the Broadcasting Law (Article 21-24). In less than two years, 400 community radio stations are on air and new stations continue to spread unabated. The Indonesian Broadcasting Commission (KPI), established in early 2004, has not been able to regulate all 2,500 radio stations—broadcasting state, commercial and community radio—estimated to be in operation.

**Community Radio**

Community groups, people based organisations and individuals in villages in Java, Sumatra, and Lombok, for instance, have been extremely eager to use the media forum to participate in the decentralisation process in the aftermath of the May Tragedy in 1998. NGOs such as COMBINE were formed with a central strategy to lobby for legal provision of a community communication network and to promote autonomous communities and local good governance through community-based information and broadcasting networks.

This section looks at three examples of community media and the way in which these media have opened new channels of independent and participatory communication for rural and urban citizens in Yogyakarta and Bandung.

**Angkringan Radio** in Timbulharjo village, Bantul district, on the outskirts of Yogyakarta, was set up in 2000 by a group of young activists in the village. It was able to monitor the performance of the newly elected village head, Lurah, by broadcasting the village meeting live to its audience. It was able to report on the Timbulharjo village council’s rejection of the annual and financial report of the village head. In addition, the Angkringan Newsletter and Angkringan Radio were able to expose the corruption of the local land title registration office. In Timbulharjo, community media therefore become the check and balance for local politics and for monitoring the local administrative officers. This unprecedented role played by the media at village level has obviously empowered the community and wiped away the traditional silence and fear.

In Bandung, Radio Cibangkong began as a medium of mobilisation and struggled against corporate encroachment. Before the huge shopping centre next to Cibangkong was built in 2000, 1,800 households were evicted. The construction created noise and air pollution in the area and debris was dumped on the ground and in the canal by the village. Despite the threat from a powerful corporation and its thugs, the villagers decided to fight back to defend their neighbourhood and their way of life.

Radio Cibangkong was able to rally villagers and raise their consciousness to act for a just cause. It also monitored the activities of the shopping mall, represented the community in their negotiation with the owner of the mall and kept the community informed of new developments. It became clear that “solidarity of citizens” was possible with community radio working as the citizen’s forum (Adi Rumansyah). Another successful activity of Radio Cibangkong was “peace building” between youth groups of Cibangkong and its neighbouring village (Gani Rachman). Otherwise, Radio Cibangkong broadcast education and community development programmes as well as music.

**Balai Budaya Minomartani** community radio or *Encounter Radio* in Sleman, Kaliurang, Yogyakarta, is different from Angkringan Radio and Radio Cibangkong. The station set out with an objective to promote culture and community identity. Villagers in the community of 4,000 are able to participate as listeners, producers, programme hosts, DJs and technicians (Surowo Haryono). *Encounter Radio* broadcasts Javanese music, Campusari and cultural performances by local artistes, students and youth groups from the cultural centre next to the station.

The language of *Encounter Radio* is mainly Javanese with some Indonesian. This localisation of language enables a number of women villagers to host the programme and speak at ease. In addition, members of the village, both Muslim (who form the majority) and Catholic (who are the minority but operate the station), join to exchange their ideas, religious thoughts and cultural traditions. *Encounter Radio* is an example...
of empowerment and socio-cultural integration for which religion, ethnicity and gender form the basis of its cultural strength and diversity. These people are no longer voiceless but have found their own forum of expression in the community.

As these examples show, community radio—small, low-powered, 20-30 watt, locally built FM stations—has been the alternative medium that has been the most accessible by far. It empowers as well as gives voice to the concerns of the community since the majority of its programmes are expressly designed with a participatory perspective in mind. Community radio is therefore vibrant and gaining popularity in both urban and rural areas.

Nonetheless, there are two major problems faced by most community radio stations, according to the Jaringan Radio Komunitas [Community Radio Alliance]. The first one involves the question of surviving day-to-day operations. Most community radio operators face the problem of sustainability. Although they are supported by their community in the form of organisers, contributors of ideas, loaning of equipment, producers of programmes and active listeners, regular and sufficient funding of stations remains a problem. Some stations devise methods of support based on a system of subscription and fund-raising activities.

The second is a legal problem. Community radio is constantly threatened by the state and the broadcasting industry for “illegal broadcasting”. Despite the Broadcasting Law and its stipulation on a new community broadcast category, the Indonesian Broadcasting Commission has yet to resolve the licensing problem.17

In addition to community radio, independent news production networks have also gained popularity. This new citizens’ right to information is in total contrast to the mediascape during Suharto’s New Order. Broadcast news back then was a state monopoly and news was produced and distributed through RRI and TVRI, respectively the state radio and television, for political legitimisation and control. After the fall of Suharto, the Ministry of Information issued a decree to liberalise the production of news on commercial radio and television. This is a great leap for the broadcasting industry and the Indonesian people in terms of access to news and information (Jurriens).

Two independent radio news networks, Radio News Agency 68H by ISAI and Internews Indonesia18 by Internews Network, Inc., began to broadcast in earnest in 1999 and 2000 respectively. Their aim was to inform a national audience and to create a network for which news and information could be exchanged and debated openly and as widely as possible. In 2000, Radio 68H broadcast on the AM band at 603 KHz from Jakarta. For the first time, news broadcast from an independent news network was on air for a national audience through satellite. In 2002, Radio 68H acquired a new station, 89.35 FM, formerly a sports station, to connect its news broadcast and programmes via satellite to 400 radio stations nationwide.

The station has 80 journalists in Jakarta and 60 correspondents around the country (Santoso). It is evident that in the era of reformasi, alternative news and media networking are seen as significant empowering instruments for democracy by both the Indonesian civil society and international NGOs.

THE PHILIPPINES

The Spanish government first published Del Superior Gobierno in 1811, containing dispatches from Calcutta, London, Spain, and Boston to keep the inhabitants of the Philippines loyal to King Ferdinand VII and to report on the victory of the Spanish over the French army. The first local newspaper, however, was El Ilocano, published in 1892 in Ilocos province. Prior to El Ilocano, young and well-to-do Filipino exiles in Barcelona published the fortnightly La Solidaridad in 1889. They were part of the Propaganda Movement (1880-1895), struggling for political and social reform in the colony. Through newspapers, novels and other writings they publicised their liberal ideas and vision for an independent Philippines (Schumacher, Nation; Propaganda).

La Solidaridad’s well-known editors—Graciano Lopez Jaena and Marcelo H. del Pilar, along with famous columnist Dr. Jose Rizal—played a crucial role in creating a consciousness which led to the Revolution in 1896 against Spanish rule. Equally important were Rizal’s novels, Noli Me Tangere and El Fílibusterismo,
which succeeded in awakening not only the *illustrados*, or the educated class, but the Filipinos masses as well.20

This fighting tradition of the press during the Propaganda Movement and during the Revolution became an integral part of the Philippines' nationalist movement in the 19th century. It was acknowledged that these made up “Philippine Revolutionary Journalism”. Valenzuela's view was that these revolutionary papers were passionate, the language was exultant and emphatic and the pages were aflame with compelling emotions.

*La Solidaridad*, for instance, called for Filipino representation in the Spanish Cortes (parliament), equal rights with Spanish citizens, assimilation and education. From the start the Propagandists asserted the ideas of freedom of speech, the press and assembly, as well as social and political freedom.

Inspired by Rizal and his writings, the Katipunan Revolutionary Movement—*Katipunan ng mga Anak ng Bayan* (KKK) or The Highest and most Honourable Society of the Sons of the Country, headed by Andres Bonifacio—organised Filipino plebeians into a secret society in Manila and eight provinces in central Luzon. It was meant to unite the archipelago into one compact, vigorous and homogenous body.

The KKK published its own paper, *Kalayaan*, or Freedom and Liberty, to mobilise new members for the movement. However, only the first issue of 2,000 copies was distributed in March 1896. When the secret organisation was found out, the KKK was forced to take up arms and start an uprising against the Spanish army and the *Guardia Civil* (the police) on 30 August 1896 (Cristobal).21 At the time, there were 16 ‘nationalist’ newspapers supporting the Revolution for an independent Philippines.

The KKK and the Revolution succeeded and on 12 June 1898 a revolutionary government was established. However, the Revolution was short-lived and the Philippines fell under American colonial rule in 1902. During the early period of American rule, the pro-independence newspapers were closed down and journalists were arrested and tortured. It was during the American colonisation period that the press gradually turned from a political press in the 1910s-1920s into a full-blown commercial press in the 1940s (Coronel, “Philippines”).

During the Second World War (1942-1945) the Philippine press was heavily censored under the Japanese occupation. However, despite its limitations, the guerrilla movement was able to publish its underground paper on typewritten or mimeographed sheets. The underground press did not surface until the 1970s-1980s when President Ferdinand Marcos declared Martial Law and dissolved Congress in 1972.

**The Alternative Press and Popular Opposition**

In 1965, Ferdinand Marcos was elected as the President of the Philippines. When he declared Martial Law in 1972, the media was deeply affected. Strict censorship was imposed by the Media Advisory Council. The broadcast media was put through a loyalty check before it could resume operation. Furthermore, there was a structural change in the ownership of the press. The more or less ‘independent press’ was transformed into a ‘crony press’ owned either by the Marcos’ family or his friends.

However, some of the small newspapers were daring despite stringent censorship. *We Forum*, with Jose Burgos as its editor, was banned because of its exposé on Marcos’ fake war medals. After the ban, dissident and critical voices were subsequently forced to go underground. During this period, the Communist Party also published its underground papers apart from fighting the government (Coronel, “Philippines”).

The alternative press, or the ‘mosquito press’ as the regime saw it, played an important role in telling the truth as opposed to the ‘crony press’ which toed the official line. At the forefront were *Malaya*, an English weekly tabloid and the sister paper of *We Forum*, and the *Philippine Collegian*, a University of the Philippines student paper, both known for their militant journalism.

The political primacy of press freedom and its power to inform, conscientise and mobilise the people manifested itself during the events surrounding the assassination of Senator Benigno Aquino Jr. (Ninoy) in August 1983
and the EDSA Revolution in 1986 when Marcos was overthrown. Government news blackout on the murder of Ninoy resulted in daily protests on the street.

Only the alternative press such as Malaya, Business Day, and Philippine Collegian, and one radio station, Radio Veritas, reported his assassination and the subsequent funeral march which drew two million people in participating in an 11-hour procession.22 People sought information from international newspapers through photocopies and video cassettes taken by foreign correspondents. Popular tabloids such as Mr. & Ms. Special Edition sold 800,000 copies of its issues on the post-assassination and the trial. In early 1985, this particular tabloid became the Weekly Inquirer and within the same year it was turned into a daily paper, the Philippine Daily Inquirer, the most prominent paper after the EDSA Revolution in 1986.

In addition to printing the truth and proving that its spirit of “anti-establishment, pro-people, pro-underdog” was alive, the alternative press—led by the Veritas news magazine and Corazon Aquino, the widow of Ninoy—campaigned for a boycott of the ‘crony press’ in 1983 and 1984. The boycott from popular opposition was effective in causing sales to drop and eventually forcing the ‘crony press’ to change their editorial policies. They had to print the truth in self-defense.

The EDSA Revolution (1986)
The militant journalism of the alternative press, together with the shifting position of the ‘crony press’ in 1983-1984, foreshadowed the beginning of the downfall of President Marcos in 1986. When Marcos called for a snap election in February 1986, Corazon Aquino (Cory) decided to run against him.23 The fraud in vote-counting resulted in Cory’s call for civil disobedience in a bid to force Marcos to step down and bow to the people’s will.

The Catholic Church, went on air to ask the masses to go to EDSA and Camp Aguinaldo to support Enrile and Ramos. Consequently, Radio Veritas was seized by troops loyal to Marcos on the second day of the mutiny.

However, Radyo Bandido sprang up almost immediately in the vicinity of the camps to issue advice about troop movements and direct the civilian blockade. On the other hand, television Channels 4 and 9 were used by Marcos to counter Radio Veritas until they were taken over by the people and rebel troops.

At EDSA, however, troops and tanks were confronted by unarmed civilians. People came with roses for the soldiers and the nuns held their rosaries and prayed. The masses were communicating peace messages to fight the dictatorial regime. After four days of confrontation, People Power had succeeded in overthrowing Marcos and Cory Aquino was sworn in as President on 25 February (Constantino-David and David).

During the four-day protest at EDSA, alternative radio and newspapers in Manila kept the two million demonstrators informed and mobilized.24 Hence, the media was in solidarity with the masses in this struggle.

Dionisio, on the other hand, suggested that it is important to understand the role of the alternative media networks in big cities and rural areas around the country prior to the political crisis in February. These were small media and group media such as drama, group discussion, independent news network, slides and audio-video cassettes in connection with the activities of social groups, the church and civil society organisations. Thus, the media, especially alternative and small media, were seen marching hand in hand with the people on the road to a free and democratic society.

EDSA 2: Explosion of Multimedia
During EDSA 2 in January 2001, the people were in command of a new kind of media during the impeachment trial and the protest against President Joseph Estrada. EDSA 2 was known as the multimedia people's revolt. The Short Messaging System (SMS) and the Internet were the essential communication media capable of ousting a president in an effort dubbed as coup de text by President Estrada himself. However,
Celdran cautioned on the danger of exaggerating the power of texting, as this is popularly known in the Philippines. Equally important were other elements at work, especially the withdrawal of support from key sectors of society such as the military, big businesses, factions of government bureaucracy, trade unions and the judiciary, including the Supreme Court.

He suggested that there were intricate connections between social organisations, mainstream media and the people's communication networks aided by the mobile phone, texting and the Internet. The turning of virtual mobilisation into physical demonstration immediately after the impeachment trial was the first sign of how the networks went into action.

The communication power of texting lies in its capability to bypass journalists, politicians and commentators. These are the traditional gatekeepers who monopolise the public sphere with their own agenda. With information and communication technologies (ICT), ‘virtual citizens’ found their own means of networking and a voice that would be listened to by the powerful. It is here that Celdran saw the central role of the public in organising and creating its own series of information and messages in EDSA 2 as opposed to EDSA 1.

During EDSA 1, it was the politicians and their organisers who mobilised the public. At EDSA 2, it was the broad and interconnected networks, reaching across different groups of people from different social backgrounds and political shades, who were the key mobilisers of the masses. For example, one message read, “Military/PNP nids 2 c 1 million critical mass n EDSA 2 moro, Jan, 19, 2 make decision against Erap, pls join, pas on” (Celdran 100).

Prior to the EDSA political rallies, the SMS networks saw the circulation of anti-Estrada messages, jokes and political rumours as well as the scandal on Juetengate and Estrada’s unexplained wealth. These personal and private networks were gradually transformed into citizen networks and eventually connected to the larger public and politically active networks of communication and action. They connected civil society organisations, the main groups of the anti-Estrada campaign, which were diverse, ranging from the moderate Kongreso ng Mamamayang Pilipino (KOMPIL) to the radical Bagong Alyansang Makabayan (BAYAN) (Tenorio).

During the four-day protests there were 1.5 million demonstrators at EDSA and big cities around the country and a total of 1.16 billion text messages in circulation. The linking of ICT to democratic movements demonstrated how people could be empowered and these networks transformed to enable positive changes in the area of politics and socio-cultural policies.

In the following section we look at how the power of information and knowledge in the form of investigative journalism helps shape citizens’ understanding and empower them. The result is the synchronisation of people's media, communication rights and political action.

Access to Public Information and Investigative Journalism
In 1989, eight like-minded journalists formed the Philippine Center for Investigative Journalism (PCIJ). They were reporters, writers and editors who were critical of the structure of the newspapers, the daily routine of producing the same type of news, and the conflict between proprietors' interests and journalistic ideals. This group of journalists had in mind a new kind of journalistic reporting that would improve the quality of news reporting as well as extend citizens’ right to access public information. Ideally, the media had to work unceasingly as a genuine watchdog. Sheila Coronel, PCIJ Executive Director, believed that investigative journalism would widen the scope of journalistic freedom “by constantly digging for information, by forcing government and the private sector to release documents and, by subjecting officials and other powerful individuals to rigorous questioning, investigative journalists expand the boundaries of what is possible to print or air”.

The techniques of investigative reporting depended basically on the use of public records, extensive interviews and in-depth and long-term research. These kinds of “digging” would inevitably result in in-depth exposé of wrong doings in the government, by members of Congress and the Court (Coronel; Chua).
In her Magsaysay award lecture, Coronel pointed out that investigative reports on issues relevant to the lives of Filipinos worked to inform as well as empower the citizens. At the end of the day, it would bring about positive change. The People Power movement during EDSA 2 in January 2001 was an example par excellence on how powerful an informed citizenry could be.

The series of investigative reports on Estrada’s unexplained wealth were discussed and debated by citizens who had an interest in the affairs of government. In addition, three of PCIJ’s reports were cited in the impeachment complaint filed by the House of Representatives against the President. Outside the Congress, during the four days at EDSA, it was an informed citizenry who ousted a thieving president. This was clearly the power of conscientious reporting in holding officials to account.

With hindsight, Coronel saw that an acquiescent press bred an unquestioning citizenry. The reason Marcos remained so long in power was not only because he terrorised the population and used the military to rein in dissenters. It was also because he controlled the media and the flow of information. And as Marcos’s monopoly over news and information crumbled, so did his regime. The People’s Revolution, EDSA 1 and EDSA 2, demonstrated the centrality of information, knowledge and citizens’ empowerment. Without doubt, democracy relied on the collective wisdom and actions of informed citizens.

PEOPLE’S MEDIA IN THE GLOBALISED ERA

In the Philippines and Indonesia, information and communication are integral to people’s media and their network. Our research showed that in the 1980s-1990s, the majority of the mainstream media comprised neutralised commercial set-ups. They either served the market or their political masters or both. It was in these conditions that social movements, civil society and NGOs protested against the violation of their communication rights.

The clandestine media which emerged during the Marcos era and Suharto’s New Order had the genuine media spirit of disseminating the truth, hence, they started the unravelling of these dictatorial regimes. In the Philippines’ EDSA 2, it was the combination of multimedia technologies, especially texting, and mainstream newspapers, television and radio, which speeded up the People’s Revolt. However, this must be seen in connection with a well informed citizenry and an active political front in the anti-Estrada campaign.

In Indonesia, people’s media activism continues to take the form of community radio and radio news networks. This means that the people are taking control of the communication channels as well as creating their own messages. Their experiences show the significance of communication rights which include the right to own and have access to the media channels. The Philippines’ PCIJ, on the other hand, demonstrates how media activism that focuses on empowering people through information and knowledge can conscientise the public.

From the examples in both countries, the praxis of media activism encompasses not just a single purpose but a wide ranging set of objectives. These include influencing the content and practices of mainstream media; building independent, democratic and participatory media in the form of alternative media that gives voice to the marginalised; opening new channels of communication independent of state and corporate control; changing the relationship between audiences and media by empowering audiences to be conscientious citizens and advocating for reform in media policies in order to change the very structure of media institutions (Hackett).

Although it would seem so at a glance, it would be misleading to conclude that community radio or PCIJ, for instance, is meant only to build independent, democratic and participatory media. Community radio is people’s media precisely because it changes the relationship between audiences and media. Audiences are no longer listeners or consumers of programmes. They become producers, hosts or contributors of their community stations. There is a shifting of roles, a constant reversal and spiral of cycles that empower and extend the communication rights of the people.

On a broader level, PCIJ and community radio, like Radio 68H, are influencing the content and practices of the mainstream media. Coronel points out that after a decade or so, there is now more interest and more
investigative reporting in the Philippine mainstream media. Community radio, on the other hand, is emerging as a real competitor to local commercial radio. It may not compete directly for advertising revenue (since this is forbidden). However, its programmes are more relevant in terms of genre, content, language and, most significantly, in the existing communication network in the community.

Finally, this new generation of alternative or people’s media is challenging the very structure of media institutions. It is demonstrating a non-market oriented model of democratic media. Obviously, if people’s media continues to grow and advance in this direction, it would be a real threat to the media industry. Structural transformation would be inevitable, one way or another.

Communication rights are part and parcel of the basic human rights guaranteed in the Universal Declaration of Human Rights. In the new globalised environment, the need and the real guarantee for this basic right is absolutely key in the present “post-modern” socio-economic and political mediascape. This right is at an individual, communal and national level, serving as a tool for survival, self reliance and development and, not least, to participate in one’s own community (Hamelink, “Human Rights”; “Grounding”).

Media professionalism and representative “expression” have often eroded the “voice of the voiceless” as the majority of the mainstream media are controlled by media conglomerates who ally themselves closely with the state. Today, freedom of the press alone is insufficient as a guarantee for people’s communication rights. In this kind of elusive environment and facing restrictions in the communication sphere, there is neither room for genuine public debate nor alternative spaces for dissent or opposition expressions.

The people, nonetheless, have found their way of networking, speaking and participating through old and new means of information technologies. In so doing, they are creating a mode of communication which is relevant and dialogic and, not least, horizontal in nature. Their effort, therefore, is a process of restructuring the political economy of communications infrastructure and cultural environment to enrich themselves as active citizens. This would, hopefully, pave the way towards meeting the long-term concern in achieving education, cultural autonomy and participatory democracy at all levels.

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Notes

1  For a more detailed analysis on the global alternative media movement see, for example, J. D. H. Downing, “The Seattle IMC and the Socialist Anarchist Tradition”, a paper from OURMedia Conference 2001.

2  The group of organisations which proposed the People’s Communication Charter were the World Association for Christian Communication, Centre for Communication and Human Rights (Netherlands), Third World Network (Malaysia), the Cultural Environment Movement (USA) and AMARC (Peru/Canada). The Charter is intended as a first step towards a global movement on people’s communication in order to shape the cultural environment.

3  The Dutch East Indies Company and, subsequently, the Dutch government, controlled the archipelago for 346 years (1596-1942). The Dutch returned after the end of the Second World War to recolonise the country in 1945. The Indonesian Nationalist Movement fought another four years of bloody revolution before the country was finally liberated.
4 This is a fourth generation newspaper but is recognised as the first truly indigenous newspaper published and edited by a local. Prior to this, the first generation newspapers were Dutch. The second generation papers were Dutch but published in the Malay language with some help from local journalists. The third generation papers were published by Indonesian Chinese in the Chinese or Malay language or a mixture of Chinese, Malay and Dutch (Dhakidae 35).

5 Historically, *perjoangan* or *perjuangan* referred to the political movement for independence and resistance against the Dutch. In contemporary context, *perjuangan* means idealism or struggle for an ideal. A newspaper which lives up to its idealism is called a *perjuangan* paper (Dhakidae 42).

6 After the coup in 1965, the press shifted to the right, with some published by the Army and some supported by the Army while the nationalist and leftist press were later wiped out altogether (Dhakidae 42-56).

7 The report was an exposé of the unusual budget amount earmarked for repairing ships. It would take US$640 million to repair these second-hand ships which were worth US$12.7 million. An insightful analysis on the ban of *Tempo*, *Detik* and *Editor* by Gunawan Mohamad was that the government saw the exposé by these magazines as a conspiracy against Habibie whereby Benny Murdani, ABRI Commander and the contender for power to Habibie, was behind the incident.

8 Those who joined the AJI were blacklisted and some were forced to leave their jobs. The AJI has 500 members compared to the Indonesian Journalists Association or PWI, the government supported press organisation, which has about 3,000 members. The PWI did not join the AJI in the protest against the ban of the three magazines.

9 News and postings from *Apakabar* were often reproduced in print and distributed widely beyond middle class readers. *Apakabar* (1990-2002) is now a database resource for public use and can be accessed at <http://www.indopubs.com>.

10 Some of these international organisations include press organisations such as the International Federation of Journalists (IFJ), Article XIX, International Freedom of Expression Exchange (IFEX), Committee to Protect Journalists (CPJ), Freedom Forum, and the International Press Institute (IPI).

11 Marsinah, with her friends, were negotiating for a wage increase. She was murdered and her body found in a field 200 kilometres away from her home. Marsinah's murder became a rallying point for civil society and 27 NGOs on human rights, workers' unions and student organisations formed a coalition to monitor the case. For details on Marsinah and the workers' movement, see Akiko Kodama, “The Participation of Women Workers in the Indonesian Labor Opposition Movement in the 1990s”, *Exploration in Southeast Asian Studies* Vol.3 (Fall 1999) (online version); and “Labor Rights and the Marsinah case,” *Human Rights Watch Asia, The Limits of Openness* (New York: Human Rights Watch, 1994).

12 For an overview of the restrictions on student political activity see, for example, Chapter III “The Soeharto Legacy on Campus” and Chapter VIII “The Ban on Student Political Activity and Expression” in *Human Rights Watch, Academic Freedom in Indonesia: Dismantling Soeharto-Era Barriers* (New York: Human Rights Watch, 1998).

13 The Ministry of Information was closed down during the Habibie government. However, it was reinstated during Megawati's presidency (2002-2004). It is now the Ministry of Information and Communication.

14 Ahmad Nasir, a 28-year old graduate in Political Sciences from Gadjah Mada University, organised his friends to set up both the newsletter and the radio station in 2000. He was inspired to empower villagers through information and communication through his personal experiences in the student movement, as editorial staff of *Balaksumber*, the student weekly magazine and, not least, as a victim of distorted media reports. *Angkringan Radio* and *Newsletter* received the ISAI Award in 2001. *Angkringan* is a small food and drink stall, the popular roadside café for the community. It is an open forum where information exchange and communication take place. People can enter and leave
and talk freely. In addition, Angkringan is part of the community wherein everyone feels a sense of belonging in this horizontal space where people can converse and connect. Angkringan works independently with support from subscribers and villagers who volunteer as crew and editorial members. Angkringan is also affiliated with COMBINE and is a member of the Yogyakarta Federation of Community Radio. Angkringan broadcasts on 93.6 FM between 7 pm and 12 pm. It has two transmitters, a 30-watt one for the station and a 15-watt one for outside broadcast.

15 Radio Cibangkong broadcasts on 107.8 FM using a 35-watt transmitter covering a 6-kilometre radius. It has a 15-watt mobile transmitter. Radio Cibangkong is on air six hours a day, between 4 pm and 10 pm. The station is able to raise some funds from listeners who send in song requests, by charging 1,000 Rp for three cards of requests, one card per song. Radio Cibangkong’s slogan is “Happy to Join, Happy to Listen”.

16 Surowo Haryono, station manager and a professional audio-video producer, pointed out that the emphasis of Encounter Radio is on music and cultural programmes. Encounter Radio is broadcasting on 107.9 FM between 6 pm and 12 pm. It has a 30-watt transmitter with a 5-kilometre radius. The station was shut down for three months in 2002 because it was seized by the police. However, when the police wanted to take all the equipment the station resisted saying it is a community station and the equipment is public property. Finally, the police left without taking the equipment (Henschke).

17 The same problem has threatened community radio in Thailand since 2002. In this case, the Public Relations Department (PRD, which functioned as the Ministry of Information) under Thaksin’s government, planned to incorporate all community radio stations under the PRD instead of giving them independent licences. In addition, the PRD proposed to expand the number of stations to 400 to cover the nationwide electoral constituency. For details on the struggle of community radio or low-power radio elsewhere see, for example, R. Sakolsky and S. Dunifer, eds., Seizing the Airwaves: A Free Radio Handbook (Edinburgh: AK Press, 1998); G. Ruggiero, Microradio and Democracy: (Low) Power to the People (New York: Seven Stories Press, 1999); and A.G. Dagron, Making Waves (New York: The Rockefeller Foundation, 2001).

18 Internews Network, Inc. is a non-profit organisation from the US. Elsewhere in Eastern Europe, Internews Network focuses on freedom of the press and newspapers. However, in Indonesia, it found radio an effective means of communication for the Indonesian people. Internews Indonesia distributes its news to 50 radio partners who subscribe to the service. In addition to news, Internews Indonesia has other activities and programmes. These include training services, a television project, a media law programme and technical equipment support to local radio stations (Jurriens). During the early phase of reformasi, Internews Indonesia took an active role in the legal lobby for press freedom alongside the Indonesian NGO alliance on media reform.

19 It was the next generation of newspapers which was considered revolutionary. These were pro-independence and openly critical of the Spanish government which kept the Philippines as a colony for 333 years (from 1565 to 1898). These include La Libertad (1898) and La Independencia (1898) which followed the famous La Solidaridad in its pursuit of freedom of speech and liberation from colonial rule.

20 Noli Me Tangere, published in Germany in 1886, exposed the friars who were power corrupt and oppressive. It described how Ibarra’s family suffered under the abuse of the local friars. This was the first of his two books which became the charter of nationalism for Filipinos. It called for self-confidence and equality with the Spaniards. In his second book, El Filibusterismo, published in Belgium in 1891, Rizal showed how the main character, Simon, was taking the course of revolution. However, Simon failed in his violent acts and committed suicide (Schumacher).

21 Andres Bonifacio, a working-class youth from Tondo, served as a propagandist and organiser for the Liga Filipina formed by Rizal before Rizal was deported to Dapitan in 1896. His favourite books were Eugene Sue’s Wandering Jew and Ruins of Palmyra. He preferred El Filibusterismo to Noli and loved to talk about the French Revolution. As a grown man, Bonifacio read numerous protest literature to inspire him for the revolution (Cristobal).
The archdiocese of Manila led by Jaime Cardinal Sin, head of the Philippine Catholic Church, and the business group led by Vicente Jayme, head of the Bishop-Businessmen Conference of the Philippines, published the _Veritas_ news magazine in 1983 and joined the alternative press in their dissident reporting.

Cory considered running for presidency on condition that she received one million signatures supporting her candidacy. The Cory Aquino for President Movement (CAPM) was organised and she easily got the one million signatures within a few days (Magno).

See A. D. Maramba, ed., _On the Scene: The Philippine Press Coverage of the 1986 Revolution_ (Manila: Solar Publishing, 1987) for details on how the press covered the People's Revolution. On the other hand, there were diverse forms of dissent in the media and within the people's networks that bind civil society together. Working intricately to erode the legitimacy of the Marcos regime were humour, church media and revolutionary symbols such as the colour chosen to symbolise Cory Aquino (yellow) and the 'V' sign using the index finger and the thumb. For a comprehensive understanding of the role of the media and communication networks, see “Communication and Liberation in the Philippines,” _Media Development_ 4 (1986) special edition.

During the revolt, there were hundreds of anti-Estrada websites circulating jokes, scandals, caricatures and commentaries. People made fun of Estrada's lack of intelligence, his immoral sexual relationships, and his acting and political career. For details on these people's media protests, see Philippine Center for Investigative Journalism, _People Power Uli!_ (Manila: Raintree Publishing, 2001) a scrapbook about EDSA 2 with jokes, text messages, photos, digital images and more. For a full understanding of EDSA 2 and how information and the media played a significant role in the process of the revolt, see S. S. Coronel, “The Unmaking of a President,” _EDSA 2: A Nation in Revolt_ (Pasig City: Anvil, 2001).

PCIJ accesses official information and distributes its investigative reports on government corruption and abuse of power on <http://www.pcij.org> in the 'i-site' section and i-magazine and through their media subscribers who, in turn, publish these reports for their specific readers at the same time. PCIJ is a small organisation with a staff of 11 who all come together with an idealism and faith in a watchdog press that would contribute to a vibrant democracy. They believe that citizens cannot debate intelligently if they do not have the information they need. They cannot decide wisely if they are bereft of knowledge. For an in-depth profile of the organisation and the staff, see V. S. Daswani, V. C. Martinez, and J. C. Pusta, _No Stone Unturned: A Primer on the Philippine Center for Investigative Journalism_ (Manila: n. p., 2001).

Sheila Coronel was working with an underground newspaper during the Martial Law years. It was the only way to get the truth out under an authoritarian regime. The mode of production were basically typing the report on stencil and printing each copy on silkscreen. Only 500 copies were printed at a time. The danger of arrest and seizure meant that the paper could not be photocopied openly.
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SAFEGUARDING RIGHTS

INTRODUCTION
In Thailand, ethnic groups have traditions which regard forests and lands as communitarian property but Thai state law considers these traditions as illegal. However, the Thai Constitution of 1997 guarantees ‘traditional local community rights’. Despite this, Thai judges have kept silent with regard to applying the relevant constitutional clause in court cases. In Japan, customary property rights known as Iriai-ken are recognised and have been part of the country’s Civil Code since 1898. Japan’s judiciary has always been applying the law to cases in court.

This study originally had two research questions: What can we learn from Iriai-ken court cases in Japan; and, how do the Japanese judges treat the phrase “as provided by law”? (Is an ancillary law a pre-requisite of enforcement?) Due to the one-year research time limit in Japan, I focused on the first question.

Seeing the difference in legal approaches at two similar situations, my research was guided by the question: What can we learn from Iriai-ken court cases in Japan? My hypothesis was that Thai judges (starting from the judges in the Court of First Instance) lack ‘precedents’ when handling cases that relate to a new law such as Section 46 of the Constitution. Therefore, Japan’s Iriai-ken court trial procedures would be a great reference for the Thai judges.

Background
The preliminary survey of this research started three years ago under private funding of our research team. We started by going to Chiangmai a number of times to conduct this survey. Our objective was to find out whether any ethnic person who had fought in a court case had already used Section 46 regarding the ‘traditional local community rights’ of the new Thai Constitution (1997).

We found out that there were altogether 14 court cases that, in our view, Section 46 on ‘traditional local community rights’ could be employed. These cases were all concerned with court disputes in which the prosecutor sued people from ethnic groups in northern Thailand. Among the 14 cases, there were nine court cases where the defendants’ lawyers cited Section 46 on the ‘traditional local community rights’ as grounds for defence. In all those nine cases, however, Thai judges did not apply Section 46 and did not mention their reasons why they thought they should not do so. They just deliberately stayed silent.

With due respect to the Thai judiciary, we do not think the judges did their job correctly. In fact, we emphatically believe the judges’ failure to apply Section 46 is an unconstitutional action on their part. According to Section 27 of the Constitution: “Rights and liberties recognised by this Constitution expressly, ... shall be protected and directly binding on the ... Courts ... in applying and interpreting laws.”

COMPARATIVE COMMUNITARIAN PROPERTY: “THE COMMONS” IN THAILAND AND JAPAN
Legal Pluralism in Asia: Communitarian Property versus Private Property
Legal pluralism is a common situation in all (or almost all) the countries in the world, for no country is truly homogeneous historically. However, legal pluralism in
Asia was one of the legacies of western colonisation in the 19th century. Japan and Thailand were no exceptions, though they were not directly colonised. A number of ‘extra-territorial’ treaties forced Japan and Thailand to accept western ‘modernised’ law as the formal legal systems. Thus, we have legal pluralism today.

“The Commons” or “Communitarian Property” refers to a piece of open land in a town or village held by all under shared rights that anyone may use, and no one has a right to exclude others. Although land titles in Asia were customarily communitarian properties, this was gradually changed later either to Crown property or to private property. The ‘modernisation’ of the legal systems as a result of western colonisation strongly confirmed the legalisation of private property in Asia. Thus, in terms of property law, Asia today has legal pluralism, where the formal laws accept only private property. However, in reality, communitarian property still exists, particularly in remote rural areas.

**Customary Law and Legal Pluralism in Thailand**

In Thailand, customary laws and state laws co-exist in the same nation state. Thai society consists of various ethnic groups with customary laws that govern their way of living and as well as their management of natural resources. Under customary law, *Naa-Muu* is a form of communitarian property in northern Thailand.

State laws, however, are mostly contradictory to customary laws. Ethnic people have been arrested by officials applying state law to them. The conflicts between officials and the ethnic peoples have been gradually increasing.

**Communitarian Property in Japan: Iriai-ken**

*Iriai* literally means ‘to enter collectively’. This term refers to the time-honoured system of collective ownership of mountain (Yama) areas and of offshore fisheries in Japan before the Meiji period (1868-1912). Collective ownership entails the sharing of these natural resources. Mountain areas include such lands as forests, marshes, bamboo groves and dry riverbeds. They are open to all rural inhabitants who possess entry rights and who observe the right regulations for collecting their portion of its resources: grass, foliage and other vegetation used for fodder, fertiliser and thatching, as well as edible plants, roots and firewood (Kodansha 623).

*Iriai* also refers to “the Commons” while *ken* means right(s); therefore, *Iriai-ken* is the ‘right to enter’. This peculiar Japanese right developed out of old customs, by virtue of which the inhabitants of some rural districts are empowered to enter certain forests and areas not owned by them in order to cut timber or grass, and gather fallen branches, leaves, etc. Established as they are by custom, the rules governing *Iriai-ken* differ according to locality, and it is impossible for the law to lay down fixed rules applicable to all cases (de Becker 178).

As *Iriai-ken* is a customary property right, its existence is acknowledged when there is a fact of possession by *Iriai* groups. If (1) there is land as an object, and an *Iriai* group managing the land as a subject of the right according to the customary rule, and; (2) this group keeps possessing and using the land with the intention of ownership, the name of the owner in the registry book or the fact that fixed property tax was not imposed because it was officially public land, cannot be the grounds to deny co-ownership *Iriai-ken* (Kuroki 65).

Under *Iriai-ken*, when a certain forest has been included in the list of “protected forests” (*ho-an-rin*), total deforestation and cultivation are absolutely forbidden. However, it is not absolutely forbidden to cut part of the timber or gather undergrowth or grass. Therefore, even though a forest in respect to which an *Iriai-ken* exists is turned into a “protected forest”, the *Iriai-ken* is not terminated by the said fact (de Becker 179).

**Two Approaches: Human Rights versus Legal Rights**

There is a major contrast between the approaches used in Thailand and in Japan as regards to communitarian property. Quite a few Thais see this as human rights, as the concept had been originated as such before a law was enacted. However, the Japanese have had a law on this for a long time. Perhaps it is a weak aspect in the Thai standpoint to use the human rights approach because the United Nations (UN) has never viewed communitarian property as a human right. The UN’s closest concept seems to be the so-called “group rights”. Still, the UN has never regarded communitarian property as one of the group rights.

This is probably one of the reasons why the Thai legislators have been reluctant to use the wording
Sitti-Chumchon (community rights) as suggested by the community movement academicians and NGOs. Instead, the legislators chose the word Sitti-Chumchon-Thonghin-Dangderm (traditional local community rights). Although the Constitution allows this, the judges seem to deliberately avoid interpreting the law in such a light in court cases. The Japanese experience is very different. The judges do not need to struggle with the abstraction of a human rights concept. Due to this, there have been quite a number of court decisions using Iriai-ken.

COMMUNITARIAN PROPERTY AS LEGAL RIGHTS: THAILAND’S CONSTITUTION AND JAPAN’S CIVIL CODE

The Thai Constitutional Law on ‘Traditional Local Community Rights’

Thailand’s Section 46 of the Constitution states that

Persons so assembling as to be a traditional local community shall have the right to conserve or restore their customs, local knowledge, arts or good culture of their community and of the nation and participate in the management, maintenance, preservation and exploitation of natural resources and the environment in a balanced fashion and persistently as provided by law.

The persons who claim they have their rights as pertaining to this Section have the burden of proof to satisfy the judge on six points:

- They are assembled as a group of persons;
- They are a community;
- The community is traditional;
- The community is local;
- The community has customs, local knowledge, arts or good culture of their community; and
- Although a specific law on this matter is not yet available, their group has a constitutional right under this Section, which binds judges to apply the law.

The Japanese Civil Law on Iriai-ken

There are only two provisions, Articles 263 and 294, for Iriai-ken in the Japanese Civil Code. “Co-ownership” under Article 263 states that “with regard to commonage (Iriai-ken) which has the nature of co-ownership, the provisions of this section shall apply subject to the custom of each locality”. “Servitude” under Article 294 states that “subject to the custom of each locality, the provisions of this chapter shall apply mutatis mutandis to commonage not having the nature of co-ownership”.

Iriai-ken is a right for a given local cooperative (a hamlet cooperative) to dominate certain mountains and forests and fields, etc., as a whole, subject to customary rules. The system of contemporary private ownership was formed due to the amendment to taxes (chiso-kaisei) at the beginning of the Meiji era. However, the rights to areas in or comprising mountains, forests, fields, farmlands, cemeteries, fishing grounds, reservoirs and hot springs which members of the commune (Mura) or a local cooperative from the Tokugawa period control as a group, could not be incorporated in the system of personal private ownership.

Therefore, those rights in pre-modern agriculture and fishing came to be considered as Iriai-ken in the Civil Code. The details and requirements to get and lose these rights are subject to the various customs. Although the right to control fishing grounds as a whole became exclusive fishery rights under the Fishery Act 1901, the right to use water for agriculture and the right to hot springs were not set forth under any Act, so these rights became considered property rights under customary laws as well as Iriai-ken. Therefore, Iriai-ken in the Civil Code can be recognised as a right for the village to use in common the mountains, forests and fields and/or the products derived from there (Kuroki 53-54).

Perceived burdens of proof under the Japanese Civil Code on Iriai-ken are in Articles 263 and 294. The persons who claim they have their rights as pertaining to Article 263 under “Co-ownership” shall have the burdens of proof to satisfy the judge on three points:

- They reside in the same (or nearby) location as a community;
- The community has its customs on land ownership traditionally called Iriai-chi in Japan (which is in
the nature of “co-ownership” under the Japanese modern Civil Code adopted from the West); and

- The customs on Iriai-chi are different from the Japanese Civil Code on co-ownership.

The persons who claim they have their rights as pertaining to Article 294 under “Servitude” shall have the burdens of proof to satisfy the judge on three points:

- They reside in the same (or nearby) location as a community;
- The community has its customs on land usage traditionally called Iriai-chi in Japan (which is in the nature of “servitudes” under the Japanese modern Civil Code adopted from the West); and
- The customs on Iriai-chi are different from the Japanese Civil Code on servitudes.

Constitutional Rights versus Civil Law Rights
‘Traditional local community rights’ were recognised in the Thai Constitution only in 1997. However, Iriai-ken has been recognised in Japan’s Civil Code since 1898 (99 years before the Thais). Thailand guarantees such rights as “constitutional rights”, while Japan accepts them only as “civil law rights”. Although constitutional rights have higher authority than civil law rights, the Iriai-ken law seems to be more effective than the Thai law. Japan’s judiciary has always been applying the law to cases in the court. It has not deliberately avoided applying the law by raising any argument on legal techniques. Social justice is the most important in protecting the rights of the people and more superior than any legal techniques.

HOW THAI JUDGES DELIBERATELY STAYED SILENT ON COMMUNITARIAN PROPERTY: THREE CASE STUDIES
This report focuses on the study of three cases in the Northern Thai court. Two are criminal cases while one is a civil case. All defendants are members of a hill tribe group called Karen or Khmong (see Appendix A).

The grounds for suing were: (1) defendant jointly possessed the processed wood over 0.20 cubic metres without a permit (Criminal Case No. 5736/1998); (2) defendant possessed the processed teak without a permit (Criminal Case No. 1484/1999); (3) defendant trespassed the National Reserved Zone under the National Reserved Zone Act 2507 (1964) and had to pay compensation for illegally destroying/damaging the natural resource of the state (Civil Case No. 239/2000).

The defendants’ defence statements were based on ‘traditional local community rights’, but the judges deliberately kept silent on the application of the law to the cases without stating the reasons.

LEARNING FROM JAPAN’S IRIAI-KEN: COURT CASES AND APPRAISAL SYSTEM
There are two ways to resolve disputes relating to Iriai-ken in Japan. The first one is for the consideration of the judges in the court. The second one is for the consideration of the appraisers both in court and out of court.

Court Cases
Below are the substantive points on Iriai-ken summarised from Japan Supreme Court decisions (see Appendix B):

- The Iriai-ken is usually acquired or lost by fixing the residence of a person there or removing the residence from the land (Supreme Court, 29 June 1900).
- There is neither a custom nor a law by which Iriai-ken alone is forbidden (Supreme Court, 18 December 1907).
- Iriai-ken is not a private (individual) right but belongs to all the members of such a group (Supreme Court, 16 December 1904).
- The legal relationship in law among the members of the Iriai-ken community is “co-ownership” under the Civil Code (Supreme Court, 20 December 1907).
- Outsiders who join the co-owners to grow crops are entitled only to the right to common use, not co-ownership (Supreme Court, 20 December 1907).
- The right to common use may be acquired irrespective of whether a particular forest or plain is owned by the village to which a given party belongs or by another village (Supreme Court, 5 February 1906).
- The co-ownership of a forest or plain and an Iriai-ken existing in respect of the same are two distinct rights (Supreme Court, 19 January 1906).
Appraisal System
In Japan, a case concerning the rights of the Commons (Iriai-ken) can be decided by an appraiser or appraisers (kantei-nin). This is called kantei seido in Japanese. An appraisal can be requested by the disputing parties of a person or group of persons they trust to be fair in deciding their case. Furthermore, an appraisal can be requested by a court. This court-requested appraisal should be a great reference for the Thais. It shows that the Japanese courts can sometimes be humble and accept that they are not experts on all matters. Therefore, they entrust another person or persons to decide on their behalf. We, the Thais, should study this Japanese system in more detail, and consider how we can employ the system in Thailand.

After a request is made (either by the parties or the courts), the appraiser(s) set up a study team to study in detail the local customs under dispute. A comprehensive written report is compiled and then the main appraiser makes an oral report to the parties or the courts of the decisions made by the study team.

THE PHILIPPINES: WELL-WRITTEN LAW, POOR IMPLEMENTATION
The Indigenous Peoples’ Rights Act
The indigenous communities of the Philippines are the ethnic groups whose cultures differ from those of the main groups in the country. They have been striving for the right to self-governance in order to control the natural resources in their communities. The recognition of indigenous rights in the Philippines, under the revised Constitution of 1992, has advanced further than in any other country in Asia. Therefore, the application of the Philippine Constitution in protecting the rights of the ethnic groups shall be a good reference in the application of Section 46 in Thailand’s Constitution.

Under the revised Philippine Constitution of 1992, the concept of indigenous peoples’ rights to ancestral domains gained some recognition. On 29 October 1997 the Indigenous Peoples’ Rights Act (Republic Act 8371) (IPRA) was enacted.

IPRA is a controversial legal instrument because while it promotes the rights of the indigenous peoples, it also recognises state ownership and control over untitled land and natural resources. This legislation codifies a wide range of indigenous peoples’ rights, foremost of which are the right to ancestral domains and lands; the right to self-governance and self-determination; the right to cultural integrity; and the right to free, prior and informed consent (Stavenhagen cited by Vidal 4).

Cruz versus the National Commission on Indigenous Peoples
After the IPRA was enacted, its constitutionality was questioned before the Supreme Court through a petition filed by retired Supreme Court Justice Isagani Cruz and lawyer Cesar Europa. The petition argued that IPRA and its Implementing Rules violated the Regalian Doctrine embodied in Section 2 Article XII of the Constitution. Moreover, they questioned the powers and jurisdiction of the National Commission on Indigenous Peoples (NCIP) and the applicability of customary law to the settlement of disputes involving ancestral domains and ancestral lands as violating the due process clause of the Constitution.

The Supreme Court dismissed the petition on 6 December 2000 on a divided vote, i.e. since there was no clear majority for either side (seven votes to dismiss and seven votes to approve the petition); the presumption of constitutionality of laws sets in.

The Implementation of Indigenous Peoples Rights’ Act: A Problem of Policy
Within a span of six years, not much has been achieved to secure the indigenous peoples’ rights to their ancestral land and territories. This results from a confluence of the following factors, foremost of which is the layered structure of land laws and resource policies that created a variety of property rights that overlap and compete (Vidal 6). Thus, it is a lesson that a good law is meaningless if its implementation by the officers and its enforcement by the judiciary are not functioning well. The peoples themselves are still striving for justice. They have to strengthen the peoples’ participation in government policy implementation.

LEARNING JUDICIAL ACTIVISM FROM THE WORLD
Judicial activism is the means by which law enforcement leads to social justice. Is judicial activism in Thailand and the rest of Asia impossible to achieve? This question is significant because judicial activism seems to be the
only way a judge can be socially oriented and responsive to the hardships of the people in the region.

Judicial activism comes into existence when courts do not confine themselves to adjudication of legal conflicts but venture to make social policies, thereby affecting more people and interests than if they had merely confined themselves to the resolution of narrow disputes. The activism of a court can thus be measured by the degree of power that it exercises over citizens, the legislature and the administration (Holland 1).

From Holland, we can see that Japan’s Supreme Court also adopted judicial activism in delivering court decisions. The data from Holland’s book shows that Japan’s courts ranked seventh among 11 nations who employed judicial activism in court judgments.

Judicial activism needs to be studied by and disseminated to the Thais but it is rarely heard in Thailand. Judge Vicha Mahakun used to write about it in his articles *(Thammasat Law Journal, Vol.13, No.2. 1982)*, but the knowledge and idea of this topic are still not yet known in general. However, there should be some judges who are working on this matter. It should be researched and the public should know about it to encourage this kind of practice in Thailand.

Due to time constraint, I could not research this topic in detail during my Fellowship period. This will be one of the two topics I will research on in the future.

**CONCLUSION**

Disputes over traditionally owned natural resources by indigenous peoples are one of the most serious social problems in Thailand today. These disputes are extremely vulnerable to becoming causes of violence in Thai society.

The so-called ‘traditional local community rights’ was first recognised in the new Thai Constitution of 1997. Unfortunately, seven years have passed since and the Thai judiciary has not applied the law to the cases under dispute in the courts. Their lack of the experience in court trial procedures for cases of this kind is one of the main reasons for this.

Japan has had such a law relating to communitarian property rights for 100 years and the Japanese courts have long been using *Iriai-ken* in trial procedures. The important point we learned from the court trial is how to prove the significance of the customs of the community. Thus, we believe the *Iriai-ken* trial procedures can be a great reference for the Thais. Consequently, it will contribute greatly to the solution of this Thai social problem.

Finally, I would like to note here that solving disputes using *Iriai-ken* cases serves as a reference not only for the Thais. The region (Indonesia and the Philippines), which has been facing the same problem, can also benefit from learning how this law is implemented by the Japanese judiciary.
APPENDICES

A. Thailand: Cases in the Northern Thai Court

1. **Criminal Case No. 5736/1998**
   
   **Defendant:** Mr. Mongkol Rak-yingprasert (from the Karen hill tribe group).
   
   **Grounds for Suit:** Defendant jointly possessed processed wood over 0.20 cubic metres without a permit.
   
   **Legal Point:** Is “100 years” sufficient for a community to be deemed “traditional”?
   
   **Defence:** Based on ‘traditional local community rights’.
   
   **Court Judgment:** The court stayed silent on 'traditional local community rights'; 8-month imprisonment, reduced by 1/4 to 6 months + suspended for 2 years. Being satisfactory to the defendant, there was no appeal.
   
   **Significance:** The tribe has its community committee to oversee the use of natural resources by its members. The defendant was already granted permission by the committee.

2. **Criminal Case No. 1484/1999**
   
   **Defendant:** Mr. Phoo or Pol Phayoo (from the Karen hill tribe group).
   
   **Grounds for Suit:** Defendant possessed processed teak without a permit.
   
   **Legal Point:** In case the tradition is clear (but the number of years for a community to claim customary rights is unclear), can the defendant argue by citing ‘traditional local community rights’?
   
   **Defence:** Based on ‘traditional local community rights’. Defendant only wanted to get the teak for his family’s use and not for sale. Also, the defendant had already obtained permission from his community committee. Defendant thus had his constitutional right according to Section 46.
   
   **Court Judgment:** Defendant finally confessed in court because he was poor and had no money for the court battle. The court delivered imprisonment sentence, with suspension.
   
   **Significance:** The tribe has its community committee (appointed from all villages in the area).

3. **Civil Case No. 239/2000**
   
   **Defendant:** Mr. Teng Laowang (from the Khmong hill tribe group).
   
   **Grounds for Suit:** Defendant trespassed the National Reserve Zone designated under the National Reserved Zone Act 2507 (1964) to possess land in the Zone. The defendant was found guilty and had to pay compensation for illegally destroying/damaging the natural resources of the state.
Legal Point: How about 150 years?

Defence: Based on ‘traditional local community rights’. The defendant and the indigenous community he belonged to have been living in the disputed land for 150 years, long before the area was designated as a National Reserve Zone, where they carried out the customary swidden form of agriculture (slash and burn). It did not cause any damage to the environment as the plaintiff said. The law was contrary to the Constitution, Section 46.

Court Judgment: The court ruled that there was no need to touch on ‘traditional local community rights’ because this case was based on another criminal case where the court had ruled the defendant as guilty; and this was a civil case and was concerned only with compensation. The defendant was required to pay partial compensation although the prosecutor asked for full compensation. But the case ended with the prosecutor withdrawing the case when he saw that the defendant had no money.

Significance: The defendant's hill tribe group has been living in the disputed land for 150 years.

B. Japan: Supreme Court Cases on Iriai-Ken

1. Supreme Court, 29 June 1900
   “An Iriai-ken which exists in respect to fodder hills, etc., in our country is a sort of right which attaches to a person by title of his residence in a particular locality as a regular inhabitant, and though the right is usually acquired or lost by his fixing his residence there or removing from thence, yet it is a custom recognised in our country that each inhabitant has personally such right as a right upon the surface of the land.”

2. Supreme Court, 16 December 1904
   “An Iriai-ken which partakes of the nature of co-ownership within the sense of Article 263 is not where both the land and what grows thereon belong to the same persons entitled, but where the land belongs to either a third person or one or two of a certain group of persons, and all the members of such group conjointly receive the profits of what grows thereon only.”

3. Supreme Court, 26 December 1904
   “When a certain forest has been included in the list of ‘protected forests’ (ho-an-rin), total deforestation and bringing it under cultivation are absolutely forbidden; but it is not absolutely forbidden to cut part of the timber or gather undergrowths or grass: therefore even though a forest in respect to which an Iriai-ken exists is turned into a ‘protected forest’, the Iriai-ken is not terminated ipso facto.”

4. Supreme Court, 19 January 1906
   “The co-ownership of a forest or plain and an Iriai-ken existing in respect to the same are two distinct rights which are incompatible with each other even where such Iriai-ken partakes of the nature of co-ownership.”

5. Supreme Court, 5 February 1906
   “The right of the inhabitants of a village to gather timber, undergrowth, fodder, etc. upon a certain forest or plain—that is an Iriai-ken under the Civil Code—may be acquired irrespective of whether such forest or plain is owned by the village to which a given party belongs or by another village.”
6. **Supreme Court, 18 December 1907**
   “That a village or a certain quarter of a village may own property is a fact, which has been recognised by custom since olden times, and there is neither a custom nor a law by which *Iriai-ken* alone is forbidden to be so owned.”

7. **Supreme Court, 20 December 1907**
   “Where the ground of a forest or plain belongs to several persons in common, it is by virtue of co-ownership pure and simple that they conjointly receive the profits of what grows thereon.”

8. **Supreme Court, 20 December 1907**
   “If, in such a case, persons other than the co-owners of the ground join the co-owners and reap the growths thereon in common with the co-owners, such other persons are persons entitled to an *Iriai-ken*, but the right of the co-owners is not turned into an *Iriai-ken* on that account.”
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A COMPARATIVE STUDY OF THE FREE LEGAL AID SYSTEMS OF JAPAN, THAILAND AND THE PHILIPPINES
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INTRODUCTION
This research paper brings forth the experiences and insights of the legal aid providers of Japan, Thailand, and the Philippines relative to legal assistance and human rights protection. From this sharing, lessons can be learned. With each country learning from each other, more success for its respective legal aid programmes may not be far behind.

THE JAPAN LEGAL AID ASSOCIATION: WORKING AND WAITING FOR THE DAWNING OF AN IMPROVED LEGAL AID SYSTEM

Article 32 of the Japanese Constitution states that “no person shall be denied the right of access to a court”. In consonance with this provision which guarantees the right to trial, the legal aid system of Japan was established.

The Japan Legal Aid Association (JLAA), the main body for legal aid activities in Japan, was founded in January 1952 by the Japan Federation of Bar Associations (JFBA). The government has funded its services since 1958. The subsidies, though, have only been allotted for payment of lawyers who provide legal aid services. Not until the passage of Japan’s first basic law for legal aid, the Civil Legal Aid Law in 2000, has a portion of these subsidies been permitted to defray administrative expenses to maintain JLAA services. The Ministry of Justice then designated the JLAA as the corporation to conduct civil legal aid services; its subsidies are now more than twice the previous amount.

The Civil Legal Aid Law provides “legal aid to indigent people through a lawyer and/or a judicial scrivener for the required procedures for civil, family or administrative cases in the courts, and making loans for the payment of those legal costs”. Reimbursement is needed for the said legal costs. However, if the aid recipients are on welfare after the settlement of the case, they may be exempted from making the reimbursement.

Civil legal aid services include representation, aid for the preparation of legal documents by a lawyer or judicial scrivener, and legal consultation aid by a lawyer. However, before these can be availed of, the following requirements must be met:

• The person in question cannot pay the judicial cost themselves;

• There must be a possibility of winning the case; and

• The nature of the case must comply with the purpose of the legal aid system.

The financial requirements are designed for the bottom 20 per cent of low-income earners. Aid applicants can go to a JLAA branch office or the law office of a registered lawyer. Those who successfully meet the requirements can avail of free legal aid consultations. After that, if a client needs representation aid or aid for the preparation of legal documents, the consulting lawyer will prepare a case report to be reviewed by a branch office review committee.

In 2002, two years after the passage of the Civil Legal Aid Law, the JLAA handled these cases:

... of all representation aid cases, 23,849 cases (or 66.6 percent) were personal bankruptcy cases, 4,015 (or 11.2 percent) were divorce cases, and 1,503 (or 4.2 percent) cases were compensation claims for damages (medical malpractice, traffic accidents, etc.). With respect to aid for
the preparation of legal documents, 96 percent of all cases, or 1,796 cases were for personal bankruptcy cases....

As to the outcome of these cases, the JLAA has this report:

All up there were 30,213 legal representation aid cases settled, or 28,013 cases excluding discontinuances midway through the case, etc. As for the outcome of these cases, 69.8 percent resulted in exonerations from liability, 8.3 percent were settled amicably, 5.9 percent were won, 4.4 percent went to arbitration, and 3.5 percent were settled out-of-court. In 91.9 percent of cases, the outcome was beneficial to the aid recipients.

Short of only 9 per cent from the perfect score, 2002 was a good year for JLAA. However, it was also during this time that it experienced a low point in connection with its decision to impose limitations on personal bankruptcy cases. The association made the requirements for such cases “more stringent due to financial constraints, brought by the slight decrease on government subsidies”. The problem on funds and the need to broaden the scope of legal aid services may be solved by the new indigent defence system of the government of Japan which starts in 2006.

“The current system, indigent people are provided legal representation just after indictment, i.e., court-appoint-attorney-system. So all...local bars have been providing suspects [a] one time free legal consultation after their arrest, as voluntary pro bono service. (The) New System will provide suspect legal representation after custody, which is ordered by a judge within 72 hours after arrest... The new system will be run by the new independent national agency paid by tax...The new agency will handle not only criminal cases but civil for indigents. And full time staff attorneys will be members of the new branch office....”

The new indigent defence system could also be the dawning of an improved legal aid system in Japan.

THAILAND: SEARCHING FOR A COMPREHENSIVE LEGAL AID SYSTEM FOR THE NEEDY IN THE BUREAUCRACY
Since 1932 there have been 15 constitutions promulgated in Thailand, and the 1997 Constitution stands as the sixteenth. It recognises more rights than the previous ones. It keenly guards the right of the suspect or the accused to receive aid from the State by providing the services of an advocate as required by law. However, for this constitutional guarantee to be implemented there is a need for the Criminal Procedure Code of Thailand to be amended.

Nonetheless, even with the amendments to Section 134 of the Code, only the suspect who is under the age of 18 is provided by the government with a lawyer on the day of the filing of formal charges. The law requires the interrogating officer to ask whether the accused has a lawyer. If the answer is in the negative, the state must provide him or her with one. The lack of universality and thoroughness of the law was pointed out by respected Thammasat University law professor Tipchanok Ratanosoth.1

The amended Criminal Procedure Code also benefits the relatives of persons who died under suspicious circumstances while in custody. It empowers the courts “to appoint an attorney to act on behalf of the relatives of the deceased if the relatives did not appoint one for the purpose of cross-examination of the prosecutor’s witness”. It is expected to “shed light on the nature and cause of death, i.e., death from resisting or fighting the officers or from attempts to silence the deceased from torture or other causes. The outcome of such an investigation may exonerate the deceased and bring the guilty officers to account for their actions.”

This revision is appreciated but with the appreciation comes this question: wouldn’t it be better to provide for a general protection of the rights of everyone who has been suspected of wrongdoing while that person is still alive?

Aside from the abovementioned legal aid beneficiaries, the accused in capital punishment cases and other cases involving imprisonment are also entitled to legal assistance, which is provided by the amended Section 173 of the Criminal Procedure Code of Thailand. In capital punishment cases, where the accused has no legal representation, the court must appoint lawyers for the accused without having to ask if one is needed or not. Even when the accused does not want a lawyer, the court must appoint one for him or her.
In cases involving imprisonment, regardless of length of term, the court must ask the accused before the start of the proceedings if the accused has legal representation. If he or she does not and one is required, a court-appointed lawyer must be provided regardless of the financial status of the accused.5

Even as the 1997 Constitution puts so much concern in the protection of suspects or accused in criminal cases, it also provides that “civil cases are to be protected in a similar fashion to the criminal ones”. There is a caveat though: “there remains the need to have a substantive law to make this operation take place in fact as well as in the spirit of the law”.6 Nonetheless, as to the expenses which may be shouldered by the accused/suspects or the government relative to the nature of the case committed, this information about court and lawyer’s fees are worth considering.

“In a civil case, if the Court is satisfied that the applicant is a pauper, court and attorney fees are waived... Attorney fees paid by the Court are very low, the maximum being Baht 1,500, and are determined by the judge according to the complexity of the case.”7 Notwithstanding the provisions on legal aid and the presence of legal aid providers, the legal aid system of Thailand has to deal with the following comments relative to its performance:

• The quality and degree of determination of court-assigned lawyers are not up to the standard veteran advocates. The majority of lawyers on the list of court-assigned volunteer counsel have limited courtroom experience.
• Many volunteer lawyers do not do their best due to the monetary compensation, which is rather low.
• In certain cases where experienced lawyers are assigned, they do not pay adequate attention to, or put the same effort in conducting their cases as they would for their own clients.8

The establishment of a specific government organisation with clear responsibility for providing legal assistance to poor suspects or accused in both civil and criminal cases is seen as the remedy. An official government organisation with an appropriate budget can provide training programmes for counsels selected for the underprivileged. These lawyers would then be better equipped in carrying out their “duty for the promotion of justice, fairness and equality”.9

Without a particular government office specifically assigned to provide legal aid services, government and private offices in Thailand help out in filling a void in public service. The Ministries of Justice, Defence, and University Affairs; the Offices of the Prime Minister, and Attorney General; the Law Society of Thailand; and the Women Lawyers Association in Thailand are among the offices which provide the following services: “dissemination and expansion of legal knowledge; legal advice and consultation; mediation and compromise facilitation; contract and agreement assistance; and legal aid involving civil, criminal and labour law cases”.10 The people who are entitled to receive them are the poor, the farmers, labourers/workers, and women and children whose rights were violated.11

THE PHILIPPINES’ PUBLIC ATTORNEY’S OFFICE: NOT PERFECT, BUT A PARADIGM OF A FREE LEGAL AID SYSTEM

The 1987 Philippine Constitution has a bill of rights which provides, among others, that: “free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty”. As a constitutional mandate, the government complies with it through the following: the Public Attorney’s Office, court-appointed lawyers, selected government agencies, non-government organisations (NGOs) and legal aid clinics of law schools.

The Public Attorney’s Office (PAO) grew from several evolutions. Its seed was planted on 30 August 1954 when R.A. No. 1199 created the Agricultural Tenancy Commission, which was later renamed as the Tenancy Mediation Commission (TMC). With the passage on 8 August 1963 of Republic Act (R.A.) No. 3844, otherwise known as the Agricultural Land Reform Code, the TMC was further strengthened and renamed as the Office of the Agrarian Counsel (OTAC).

However, the economic and social changes that occurred since then as well as the demands of the time invariably blew the winds of public clamour for a more accessible legal service to the Filipinos, thus necessitating an expansion of agrarian related assistance provided by the OTAC. In 1972, this paved the way for the creation
of the Citizen’s Legal Assistance Office (CLAO) under P.D. No. 1 and Implementation Order No. 4. The CLAO started out with a workforce of 94 lawyers and an organisational setup which had 10 regional and 26 district offices.

With the advent of the Administrative Code of 1987 (E.O. 292) on 25 July 1987, the CLAO was renamed the Public Attorney’s Office (PAO). The change being merely nominal, the mandate remained the same: to extend legal assistance free of charge to indigent persons in civil, criminal, administrative, and labour cases.

The successful applicants for these services are those who are indigent and whose cases are meritorious. Taking into consideration recent surveys on the amount needed by an average Filipino family to buy its “food consumption basket” and pay for its household and personal expenses, the following shall be considered indigent persons:

- Those residing in Metro Manila whose family income does not exceed P14,000 a month;
- Those residing in other cities whose family income does not exceed P13,000 a month; and
- Those residing in all other places whose family income does not exceed P12,000 a month;

The term “family income” as employed here refers to the gross income of the litigant and that of his or her spouse but shall not include the income of the other members of the family. The following are considered proofs of indigency:

- Latest Income Tax Return;
- Certificate of Indigence from the Department of Social Welfare and Development (DSWD) unit covering the residence of the applicant; or
- Certificate of Indigency from the Barangay (Community) Chairman having territorial jurisdiction over the residence of the applicant.

The case shall be considered meritorious if an assessment of the law and evidence on hand discloses that the legal services of the office will assist, or be in aid of, or in the furtherance of justice, taking into consideration the interest of the party and those of society. In criminal cases, the accused enjoys the constitutional presumption of innocence until the contrary is proven; hence cases of defendants in criminal cases are considered meritorious.

At the end of 2003, the PAO had 16 regional offices and 258 district offices. Its swelling workload underscores the soaring demand that must be met in safeguarding the rights of its indigent clients. Keeping pace with this daunting task is an actual workforce of 1,048 lawyers and 852 support staff nationwide.

In 2003, the PAO served 5,592,104 indigent clients through its free legal services, which included judicial and non-judicial services (mediation and counselling, jail visitation, inquest assistance, documentation, legal advice and on-air counselling). Through the PAO’s legal assistance, 69 death convicts were acquitted by the Supreme Court, and 73 death convicts obtained reduction of their penalties to reclusion perpetua or life imprisonment or to a lesser degree of penalty.

The hard work of the public attorneys has been noted in the study conducted by the Supreme Court of the Philippines, the United Nations Development Program (UNDP), the Swiss Agency for Development and Cooperation, and the La Salle Institute of Governance. The PAO “is not a government organization where most of the employees engage in watching the clock tick to five. Many of the PAO lawyers spend their personal hours for official work.”

RESPONDING TO PREVAILING HUMAN RIGHTS ISSUES

Japan

“Legal aid is one of the major tools for human rights protection,” advocates believe. Is this just a cliché or a reality? Its applicability and veracity have been tested in Japan, Thailand and the Philippines.

“...”

The Ministry of Justice handles complaints of discrimination. However, the Ministry's Human Rights...
Defence Bureau has a small staff and limited investigative or enforcement powers. The administration system for combating human rights violations is weak. Many cases end up in court.\textsuperscript{17}

Several bar associations, human rights groups, and some prisoners claim that the police sometimes used physical violence and psychological intimidation to obtain confessions from suspects in custody or to enforce discipline. Complaints on human rights violations committed by the police can be filed at the national and local public safety commissions.

While prison conditions meet most minimum international standards, many of the jails in Japan are not heated. Thus, cases of frostbite among the inmates have been reported. The Ministry of Justice requested for the installation of heaters in prison buildings nationwide. However, individual cells remain unheated. No matter how difficult, the convicts are discouraged from complaining about this; about the restriction on their correspondence; or the strict observance of prison rules.

These are part of the dark side of penitentiaries. Nonetheless, brightness and warmth permeate the walls of yet another penal institution, the Fuchu Prison. This is the personal account of this author on her visit there:

“I visited the Fuchu Prison on September 4, 2003. Mr. Tashiro Masayoshi, the Director of the Prison was my accommodating tour guide. I was exposed to their impressive prison industry, which is one of the most effective correctional treatment programmes for prisoners. It cultivates the will to work, improves vocational skills and help inmates obtain the qualifications and licenses for possible source of livelihood after release on parole or pardon. Working hours are fixed at 40 hours a week. Prison industry includes production, prison service, work for the maintenance and operation of prison life, and vocational training, as well as practical courses on office automation.

Prisoners engaged in prison industry are paid, and this remuneration is basically paid to them upon their release. However, while in prison, they are allowed to spend the remuneration to purchase items for personal use, within certain limits. The prison has modern and clean facilities such as a television set for each inmate and common bathroom areas. Prisoners are provided with orientation and training, living guidance, audio-visual education, correspondence courses, religious activities, advice and counselling, exercise and recreation, meals and clothing, medical care, treatment programmes from admission to release, and a rehabilitation and release programme."

**Thailand**

Describing the human rights situation in Thailand, Bangkok journalist Mukdawan Sakboon said:

Given the present political and administrative structures that thrive on the abuse of power by the authorities and are fed by corruption at all levels, well-intended policies have often been turned into just another tool of suppression and violation of human rights. The most affected were, as usual, the most marginalized groups at the bottom of the social strata: the poor, ethnic minorities and drug users.\textsuperscript{18}

The legal literacy of the poor and the less informed is an important concern of the Faculties of Law of the Chulalongkorn and Thammasat Universities, the Women Lawyers Association of Thailand and the Lawyers Association of Thailand. They educate the rural folks about their rights and obligations by using simple language and illustrations that the people encounter in their everyday lives. Chulalongkorn University believes that “should the people have more legal knowledge, they will also have more protection against being taken advantage of”.\textsuperscript{19}

The Law Society of Thailand came to the rescue of a Thai tuk-tuk driver who was charged with rape by a Hong Kong journalist. It succeeded in proving that the charge against its client was fabricated. The lawyers of the society are not only quick in defending their compatriots. They do the same to abused foreigners, like the four Burmese women who had been held in police custody for seven months since they were found working in a brothel. They were found guilty of illegal entry and asked to pay 25 baht as a fine. Danai Anatayo, the group’s vice-president, said that for such a small fine, they should not have been detained for more than...
three days. Anatayo added that the police had abused their authority.  

There were reports on police irregularities relative to the war on drugs in Thailand. In this author’s interview with Somchai Homlaor, the Secretary General of Asian Forum for Human Rights and Development (FORUM-ASIA), he said that “police officers killed many criminal suspects while attempting to apprehend them, and police and government leaders tacitly appeared to endorse excessive violence in the treatment of narcotics trafficking suspects”.  

Compensation under the Compensation to Defendants in Criminal Cases 2001 Act is being sought by the National Human Rights Commission for the families of those wrongfully killed. This must be accorded to them, said Wasant Panit of the commission; likewise “the government must either make a public announcement clearing those who were wrongfully accused of drug offences or issue a letter declaring their innocence”.  

Philippines  
In the Philippines, the Commission on Human Rights (CHR), in its “2003 Human Rights Situation Report”, says the police is first on the list of “alleged perpetrators of 2003 incidents”. The same paper states that “despite efforts of the PNP leadership to keep policemen away from the label as human rights violators, the PNP has the highest number of respondents with 18”.  

The PAO has some programmes which are designed to help reduce significantly, if not eliminate totally, the complaints of the suspects and accused against the police. These are legal assistance during inquest; jail visitation; the United Nations International Children’s Fund (UNICEF)-sponsored Seminar for PAO Lawyers, Parole and Probation Administration (PPA), Bureau of Jail Management and Penology (BJMP) Paralegal Officers and Jail Wardens in the Management of Children in Conflict With the Law to Strengthen the Juvenile Justice System; and the Seminar-Workshop for PAO Lawyers, Social Workers and Philippine National Police (PNP) Officers on Child Diversion.  

A life away from police custody; a future beyond prison walls. These seemed to be the silent promises of the PAO to its clients, especially to those who were wrongfully put on death row, and those whose detentions were probably due to their religious and political beliefs or affiliation.  

Roberto Lara and Roderick Licayan were convicted of kidnapping on 9 September 1999, and scheduled for execution on 30 January 2003. However, after the filing of an Urgent Motion to Reopen the Case (due to newly discovered evidence exonerating the convicts from their crime) by this author, and the delivery of her Oral Arguments before the Supreme Court (SC), the death convicts were given a new lease on life. On 17 February 2004, the SC voted 8-6 in favour of the reopening of their case, which was remanded to the court a quo for a new trial.  

Provisional assistance was personally rendered by this author to both the Moro Islamic Liberation Front (MILF) and the Communist Party of the Philippines-National Democratic Front (CPP-NDF). Below are short accounts on how the PAO’s free legal aid has helped not just the clients who sought its assistance but the Philippine government itself.  

The MILF requested the PAO to render legal assistance regarding the criminal case against them before the Davao City Regional Trial Court (RTC). This author filed before that court an urgent Motion for Reinvestigation with Motion to Lift/Suspend Warrants of Arrest. The motion was granted and, within 24 hours, a ceasefire between the Armed Forces of the Philippines and the MILF was declared by President Gloria Macapagal-Arroyo.  

Department of Justice (DOJ) ordered this author to provide provisional assistance to some of the members of the CPP-NDF in consonance with the Second Oslo Norway Agreement. As a confidence-building measure, the Government of the Republic of the Philippines (GRP) committed to releasing 32 prisoners and detainees based on humanitarian and/or legal grounds. This author was able to secure the release on recognisance of 10 detainees.  

The abovementioned cases were in the headlines of news reports. Ironically, however, the journalists who were behind the articles and were helping them in seeking justice were themselves victims of human
rights violations. In a special feature published in the 22 August 2004 issue of the newspaper *Philippine Daily Inquirer*, it was reported that since February 2004, six Filipino broadcasters working outside Metro Manila had been killed.

Cerge M. Remonde, Chairman of the *Kapisan ng mga Brodkaster ng Pilipinas* (Association of Broadcasters of the Philippines) met with this author on 19 August 2004, and discussed with her the rampant killing of radio broadcasters, with most of the cases remaining unresolved. In connection with this, this author directed all the division chiefs, regional and district public attorneys to render legal assistance during preliminary investigation to the families of slain journalists, subject to the merit and indigence tests of the PAO, by way of legal counselling and/or documentation, and thereafter transmit the records of their cases to the National Prosecution Office, for possible prosecution and/or appropriate action.

**CONCLUSION: LESSONS ON LEGAL ASSISTANCE, INSIGHTS ON HUMAN RIGHTS**

- One common challenge to legal aid programmes is financial sustainability.

In 2001 and 2002, many people in Japan, who would have wanted to avail of the services of the JLAA, were not able to obtain the aid they needed because of the legal association’s decision to limit the number of clients, and made the requirements for the acceptance of applicants stricter. The JLAA had to adopt those measures because of shortage of funds.

In 1990, the JLAA started rendering legal service to suspects in criminal cases. This programme has been funded by the branches of the JLAA and subsidised since 1995 by the JFBA. The increasing number of cases posed difficulties in the continued maintenance of the programme; thus, lawyers in Japan thought that “it would be preferable to establish a government-funded suspect defense system”.27

Over in Thailand, there have been some unsavoury comments hurled around about volunteer lawyers: “So many volunteer attorneys do not do their best due to a rather low incentive. The Ministry of Justice has amended its regulation on the rate of money award to court-appointed counsel for the accused. It is expected ‘to set a more appropriate reward rate for a counsel’ “.28 This kind of incentive is not enough for Thais who ask for the establishment of “a specific government organization with clear responsibility for providing legal assistance to the suspect or accused in both civil and criminal cases to those who cannot afford legal expenses”.29 This could “help free legal assistance from being a circle of charity or favour or grace or of discretion to become a system of providing genuine basic legal rights for every citizen”.30

Among the three countries (Japan, Thailand, the Philippines) only the Philippines has a nationwide state agency, the PAO, which is specifically mandated to render free legal assistance to indigent clients. Thus, the PAO is fully funded by the Philippine government. However, this has not freed the said office from problems related with finances. In fact, budgetary constraints have always made it difficult for the PAO to maximise the use of technology in its day-to-day operations and in delivering its services to its clients. The PAO has a limited number of computers that could help in the speedy preparation of reports and other documents.

Low salaries are the PAO’s main impediment in hiring the best lawyers. However, the lawyers who have experienced working with the PAO have stayed with the office for a good number of years. A study conducted by the Supreme Court of the Philippines found out that “PAO lawyers whose ages are 41 to 50 must have 17 years with the PAO on the average. The younger lawyers whose ages run from 31 to 40 who comprise the bulk have a median of 4 years.”31

The same study theorises that “the ability of an organization to motivate its staff rests not only on monetary terms”.32 It notes that “apparently, in the PAO the psychic rewards of helping the poor are very strong. The PAO has also harped on its social responsibility to create a bond of idealism among its people. The hymns and pledges written help beef up these themes.”33

At the PAO, when funds are low, other things are not necessarily so. The zeal of its employees is reflected in...
the collective performance of the PAO. After a review of the PAO’s accomplishments last February 2004, the Department of Budget and Management granted it a “budget flexibility authority”.

- Governments carry out national policies, but legal assistance is too big a responsibility to be left alone on the shoulders of the bureaucracy. The JLAA’s kind of free legal consultation called “constantly available consultation” was funded by the Nippon Foundation from 1974 to 2002. The Nippon Foundation is an “independent, non-profit, grant-making organization that was founded in 1962. It supports projects both in Japan and overseas.”

The government of Thailand lacks the required number of court-appointed lawyers that could serve the whole country. Thammasat University’s Legal Aid Office, Ramkamhaeng University’s Office of Legal Assistance and Service, and Chulalongkorn University’s Legal Aid Centre have been filling the gap in the legal assistance programme of the government. In the Philippines, nearly 80 per cent of the PAO’s budget goes to salaries and overhead expenses. It has to save funds for the training needs of its lawyers and staff. Fortunately, the UNICEF has remained the PAO’s generous sponsor for its seminars.

- As in people, no organisation is too needy enough not to share. The JLAA had a record of putting a ceiling to the number of applicants in its legal aid programme during the time its subsidy from the Japanese government fell short of the needed amount to support the project. However, the problems on finances did not deter the JLAA in reaching out even to foreign shores to help set up an organisation that would serve as harbinger of hope for poor people who are in search for justice.

The JLAA assisted in the establishment of a legal aid system in Cambodia. Together with the JFBA, it supported the Bar Association of Cambodia in organising the Southeast Asian Legal Aid Conference in Phnom Penh from 26 to 27 November 2003. Sirisak Tiyapan, Executive Director of International Affairs of the Office of the Attorney General in Thailand, and this author were invited as speakers to that conference.

- There is no single legal aid system that can be considered as a perfect model of an excellent protector of human rights. What works for a particular country may not work for another. The workability and suitability of a particular legal aid system depend on several factors. Though a particular mould or paradigm is not forced on any country, it helps to learn from the experiences of other nations/organisations, especially in this day and age of complexities.

The Nippon Foundation’s Ayako Sono expounded on this when she said:

I believe that human society will become ever more complex... Given such conditions, we should mobilize every resource, emotion and function that we can employ in order that we may be equal to the task of overseeing an increasingly complex world order. Fortunately, our work is not a solitary one. Our effort will connect us with more people; we will share our hopes, our sorrows and our sufferings.

RECOMMENDATIONS
It is essential to establish a solid and adoptive free legal aid system by every state to ensure that the human rights of every individual, whether a citizen or foreigner, in a jurisdiction can be protected and promoted. The services provided by this system must be implemented by a specific government agency, with a budget that is not dependent on the economic and political climate of the state. This way, the aid recipients will be guaranteed continuous and quality services. The legal aid services must be offered free for the sake of accessibility.

The set-up of this government agency could be patterned after the PAO of the Philippines. As shown in its organisational structure, it is headed by a Chief Public Attorney and assisted by two Deputy Chief Public Attorneys. Holding office with them in the Central Office are the heads of five divisions, which are composed of the Administrative, Financial and Management, Special and Appealed Cases, Legal Research and Statistics, and Field Services.

The Special and Appealed Cases Division handles cases on appeal; death penalty cases, though, are given special attention. The Legal Research and Statistics Division is
the research body of the PAO. Its prime responsibility is
the preparation of development research, legal studies,
information packets and publications. It also maintains
a law library and statistical database. However, its
statistics function was recently transferred to the
Field Services Division which is principally tasked to
coordinate services with the 16 regional offices of the
PAO.

The “2003 Assessment of the Public Attorney's Office”,
a study spearheaded by the Supreme Court of the
Philippines, gives the following insightful analyses on
the PAO organisational structure:

Essentially the PAO organizational chart does not have
[a] steep hierarchical shape. The flattened base is a
good indicator that the bureaucracy levels are not that
daunting. Communication from top management can
readily reach the technical base. The relative autonomy
given to district offices (all 258 of them) shows the
decentralization of the PAO has allowed it to serve their
target clientele with relative dispatch (Underscoring
supplied).

The centralisation of core functions like the finance,
administration and human resource development has
kept a tight reign over the organisation. The control
aspect has been beneficial for the organisation in terms
of disciplining itself to work within budgets.36

Budgetary constraints are living and breathing realities
in offices tasked to provide legal assistance. Tri-media are
their allies in delivering legal aid services to the masses.
Where the offices cannot go, the tri-media, unbounded
by time, distance and other common barriers, deliver
public service to people even beyond office hours.

The Japanese government has funded the information
dissemination programmes and educational activities of
the JLAA, which it has been conducting through the
Nippon Broadcasting System and the print media. Even
through the telephones and fax machines, the JLAA
has been helping people round the clock. Information
regarding the association's locations and data relative to
its services can be availed through those facilities.

Chulalongkorn’s Legal Aid Centre with the cooperation
of Siam Radio Co., Ltd. and Baseline Co., Ltd. has
produced television programmes. One of these is called
“To Know the Law is Useful”, whose show time is from
Monday to Friday, 12.00-12.05 pm. Legal concerns
with which the regular Thai people can easily relate are
presented in the show.

For the first semester of 2003, the PAO spent 1,639 hours
on radio programmes aired nationwide by various radio
stations. The PAO has a Memorandum of Agreement
(MOA) with Radio Veritas. Through this MOA, radio
listeners have live and free legal advice from the public
attorneys featured in the programme, “Abogado ng
Bayan”, every day, from 5 pm to 6 pm. Appearing as
guests in television programmes, interviews and features
published in magazines and newspapers give high
visibility to the PAO as an office and to the services
it offers.

The tri-media has also recognised the PAO’s contribution
in public service through awards. Among recent awards
are Awards of Recognition for “Imbestigador” and
“Isumbong Mo Kay Tulfo” from Channels 7 and 9
respectively, and the Huwarang Pilipino Award from
Radyo ng Bayan.

The author would also like to add the award she received
on 12 October 2004 from the city government of
Quezon City, one of the prime cities in the Philippines.
She was chosen as one of the ten outstanding citizens of
Quezon City for 2004 in the field of humanitarian and
community service, partly for “educating the people
on law and justice through the holding of seminars
and workshops and conducting enlightening radio and
television programmes on legal issues”.

The National Prosecution Service (NPS) and the
Public Attorney's Office both belong to the DOJ of the
Philippines. Thus, although they both come from the
same government office, the prosecutors and the public
lawyers (defenders of the accused) find themselves in
opposite camps during court battles.

A study headed by the High Court in the Philippines
observes that this situation invariably raises the
question of the independence of the PAO. However, it
correctly notes that the “functional relationship of the
NPS and the PAO has remained at professional level.
So even if the prosecutors and the PAO lawyers are
seen together, they do not discuss cases outside work premises”. 

37 It concludes that “in a sense, professional integrity permeates them respectively”. 

38 Nonetheless, this author strongly believes that the PAO must be given independence and autonomy in the exercise of its functions. Thus, she is lobbying for the approval of the House Bill entitled: “Reorganizing and Strengthening the Public Attorney’s Office (PAO), Amending for the Purpose Pertinent Provisions of the Administrative Code of 1987, and its Counter in the Senate”.

Under the DOJ and with the NPS, the PAO is in an awkward situation. The cases of former President Joseph Estrada and that of death convicts Lara and Licayan illustrate this point. When former President Joseph Estrada dismissed his lawyers, nine PAO lawyers, including the author as one of the lead counsels, were ordered by the Sandiganbayan to be among his court appointed lawyers. The group’s worthy opponents were the government prosecutors from the DOJ.

On the PAO lawyers’ appointment, many reacted harshly. “Espiya” (spy), mockingly they were called. It was insinuated that the PAO lawyers were not serious in defending the former chief executive; instead they were actually spies for the government, specifically the prosecution.

As the trial progressed, though, the PAO lawyers were able to prove their worth as officers of the court. This author persuasively argued before the court that former President Estrada had the right to be treated by a doctor of his own choice and in a hospital that he trusted. This somehow helped in clearing the air of mistrust and misgivings. The PAO lawyers were able to prove their independence when they presented the government doctors as their expert witnesses who gave credence to the defence team’s contention.

Later, however, the court-appointed PAO lawyers had to file a Motion to Withdraw as counsels of the former President because the presence of private counsels among the court-appointed lawyers had already freed the PAO lawyers from the duties of handling a client who obviously was not an indigent.

On death convicts Lara and Licayan, while the author was pursuing her modest yet unrelenting efforts for the deferment of their executions, the DOJ gave a different view on the predicament of the death convicts. An excerpt of a news article relative to this reads:

Justice officials are at loggerheads over the impending re-imposition of the death penalty. This, after the head of the PAO, which represents most indigent litigants, including death row inmates, urged President Arroyo to defer the execution. Chief Public Defender Persida Rueda-Acosta said she asked for a deferment as they foresee newly discovered evidence in favour of the accused in the cases. Despite this, Acting Justice Sec. Ma. Merceditas Gutierrez said the Bureau of Corrections (BOC) is preparing for the executions this month. Justice Usec. Jose C. Calida said the executions can no longer be deferred as the Supreme Court already did an automatic review of the case.

President Gloria Macapagal-Arroyo was firm in carrying out the death penalty on Lara and Licayan and other convicted kidnappers and drug lords. However, she never swayed the PAO lawyers from their conviction nor exerted pressure on them. Through the President’s spokesman, Hon. Ignacio Bunye, the Macapagal-Arroyo administration said that “it is expected that the Public Attorney’s Office will seek leniency for the death convicts. That is the job of the PAO to review thoroughly the cases of the convicts it has handled before, so its action is expected.”

The Macapagal-Arroyo administration respected the ruling of the Supreme Court when the latter decided to reopen the case and had it returned to the Regional Trial Court, the original court that tried the case. Such an act proved once more the existence of interdependence among the three branches of the Philippine government, and that each of them had respect for each other as an institution. Not only that, the Macapagal-Arroyo administration made it known that it valued an unswerving will in the performance of one’s mandate.

Through the Commission on Civil Service, the government conferred on this author last 22 September 2004, the Lingkod Bayan Award, the highest Presidential
Award for Outstanding Public Service. The award was given to the author for:

epitomising the ideal in public service. Her deep commitment to the service has helped restore people’s faith in the judicial system she valiantly worked for the staying of the execution of death convicts despite threats to her life. Through grit and determination, she was able to steer the Public Attorney’s Office into becoming a more responsive and reliable arm of justice.

The author was just doing her job, and did not expect any award and a place in the history of the PAO. Nonetheless, Lara and Licayan, and the author seem to have a rendezvous with history. Were it not for the apprehension and admission of their co-accused about their innocence, the two could have the misfortune of being the first to be executed by lethal injection since the lifting of the moratorium on the implementation of the death penalty in December 2003.

The author, on the other hand, has the honour of being the first chief public attorney of the Philippines to deliver oral arguments before the Supreme Court. More than the honour and the presidential award, she values the role bestowed on her, a role which is yet unfinished, a role which can be satisfied only with the declaration of Lara and Licayan as being no longer dead men walking.

No less than a specific government agency, with sufficient budget and independence in carrying out its mandate for its poor clients, can be considered an ideal office for free legal aid. While Japan, Thailand and the Philippines are working and waiting for its emergence, their allies in the public service like the media and NGOs could make the work lighter and the waiting shorter.

Notes

1 Unless otherwise stated, the source of the information is http://www.jlaa.or.jp. The figures cited here are courtesy of the Japan Legal Aid Association (JLAA), the author’s host institution when she conducted her research activities in Japan, in September 2003.

2 Excerpt from the e-mail, dated 16 June 2004, of Satoru Shinomiya, Professor in Waseda Law School, to this author.


4 Ibid., p. 397.

5 Ibid., p. 395.

6 Ibid., p. 397.


8 Supra Note 6.

9 Ibid., p. 398.

10 Ibid., p. 408.

11 Ibid.

12 Philippine population: approximately 80 million.


14 Issues tackled here are related to some human rights cases handled by the legal aid providers and/or issues brought to their attention.

15 “Legal Aid in Asia-Pacific” <http://www.hurights.or.jp/asia-pacific/no_27/03legalaid.htm/>.

16 Released by the U.S. Department of State in February 2001.

17 Ibid.

18 The Nation, 14 June 2003, p. 4A.

19 <http://www.ptla.org/Legal Aid of the World>

The author conducted the interview in June 2003, Bangkok, Thailand.


p. 3.

p. 6.

Relative to the peace talks between the negotiating panels of the Government of the Philippines (GRP) and CPP-NDF in February 2004.

Included in the 32 were nine individuals covered by the release order of the GRP in 2001, seven women, ten minors, and six sick and/or elderly.

< http://www.jlaa.or.jp>


Supra Note 3, p. 397.

Ibid.

Supra Note 13, p. 13.


Ibid., p. 28.

API Newsletter, Issue No. 5, June 2003, p.16.

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INTRODUCTION

There is a phenomenon in society that causes a large group of people to create employment for themselves in order to earn a living. We meet these people every day and many of us buy goods from them and avail of their services. They are the vendors from whom we buy sweets or cigarettes; the neighbourhood plumber whom we call to fix the leaking taps in our house; the mechanic who inflates the flat tyres of our car; ambulant food vendors from whom we buy cooked food for lunch and snacks; the watch-your-car and shoeshine boys; the farm hands who help plant and harvest rice; and the very young girls and boys who appeal to us to buy their sampaguita (jasmine) garlands.

They are also the families that set up stalls to sell second-hand cell phones and/or repair them; stall sellers of newspapers; municipal fisherfolk; money changers; scavengers; home workers who produce garments for sale in the town market, department store or for export; fortune tellers; tricycle drivers; producers of car mufflers; makers of silver rings and bracelets; petty manufacturers; and peddlers of candles, religious images and miracles.

It is unfortunate, however, that many of them earn very little income, barely enough to survive to buy sufficient food, much more to send their children to school and to provide for medical needs when they get sick. Despite their economic contributions to society, their rights to a decent standard of living are ignored. Often, they even experience harassment from unscrupulous law enforcers, and the government does not give due attention to their problems.

WHAT IS THE INFORMAL SECTOR?

The informal sector refers to the sector of the economy which consists of enterprises which are usually family-owned and/or are small in operations, using labour-intensive and adaptive technology, and employing workers without education and skills. They operate in unregulated and competitive markets which offer easy entry for new enterprises. Furthermore, enterprises in this sector hire few workers. Capital and technological inputs are minimal. Skills and credit are usually acquired through non-institutional processes.

The informal sector with its enterprising individuals and groups can be looked upon as both the casualty and cure to many ill-effects of globalisation. Firstly, the informal sector absorbs all the victims of globalisation—displaced workers, forced retirees, educated unemployed, etc. While the informal sector cannot offer jobs, it can offer income opportunities. In this sense, the informal sector is itself a safety net.

Secondly, the informal sector cushions the impact of globalisation on the surviving formal sector. The informal sector provides ‘wage goods’ to the formal sector that reduce the impact of high inflation and real income fluctuation on fixed wage earners. The informal sector supplies cheap food, cheap labour, cheap raw materials and cheap domestic services to the wage labour. The informal sector also creates the venue for the formal sector to gain added income opportunities.

Thirdly, the informal sector expands the domestic market, spreads purchasing power among the poor, and brings the products of the formal sector into the poorest segments of society, thus contributing to the health of the formal sector. Fourthly, the informal sector covers up what the government has failed to provide in terms of basic services. Informal shelters, day-care centres,
herbal medicine, small credit assistance, waste-picking and recycling, all reflect the fundamental inadequacies of the government that are filled up by the informal sector.

Despite the above-mentioned benefits, the informal sector is the first casualty of globalisation. First, the informal sector products have no way of competing in the global market due to their low input, low technology and low capital content. There is no way informal enterprises can seek to compete in the global market unless they reach a viable scale and quality level which can only be attained through extensive networking among themselves.

Secondly, the informal sector bears the brunt of harsh structural adjustment programmes, such as the liberalisation of banks and the gobbling up by universal banks and multinational corporations of small and rural banks. The resulting effect has been the constriction of credit windows in urban areas and the drying up of capital sources especially for the rural informal sector. The consequent market-based determination of interest rates and the elimination of concessional and soft loan sources have resulted in higher production costs and smaller profit margins for the informal sector.

Thirdly, the informal sector carries a substantial burden of the country’s regressive taxation system. While it does not contribute direct taxes or regulatory fees to government, the informal sector holds up the economy with its contributions to indirect taxation. The richer segments of society do not contribute as much as the informal sector because the affluent do their shopping in Hong Kong, seek their entertainment in Las Vegas and vacation in Europe.

Fourthly, the informal sector suffers from the absence of social protection being outside the regulatory coverage of government. Having received little in direct taxes to the state, the government in return pays little attention to the informal sector in terms of policies, services and social insurance unless of course it is election time. Worse, the informal sector entrepreneurs end up paying bribes to government inspectors, tongs (‘grease money’) and protection money to the police, and goodwill money to business cartels just to carry out their day-to-day activities.

In the four countries covered by the research, the informal sector is not officially recognised as an entity and hence, its nature, composition and scope are not clearly defined. It is only the Philippines which has attempted to formulate its own definition.

THAILAND. The National Statistics Office of Thailand defines the informal sector “to include enterprises typically operating with a low level of organization on a small-scale, low and uncertain wages and no social welfare and security”.

In a joint project of the Thailand Development Research Institute and the National Economic and Development Board submitted to the International Development Research Centre, it was stated that “(a)lthough there is no such thing as conclusive definition of the informal sector, it is usually defined to include private employees who work in small firms of not more than 10 workers, are paid on a daily basis, have no job security (contracts), are not members of labour unions. Self-employed activities are normally regarded as belonging to the informal sector due to free entry and to low educational or skill requirements, except certain activities for which substantial amount of capital is needed.”

MALAYSIA. The Malaysian government does not officially acknowledge the existence of the informal sector although everybody knows that it exists because it is visible to the naked eye and to many people, especially those in the lower echelon who transact business with it almost every day. It constitutes a big chunk of the population consisting of the self-employed, petty commodity traders, food and merchandise hawkers, weekend market stall owners, own-account and unpaid family workers, insurance agents and many others.

To define the informal sector, Lee Lee Lah Ludler, a senior administrative and diplomatic officer in the Malaysian government, uses the identifying characteristics developed by the International Research and Training Institute for the Advancement of Women (INSTRAW): simple technology, very little capital, no fixed place of business, quasi-legality or lack of registration and little record keeping (Lee).

Rogayah Haji Mat Zin, Director of the Institute of Malaysian and International Studies, Universiti
Kebangsaan Malaysia, limited her categorisation of the informal sector to the self-employed: they have low educational attainment and possess minimum skills deemed necessary for advancement. More often than not, they are exposed to the potential risks from natural, social and economic hazards, and are least protected against these hazards compared to employees in the formal sectors.

They face economic insecurity due to unstable income, while at the same time they lack the skills and capital needed to diversify into other forms of income-generating activities or better work opportunities elsewhere (Adam).

**INDONESIA.** In Indonesia, there is still no generally accepted definition of the informal sector. There is no agreement as to the nature, extent, scope and composition of the informal economy. Yet the government, by implication, distinguishes the informal sector as an entity and as an activity. Tambunan and Purwoko consider it a “non-legal” entity because it is not registered; government official data register it as an “enterprise without legal entity”; and others regard it as “illegal”. There is consensus, however, as to the significance of its contribution to the economy, especially during the regional economic crisis in 1997 which brought the inflation to an all-time high (Adam).

As per National Statistics Bureau definition, the informal sector could be correctly referred to as the urban informal economy which comprises “those individuals and employers who have not been accorded legal status but who have commenced their operations often without the sanction and knowledge of local authorities, i.e. cottage workers”.

**PHILIPPINES.** The Philippines is the only Southeast Asian country which has attempted to come up with an official definition of the informal sector. A national workshop for statistics and definition of the informal sector came up with the following proposed definition for approval by the National Statistical Coordination Board Executive Committee:

Units engaged in production of goods and services with the primary objective of generating employment and incomes to the persons concerned. It consists of household unincorporated enterprises that are market and non-market producers of goods as well as market producers of services. These enterprises are operated by own account workers, which may employ unpaid family workers as well as occasional/seasonally-hired workers. Moreover, these enterprises may also be owned and operated by employers, which may employ less than 10 employees on a continuous basis (Bascos-Deveza).

Excluded are the following particular cases: corporations, quasi-corporations, household helpers; units engaged in professional services; units with ten or more employees; units owned by a household member who is also employed in a corporation, quasi-corporation, government or non-profit institution; corporate farms; farms managed by cooperatives; farms with an area of three hectares or more; commercial livestock raising; and commercial fishing.

**WHAT IS SOCIAL PROTECTION?**

Social protection refers to any kind of collective measures or activities designed to ensure that members of society meet their basic needs (such as adequate nutrition, shelter, health care, and potable water supply) as well as being protected from life contingencies (such as illness, disability, death, unemployment and old age) to enable them to maintain a standard of living consistent with social norms. At the policy level, social protection aims to confer benefits at both the household and societal levels that provide a buffer against short-term shocks, and also enhance the capacity of households to accumulate assets and improve their well-being over time, so that they are better protected in times of hardship.

A more encompassing concept, like the ‘growth with equity’ policy in Malaysia, would view social protection as regular employment and a stable source of income to meet the basic needs of an individual even prior to meeting contingency needs brought on by emergencies and crises. This could involve measures such as investment in building assets among the marginalised sectors to provide resilience to resist sudden shocks or losses, forms of social insurance and assistance that can be provided by the state or community organisations and measures to strengthen the informal support
arrangements provided through family ties and social networks.

Social protection provides households and individuals protection from a number of basic risks and needs through public or collective arrangements against low or declining living standards. The benefits enable workers and their families to survive situations which would otherwise force them into significant debt and lowered living standards.

Social protection “includes not only public social security schemes but also private and non-statutory schemes with similar objectives, formal and informal” (ILO). In other words, social protection encompasses a broader range of public and private measures, including all non-contributory provisions such as tax- and donor-financed welfare programmes (Adam).

It is now increasingly recognised that social protection is a basic human right which is an inalienable part of work itself and an important component of basic labour standards (Yap, “Extending Social Protection”). Notable economists such as Nobel Laureate Amartya Sen and Dani Rodrik of Harvard University argue that “social protection measures are the hallmarks of any humane and democratic society”. Furthermore, the application of social protection is considered by the International Labour Organization (ILO) as one of the core labour standards, along with the recognition of freedom of association, freedom from forced labour, elimination of abusive forms of exploitation, and occupational safety and health.

SECTORAL INITIATIVES IN PROVIDING SOCIAL PROTECTION

Government Programmes

THAILAND. In Thailand, there are more government programmes than laws related to the social protection of the informal sector. From all indications, programmes precede social legislation.

Government health programmes cater to both the formal and informal sectors. While the social security coverage is limited to the formal sector, the health services also cover the informal sector. The 30-baht scheme, which absorbed two other existing schemes, covers everybody not covered by either the Civil Servant Medical Benefit Scheme (CSMBS) or the Social Security Scheme (SSS). Before its adoption, as a fulfillment of a political promise of the current political dispensation, the two schemes—the Welfare Card Scheme and the Health Card Scheme—provided health services to the low-income families and holders of the 500-baht card, respectively.

There are also government housing programmes for the informal sector. In fact, the government housing programmes are primarily focused on this sector because of the financial considerations involved. The slum reblocking, slum reconstruction, slum upgrading, land sharing and resettlement programmes entail expenses which the beneficiaries must shoulder and which only the income-earners or those in the informal sector can afford.

MALAYSIA. The programmes implemented by government agencies are consistent with the pronounced strategy of the government—job creation and wealth redistribution. Many, if not all these agencies, have initiated and implemented programmes uplifting the status of the bumiputras and other disadvantaged sectors by way of providing education and skills training, enhancing interests in entrepreneurship and providing interest-free loans and other forms of financial assistance.

The flagship programme of the government relative to the marginalised sectors—Program Pembangunan Rakyat Termiskin (PPRT) or the Development Programme for the Poorest—started in 1989 “to deal specifically with the hard-core poor households and to meet the various needs of different sub-groups among the hardcore poor”. Poverty reduction programmes, through the implementation of PPRT and social programmes, give priority to areas and groups with high incidences of poverty.

It also places primary emphasis on income-generating projects. These projects focus on the commercial production of cash crops, livestock and fish rearing, some of which are carried out with the participation of the private sector. To improve the quality of life of the rural poor, the state provides and rehabilitates houses for the hard-core poor.
Other government programmes handled by various government units are: Skim Bantuan Latihan; apprenticeship schemes; training schemes for retrenched workers; human resource development services (Department of Human Resources); training programmes; financing programmes; business premises programmes; consultancy and counselling programmes (Ministry of Entrepreneur Development); education and training programmes; health and medical services programmes and regroupment programmes (Ministry of National Unity and Social Development); community development programmes (Ministry of Rural Development); federal land development programmes (Ministry of Land and Cooperative Development); public low-cost housing and sites and services housing programmes (Ministry of Housing and Local Government); and a Cradle Investment Programme (Ministry of Finance).

INDONESIA. Government programmes for the informal sector in Indonesia range from promotion and support for development of industry cooperatives and small- to medium-sized industries or SMEs (Ministry of Cooperatives and Small Scale Industry); promotion and support for job creation and labour standards (Ministry of Manpower and Transmigration); improvement of quality and output of informal sector enterprises (Ministry of Industry and Trade); programmes to assist the poor to achieve self-sufficiency (Ministry of Social Welfare); provision of health services and promotion of micro insurance scheme (Ministry of Health); and kampong rehabilitation and improvement of sites and services programme and construction of low-cost and affordable housing units (Ministry of Settlements and Regional Affairs).

PHILIPPINES. In the Philippines, where the poverty incidence is high even when there is no natural disaster or economic disruption, there is an acknowledged difficulty in making a clear distinction between the government's poverty alleviation programmes and social protection programmes. This is because existing poverty programmes of the government in almost all cases serve a dual role—as an instrument for poverty alleviation and as a social protection programme when crisis hits.

The function of responding to crisis situations is thus often built into the existing poverty programmes of various agencies. Government agencies, especially in the economic and social sectors, have therefore maintained at least one programme which the agency regularly implements and which can be expanded if it is called to contribute, by providing services whenever any form of calamity strikes.

Perhaps this is so because the Philippines has regularly been the subject of crisis, of some form or other, such as typhoons, floods, El Nino, La Nina, earthquakes, volcanic eruptions, financial and even civil and religious conflicts.

There are programmes handled by the People's Credit and Finance Corporation (microfinance); Department of Trade and Industry (small- and medium-scale industries); Social Security System (credit windows); Department of Agriculture (Gintong Ani); Department of Labour (reintegration programme for Overseas Filipino Workers); National Food Authority (rice subsidy programme); Department of Health (Medicare for the Masses); Department of Social Services and Development (Comprehensive and Integrated Delivery of Social Services); and National Housing Authority (Community Mortgage Program).

Moreover, there are certain laws and legislation which create opportunities for the informal sector entrepreneurship to flourish through active promotion of rural industrialisation and a set of containment measures for the urban informal sector. These include Kalakalan ng 20 (Republic Act 6810), the Magna Carta for Small Entrepreneurs (Republic Act 6977) and the Magna Carta for Small Farmers (Republic Act 7607),

Civil Society Participation

THAILAND. Civil society participation is focused primarily on the provision of credit facilities and assistance in cases of death and hospitalisation. This is done through mandatory contributions being paid by members of savings groups, community networks and cooperatives that are either occupation- or area-based.

The largest NGO is the Credit Union League of Thailand, Ltd. (CULT). In existence for more than 30 years, CULT is the national focal point for all credit union members. The main aim is to provide assistance and cooperation in the technical and financial areas.
and other services as well as to extend social security schemes and benefits to its members.

Basically, it works on two levels. The primary level refers to relationships with credit or savings groups which are not yet officially registered as cooperatives. The second level pertains to dealings between CULT and credit unions which have been registered as cooperatives. The latter are entitled to access various social welfare schemes and benefits provided by CULT, such as loan insurance and savings benefits as well as benefits and access to inter-lending programmes.

A unique aspect of civil society role in Thailand is the existence of community networks which have been developed according to the interests and capabilities of groups involved, according to their changing circumstances. The common thread is a process in which people gather in larger assemblies to learn and do things in a collective manner.

Networks of communities can exist in the same city or province, and which use strategies to negotiate with the city or provincial authorities, to carve out a place for themselves in the larger planning process and to work together on specific problems of housing, welfare, livelihood or access to basic services. There are housing networks such as the Bangkok Cooperative Housing Network and drivers’ networks such as the Bangkok Taxi Cooperative Network.

MALAYSIA. Consistent with its policy of “growth with equity”, government-subsidised Amanah Ikhtiar Malaysia (AIM) and university-initiated Yayasan Tekun Nasional (YTN) have provided credit to the poor and hard-core poor households to enable them to venture into small-scale and low-investment projects.

A well-known NGO, AIM was granted a RM20 million loan by the government under the Sixth Malaysia Plan (1991–1995), which AIM provided through interest-free loans to about 36,200 poor and hard-core poor households to enable them to venture into poultry and livestock raising and small-scale business such as retailing of groceries and servicing and repairing of vehicles. Most of the ventures were successful, as reflected in the increased household income of the participants, and the loan repayment rate was almost 100 per cent (Remenyi).

YTN was established in 1998 in order to provide additional loans for hawkers and small traders. Initially, the scheme was implemented by the Policy Centre, Universiti Sains Malaysia in Penang, as a result of resolutions from the Penang Bumiputera Economic Convention in 1994. It was launched in May 1995 as an Action Research Project to distribute loans easily, quickly and with little burden to traders. Eventually, YTN was organised to manage the project and extend additional loans to small traders besides those serviced by other financial institutions.

By 2001, YTN operated in 134 parliamentary constituencies from 101 in the previous year. A total of 20,953 hawkers and small traders have benefited from this scheme with a total loan availment of RM89.79 million. As of December 2001, the amount of loans approved was RM150.01 million, involving 41,343 hawkers and small traders in the services, retail and small industries in the rural areas.

INDONESIA. Social protection extended by NGOs varies from simple savings and credit to the more sophisticated credit unions and cooperatives. In its simplest form, schemes consist of a few individuals forming a savings group. The basic schemes are generally self-help initiatives to cope with cash needs for either general or specific purposes such as death. The more advanced ones are set up with the assistance of external change agents who are from the community, church and religious groups, government or international donors.

Bina Swadaya is the largest NGO in Indonesia and one of the oldest. It began as an agricultural workers’ foundation in the 1950s with the aim of enhancing self-reliance of people from the lower-income sectors of society based on the principles of solidarity and social justice. Its mission encompasses the following: to help the community in developing human resources, institutions, capital and enterprises; to support development policies which benefit the poor to achieve a more equitable distribution of welfare; and to bridge the gap between the poorer and the more affluent members, to achieve a fairer society.
The Community Recovery Program (CRP), on the other hand, was established in October 1998 as a civil society organisation. Its aim was to respond to the needs of vulnerable groups most severely affected by the economic crisis of 1997–1998 and to fill the gaps in the country’s social safety nets. It was established as a national NGO by a consortium of 27 of the largest civil society organisations in Indonesia. The consortium has remained a main element in the CRP and has continued to review progress and discuss policy issues with the National Council, the highest policy making body.

CRP activities in 2002 provided various types of support to civil society organisations and the vulnerable poor. Included in its activities were the following: job creation and income generation, basic social services, food security and combined activities, i.e. food security and basic services. The CRP also continued to provide humanitarian assistance to internally displaced persons (IDPs) affected by conflicts in Maluku and North Maluku. A total of 83,602 IDPs had to date benefited from CRP grants in various areas.

PHILIPPINES. The most effective programmes appear to be those where community participation is high. In this regard, social preparation appears to be the key to the effectiveness of social protection programmes. With little or no help from government, NGOs representing informal sector workers provide a wide range of innovative programmes and services that serve to protect their members from contingencies. Prominent among these programmes are the mutual assistance programmes, and the savings and credit/lending services.

The Ahon sa Hirap, Inc. (ASHI) has the distinction of being the oldest replication of the Grameen Bank approach. The ASHI bases its mission on the principle that given direct access to non-collateral loan funds, the poor can increase their income and employment opportunities. In so doing, they not only rise from poverty but contribute to the social and economic development pursuits of the country.

Begun in 1989 as an action research project of the University of the Philippines Los Banos, the ASHI is now an NGO that can enter into contract and loan arrangements with, and receive grants and donations from, various local and international agencies. Its members have grown from 100 in 1989 to 8,804 in 2000. Its loan portfolio has increased from an initial P 20,000 in 1989 to P 21.1 million as of March 2000.

The Angono Credit and Development Cooperative (ACDECO) is a good example of a Philippine cooperative. Founded in 1966 and passing through turbulent years, this cooperative steadily grew and slowly began to contribute to the fight against usurers and the poverty of its members and other deprived members of the community. By the 1990s, the ACDECO’s development could be considered sustainable and it could already take on added responsibilities. As of 1994, its assets had reached P3.7 million, its membership 1,700, and it continues to operate viable social programmes.

Business Sector Initiatives

THAILAND. Business sector participation is exemplified by Mechai Viravudhaya, a former official of the National Economic and Social Development Board (NESDB), who established the Population and Community Development Association in 1976 to promote family planning. However, in the early 1980s, he expanded its involvement and devoted more attention to uplifting community through credit schemes, water supply and income generation as an integral part of its health objectives.

His Thai Business for Rural Development (TBIRD) scheme encourages companies to donate to community programmes and to relocate their operations in villages. It involves a private firm adopting a village or villages as its “foster child/children”. The company applies its expertise in developing a village over a period of time.

A different approach has been adopted by Bangchak, a state enterprise involved in oil refining. It promotes corporate assistance in three ways. First, it encourages community groups to take up franchises to start a Bangchak petrol station as a way to increase income. Second, it opens chain stores inside urban petrol stations which sell goods produced by community enterprises. Third, it donates to NGOs, grass-roots organisations and public campaigns which promote community causes.
MALAYSIA. The three main areas of business sector involvement in social protection in Malaysia are education, health and community.

The Chinese newspaper Sin Chew Jit Poh is no stranger to charity, having provided relief to the sick and needy for many years. A few years ago, it set up Yayasan Sin Chew to provide financial assistance to those in urgent need of medical services, to poor but deserving students in colleges and universities and subsidies to the Rumah Charis Children's Home and the Society for the Rehabilitation of the Disabled.

Another company engaged in community service is GlaxoSmithKline Malaysia, a leading health care and pharmaceutical company. Its Kampung Adoption Programme is a scheme which provides villages with better facilities and education. GSK carries out fortnightly health checks and supply of medication, provides tuition classes three times a week and has installed water piping systems. In addition, it has started chicken and duck rearing projects and fruit tree planting projects.

INDONESIA. The business sector's community-based programmes include micro-finance, health, nutrition, education, environmental protection and the like. The idea is for business enterprises to develop a concern for the poor and become active corporate participants in poverty alleviation programmes. In this regard, the Department of Social Affairs has launched the Social Investment Program whose objective is to build a lasting partnership between business and government in implementing “directed and measured social investment activities, to establish strong societies and to increase the people's welfare in general”.

The Dompet Dhuafa Republika started when employees of Republika, an Indonesian newspaper of general circulation, decided to set up a common fund out of their zakat (obligatory) and infak and shadaqah (voluntary) contributions, in accordance with Islamic law. The collected fund and its distribution were published in the newspaper and this transparent and accountable spending of the fund attracted other Muslims to follow suit.

The fund became bigger and several programmes to alleviate the condition of the poor were designed and implemented (Mintari). Part of the funds were spent on social investments such as Layanan Kesehatan Cuma-Cuma, a health service institution providing free medical services to the poor; dormitories for students from poor families who are given a monthly stipend of Rp. 250,000 and food allowance of Rp. 150,000; and Bersih Itu Sehat where jobless but qualified individuals are hired as street sweepers and maintenance personnel, motivating them to be entrepreneurs eventually.

Citibank's Peka, an acronym from PEduli which means caring and berKArya which means to do some good, is the umbrella theme of all Citibank's community programmes. Its programmes are focused on education and community development for the poor and are done in coordination with NGOs and other socially oriented groups.

PHILIPPINES. Of the four countries studied, it is in the Philippines where the business sector participation in social protection is most pronounced. In fact, there are so many corporate foundations (the business social arm), that they have banded together and organised the League of Corporate Foundations (LCF). It is a network of over 50 corporate foundations and corporations doing social developmental work.

Its vision is to be the driving force in the formation of a highly committed business sector working effectively with communities and partner institutions towards the attainment of equitable and sustainable development. Its mission is to harness the resources of, and strengthen the commitment of, corporate foundations and their principals in the pursuit of national development goals through greater corporate social responsibility.

LCF programmes fall under five major areas of interest: education, health, entrepreneurship development, environment, and arts and culture. Its core competencies are in networking, project management, research and publication, advocacy, education and training, capability/institution building and resource mobilisation.

As a corporate policy, San Miguel Corporation strongly believes in contributing its fair share toward improving the quality of life of host communities. The San
Miguel Foundation, its corporate foundation, pursues its community work with a business perspective, encouraging entrepreneurship to create an environment conducive to business and economic growth for the country. The community is recognised as a vital partner whom the corporation needs to engender a symbiotic win-win relationship.

From the concept by Ramon Aboitiz, the Aboitiz Group Foundation, started by the Aboitiz family, focuses on education, health, enterprise development and environmental preservation. It helps communities where its companies operate by distributing computers to different public schools, donating equipment to support basic education, constructing classrooms and health centres, giving scholarships to poor but deserving students enrolled in technical courses, and providing loans to farmers’ groups and women’s organisations.

Church and Religious-based Activities

THAILAND. Faith-based involvement in the social protection of the informal sector takes the form of initiatives undertaken by ‘developmentalist’ priests, abbots and monks rather than institutional participation of the church and temple in general.

In 1959, a Buddhist monk, Phra Thep Haven, established the Metta Suksa Foundation, which was renamed in 1972 as the Foundation for the Education and Development of Rural Areas (FEDRA). Under this foundation, village development projects were launched. These included rice and buffalo banks, primary health care, a village library, handicraft making, day care centres and others. Donated buffaloes are distributed to farmers who satisfy a set of criteria. If a buffalo dies while in the care of a recipient farmer and the cause of death is not a disease, he must give five tangs of rice to the rice bank, representing the fee for work done by the buffalo. The rice is in turn distributed to villages with problems.

A popular charitable organisation, the Human Development Foundation, was established by Fr. Joe Meir, an activist Redemptorist priest who has lived with the poor for 30 years and whom they fondly call Khun Por. Established in 1972, the foundation directly serves a million poor souls. It has put up 35 kindergartens throughout the slums of Bangkok with 151 teachers and more than 2,000 kids learning basic reading. It houses more than 200 street kids in five shelters, where they are provided a safe haven with hot meals and a place to sleep.

MALAYSIA. Malaysia’s predominantly Muslim population subscribes to zakat (tithes). In the modern context, it may be considered a form of social assistance. Although it operates openly and has a formal structure, the means of allocating services are more informal, i.e. determined by zakat councils on the basis of Quranic guidelines, not on strict and consistent economic criteria. Zakat collection and distribution are not centralised at the national level, but are overseen by 14 Islamic Councils—one in each of the states and Federal territories—composed of elected politicians, religious leaders, academics, businessmen and other prominent individuals.

Muslims may qualify for financial help from zakat funds if they are destitute, poor, zakat collectors, new converts or travellers. Funds are provided for payment of debts, freeing slaves and upholding the religion. The destitute and poor are known to comprise a large portion of zakat recipients, although in recent years more priority has been given to upholding the Islamic faith.

INDONESIA. Aside from zakat, which is managed either by accredited NGOs such as Dompet Dhuafa Republika, various Muslim organisations and mosques, the Catholic Church is also involved in an income-generating scheme, dana sehat, undertaken by the Catholic Relief Services (CRS) in the district of Klaten. It started as a food and nutrition programme in 1979 promoted by self-help groups which also initiated savings and credit schemes (simpan pinjat).

The CRS formed 50 self-help groups with approximately 50 members each. Of this number, 20 were also engaged in income-generating activities and they were allowed to use 25 per cent of their net profits for primary health, supplementary feeding, purchase of medicines and other health related activities. After the CRS withdrew from Klaten in 1991, the members continued to contribute Rp. 50 each per month. The groups were linked to the Bank of Indonesia for credit provision and a committee was formed to manage dana sehat.
In general, the Catholic congregation in every parish in Jakarta sets up its own welfare scheme. Such social welfare activities could cover families immediately surrounding the church but may also extend to other neighbourhood clusters or even broader geographical areas. One of the more prominent parishes in this kind of community involvement is the Matraman Catholic Parish (Lazo).

PHILIPPINES. The Philippines is the only Christian country in Asia. The Philippine Church prides itself as the “church of the poor”. This means that the Church is in solidarity with the poor, where the poor is not discriminated but the Church instead collaborates with them so they themselves change their situation. The Church also works for justice and development in defence of human rights. Its visions are embracing and practising evangelical poverty; special love for the poor; love of preference for the poor; non-discrimination of the poor; solidarity and collaboration with the poor; defending and vindicating the rights of the poor; and active participation of the poor in the Church’s mission.

The Centre for Community Transformation’s (CCT) vision is “to see Christ-centred faith communities where Jesus Christ is honoured and worshipped and where people live with dignity and sufficiency in accordance with God’s plan for a just, humane and caring society”. To this end, it develops servant leaders as agents of change and provides holistic and integrated services through programmes in micro-finance, housing, non-formal education, enterprise and leadership development.

FINDINGS
Despite the advice given by the ILO, there is still no official definition of the informal sector in the countries covered by the research. Some academics, researchers and even government agencies have come up with their own definitions on what activities the informal sector covers but there is still no consensus as to what it really is until now. At present, only the Philippines has attempted and proposed an official definition of the informal sector for official adoption by the government.

There is recognition, however, that the informal sector contributes significantly to the economy during normal times but especially in times of crisis like the regional crisis in 1997. The informal sector plays a major role in economic growth, sustainability and recovery, when circumstances dictate, in the developing economies of Southeast Asia.

In the absence of official recognition of the informal sector as an entity, government laws and programmes are focused primarily on the formal sector that pays direct taxes and other fees to the government. There are, however, attempts to extend the benefits and privileges enjoyed by the formal sector to the informal sector.

Although the government recognises that the informal sector is here to stay, there an ambivalence on what to do with it—whether to integrate it with the formal sector or to treat it as a separate sector, support its growth and provide social protection to it.

Civil society organisations such as NGOs, community networks, cooperatives and even trade unions are more involved than the public sector in providing social protection to the informal sector. This is exemplified by their activities such as assistance in cases of death and/or illness, establishment of savings and credit groups, cooperatives and self-help organisations and similar involvements.

The business sector is being encouraged by the government to lend a helping hand in uplifting the conditions of the disadvantaged sectors in general. Because of its orientation, the business sector helps marginalised sectors, and the informal sector in particular, by way of community-based programmes in micro-credit, health and nutrition, education, environmental preservation and protection and the like.

RECOMMENDATIONS
The government should stop marginalising the informal sector. On the contrary, it should officially recognise its existence and encourage its development by providing the necessary legal foundation. This way it can be visible. Consequently, access to the credit market will be easier and grants will be possible. The resulting economic dynamic will then perhaps enable the government to decrease the unemployment rate,
reduce poverty incidences and in the process, eliminate the misery of the marginalised sectors.

The growing importance of the informal sector should be emphasised: there is a need for more focused attention from the government about the existence of the informal sector. A standard definition of the sector should be adopted by concerned government agencies. There should be better lateral coordination between and among government agencies involved in the sector. There is also a need for a clear and consistent policy approach to the informal sector. It is observed that the most pervasive contact between government and the informal sector is through the regulatory framework. As a result, the relationship has resulted in a negative influence on the operation of the informal sector.

A mechanism to address the social protection of the informal sector should be developed. The mechanism should be target group sensitive while at the same time directly link to a national organisational structure which manages the risks, builds reserves and determines benefits. The focus should be on enhancing the capacity of poor households to accumulate assets that reduce their vulnerability and enable them to withstand shocks.

The role of government, both central and local, needs to be clearly defined. Local government capacity to undertake social protection and promotion roles needs to be enhanced. Principal social protection issues facing the central government include establishing and implementing legal frameworks and policy priorities which protect the poor, clarifying respective roles of various levels of government, and ensuring that political, financing and implementation arrangements—including fiscal redistribution and restructuring of tax systems—protect the poorest and specific vulnerable groups.

The institutional and regulatory environment should be regarded as part of a system of social protection that guarantees fundamental rights to citizens. This includes their access to legitimate entitlements of benefits and their freedom to pursue their livelihood without fear of intimidation.

The state has the particular responsibility in ensuring the social protection of workers in the informal sector as well as in the formal sector. This may involve the formulation of an appropriate legislative framework and creation of the means to enforce it. This may also involve the formulation of programming of resources and its reconciliation with needs, policies and priorities, and the coordination of government implementing agencies. This may involve the complementing of efforts to promote employment in the informal sector with provision of a safe working environment and basic social protection against sickness and loss of income.

Because of the limitations in expanding formal social security to cover the workers in the informal sector, measures other than conventional schemes need to be tried out. Any and all social groups which are able to provide a framework of social agreements for mutual insurance and protection should be supported. This may include indigenous groups within the informal sector itself which may be far more committed than others in expanding social protection for workers in the informal sector.

Cooperation between government and other stakeholders needs to be strengthened and the factors that facilitate successful partnerships better understood. This includes the introduction of an enabling framework to engage these groups in the process.

A system that prioritises the voices of the excluded and vulnerable within the local, national and regional discussions of social protection is crucial and involves close association between government groups and even international agencies. Social protection intervention should incorporate developmental objectives, including building the assets of the poor and vulnerable.

Finally, social protection for the informal sector and other marginalised sectors should be the joint responsibility of all shareholders—civil society organisations, business foundations, church and religious-based groups and the government. The government has a dominant role in the socio-politico-economic system, and should play the lead and most important role. Let us not wait for social movements to emerge and engage in mass action and strategic confrontation with the state administration to demonstrate and dramatise the need to protect and promote the interests of the masses. Let us do our share now!
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INTRODUCTION

Migration is a common phenomenon. People move around for a number of reasons. In the era of globalisation, the rapid increase in migration is said to be inevitable. At the start of the 21st century, one out of every 35 persons worldwide is an international migrant. The International Labour Organization (ILO) estimates that there was a total of 175 million migrants worldwide, 48 per cent of whom were women. Asia’s share of the 175 million migrants was approximately 28.5 per cent.

Over the last 35 years, the number of international migrants has more than doubled. The greater increase in migration in recent decades is due mainly to migration for employment or labour migration. For people from the third world or poor countries, the displacement from their lands, unemployment and underemployment, low wages, poor working conditions and the absence of economic opportunities motivated their migration to places or countries in which employment, wage and other economic opportunities are more plentiful.

The closer integration of the regional economies through trade, tourism and investments has also brought about an increase in migration. Therefore, labour migration has become a structural feature of economic growth in the region. For sending countries, their labour export policy is meant to reduce unemployment and increase foreign currency earnings. On the other hand, fast-growing economies cannot meet their own labour market needs due to rapid economic growth, fertility decline and ageing population.

Despite the promises of globalisation, barriers to labour mobility are increasing. Whereas globalisation allows the free and unrestricted flow of trade and capital, this is not so with labour migration. The recruitment of foreign workers remains selective and done to suit the economic needs of the receiving country. Migrants are usually brought in to fill gaps in the local labour market. These could be skills gaps which local training or the education system is unable to fill, or they could be low-status, no-security, and low-paying jobs that locals are unwilling to fill.

Restrictive immigration policies, the commercialisation of migration processes, exploitation in the workplace and human trafficking have all increased significantly. There is labour market segmentation where foreign workers are placed to work in so-called 3D jobs (dirty, difficult, and dangerous).

Globalisation and Labour Standards

Employers or business groups argue that they need to be more competitive in the face of global crisis and volatile markets; that in order for small and medium businesses to survive, less intervention should be made on labour standards; and that market forces should determine labour standards. Invoking the mantra of “leaving everything to the market”, employers hire workers according to the needs of production and market fluctuation. Very often, cheaper wages and benefits are used as criteria for employing workers because this keeps production costs down and increases profit.

Critics of globalisation, on the other hand, argue that globalisation has created a race to the bottom for workers in general. This is because globalisation has rendered the terms of employment more repressive and exploitative: labour-only contracting, subcontracting of work, casualisation, downsizing and outright suppression of the exercise of union rights.
Issues related to employment and labour standards of migrant workers confront policy makers throughout the world. In this region, Malaysia and Japan are among the top countries receiving migrant workers, and an analysis of their migration policies, strategies and approaches with regards to migrant workers delivers lessons for all.

MALAYSIA

The Immigration Act as Amended

The Immigration Act is the principal law which governs the entry and stay of a foreign worker in Malaysia. With the increasing number of foreign workers coming in to Malaysia and with the growing number of undocumented foreign workers, the Immigration Act was amended to strictly control the inflow of foreign workers and to prevent the continuous influx of undocumented workers.

The amended provisions of the Immigration Act, however, are being criticised by various non-governmental organisations (NGOs) and migrant organisations as contravening the foreign workers' basic human and employment rights as well as the basic principles of international law.

Under Section 6(1) of the Immigration Act as amended, a foreign worker must have a valid entry permit or a valid pass to be able to enter and stay in Malaysia. The amended Immigration Act provides for a stiffer and higher penalty to any foreign worker found violating the said provision, by raising the amount of fines and period of imprisonment and subjecting the worker to caning. The amended Immigration Act, however, does not make any distinction between workers who consciously come to Malaysia through organised criminal networks trafficking in human beings, and those who were victimised by these criminal syndicates or deceived by unscrupulous recruitment agents.

Immigration procedures require the conduct of investigation for at least 14 days to determine if there is violation of the provisions of the Immigration Act or to determine the nature of the case. However, more often than not, those tasked to investigate fail to look deeply into the circumstances surrounding each case because of the large number of cases that are being brought to their attention for investigation.

Under the Immigration Act, every employment pass or work permit issued is subject to the conditions that the foreign worker shall do the work specified in the employment pass and shall continue to work with the employer specified therein during the validity of the pass. Violation of these conditions would result in the cancellation of the employment pass or work permit. This policy restricts worker mobility in a major way since it ties the worker to the same employer. Thus, even in case of an abusive employer, the worker cannot freely move or transfer to another employer. For this reason, many workers choose to run away from their employer and become undocumented.

The immigration regulations also require employers to ensure that the worker's levy, work permit and visa are renewed every year. If the employer fails to renew the worker's employment pass or work permit, the worker would be considered a prohibited migrant subject to arrest, detention and deportation. This is despite the fact that the responsibility of renewing the work permit is on the employer. While the employer who fails to renew the employment pass or work permit may be liable for harbouring or employing illegal migrants, the records however show that very few employers are charged in and convicted by the court on these grounds.

The work permits can be renewed only if the worker is deemed to be medically fit and in the case of women workers, that they are not pregnant. Among the diseases which render workers unfit for work are malaria, leprosy, hepatitis, cancer, epilepsy and psychiatric illnesses; the presence of traces of cannabis or opiates in the urine are also grounds for rejection.

The annual medical check-up is mandatory and is to be carried out by any of the medical practitioners registered with FOMEMA Sdn. Bhd., a medical consortium authorised by the government to carry out medical examinations of foreign workers. FOMEMA, which began operation in December 1997, has branches in all states of the Peninsula and Sabah. There is no official policy or guideline on who should shoulder the costs of work permit renewals and medical examinations. In the majority of cases, however, the worker pays through salary deduction the levy and medical examination fees.
Under the Immigration Act as amended, the employer is also required to inform the immigration department if the foreign worker fails to take up the employment or is discharged from, or leaves the employment. In many cases, however, the employer uses this right to renege on his or her contractual and legal obligations to the worker by making unfounded charges against the latter or unreasonably terminating the worker's services. Thereafter, they make a report to the immigration department, requesting the cancellation of the employment pass or work permit. The cancellation of the worker's employment pass or work permit makes him or her a prohibited migrant under the Immigration Act, and subject to arrest, detention and immediate deportation.

Workers' illegal status gives employers tremendous power over them. If workers attempt to stand up for their rights, employers can report them to the police for being in Malaysia illegally and have them arrested and deported. The Immigration Act does not provide reasonable and adequate remedy to foreign workers whose work permits or employment passes have been cancelled. While they may appeal the decision cancelling their work permits within seven days from notice of the cancellation, the cancellation remains effective even pending appeal.

In some cases, the immigration department allows foreign workers to continue staying in Malaysia if there is a labour case or any other case filed against their employer. Upon application, the immigration department can issue a social pass to foreign workers for their continued stay up to 30 days. If the foreign workers opt to stay for more than 30 days, then they have to ask for an extension or renewal of their social passes at the cost of RM100.

Passport confiscation by the employers is a criminal offence under the Passport Act 1966, but it has become the norm among them. It represents, above all, the enslavement of the workers to their employers. Once the passport has been confiscated, employers have complete control over the workers' identity, independence, freedom of movement and legal standing. Unfortunately, the percentage of punishing violators is extremely small. Employers are, therefore, exempt de facto from obeying the law. On the contrary, it is the helpless workers who are subjected to arrest, detention and deportation.

**The Recruitment Process**

Despite the promises of globalisation, the recruitment of foreign workers remains selective and done to suit the economic needs of the receiving country. Most sending countries lack the protective measures to regulate recruitment and have exit controls. In India, for example, while the Emigration Act of 1983 provides that no citizen of India shall emigrate unless he or she obtains emigration clearance from the protector of Emigrants, 17 categories of persons are exempt from this requirement. They are placed in the Emigration Check Not Required or ECNR category. There are also 50 countries placed under the ECNR category.

Sending countries have also entrusted the deployment of migrant workers to private recruitment agencies. These agencies are supposed to protect the workers' rights. But in many cases, private recruitment agencies are responsible for a number of unethical practices, which promote irregular migration and cause immense hardship to migrants and potential migrant workers.

Migrant workers often fall victim to promises of non-existent jobs. They are purposely misled about the type of work at the destination country, the conditions of work, remuneration and other social security benefits. Contract substitution, forging and falsification of documents and the exaction of illegal or exorbitant fees are also rampant.

In an effort to curtail the unscrupulous practices of recruitment agents, the Malaysian government has prohibited the employment of foreign workers through recruitment agencies except in the case of employment of domestic workers. The employer now does the recruitment of foreign workers through direct recruitment.

In view of the high cost of legal recruitment and the bureaucratic processes involved, many prospective foreign workers are prone to enter clandestinely and work without employment passes; or to enter legally and later abuse their entry visa and overstay.
Employment Protection of Migrant Workers: Issues and Policies

The major laws containing provisions on the protection of rights of migrant workers in Malaysia are the following:

The **Employment Act of 1955** (E.A. 1955) regulates the minimum standards of work. Under the Act, foreign workers are to enjoy the same treatment as local workers with regard to pay and other benefits. Under this Act, an employer is also required to furnish the Director General with all the particulars of his or her foreign employees within 14 days from the date they are employed.

However, a local worker cannot be terminated for purposes of hiring a migrant worker. In case of redundancy or retrenchment, the employer cannot terminate the local worker until he has terminated all the foreign employees. Therefore, foreign workers are the first victims of any downturn in the economy.

There is no minimum wage in Malaysia. Employers are free to pay their workers in accordance with the market forces. For the employers, this makes them more competitive in the face of global crisis and volatile markets.

With the oversupply of foreign workers (both illegal and legal), employers are at liberty to depress the workers' wages. On average, a foreign worker production operator in a manufacturing company can earn up to RM 700 - 850 a month. Out of this, if the employer provides them with accommodation, deductions are made to pay for the annual levy, contributions to the Employees Provident Fund (EPF), and utilities (water and electricity). In many cases, workers are short-changed on their pay, i.e. they are paid less than local workers or less than they had been promised, and are paid less for overtime work or working on public holidays than the rate stipulated by law.

Section 24 of E.A. 1955 prohibits deductions from wages of employees, including migrant workers, except for certain specified purposes. These lawful deductions include overpayment of wages, statutorily permitted advances, indemnity and deductions authorised by any other written laws.

However, it would seem that some employers do not follow the Act and make unlawful deductions from the migrant workers' wages. One example is the deduction of the levy from the wage of a migrant worker without obtaining the approval from the Director General. In addition, although the employer is required to provide foreign labourers with housing and medical facilities, in most cases the accommodation provided is grossly inadequate—very often, it is an overcrowded flat or house. The accommodation provided is not for free as the workers have to pay for utilities.

According to Regulation 8(1) of the Employment Regulations 1957 (ER 1957), every employer has to furnish each employee a certified copy of particulars of his or her employment. These particulars include personal details, details of terms and conditions of employment, and details of wages and allowances earned during each wage period. The certified copy of particulars has to be given to the employee if there are any changes in the terms and conditions of the employment resulting in a change in wages, subsequently. However, employers do not comply with this provision as far as the migrant workers are concerned and the authorities have closed their eyes on these breaches.

The **Employees Provident Fund Act 1991** (EPF Act) regulates the fund and contribution to the fund by employers and employees. Migrant workers may choose to contribute to the EPF after they notify the EPF Board and their employers that they elect to do so. The employers shall make contributions to the fund on behalf of their employees one month after receiving notice of election from the latter.

Migrant workers, however, seldom exercise the right to choose to contribute to the EPF because their wages are too low and they need every sen to send home to support their families. Moreover, they are in Malaysia for a short period of time and they have no inclination to save with the EPF.

The **Employees Social Security Act 1969** provides certain benefits to employees in case of employment injury, including occupational illness. From 1998, however, foreign workers have been excluded from the coverage of this social security Act. The workers are instead covered under the Workman's Compensation.
The Trade Unions Act 1959 regulates the registration of trade unions, and call for strikes and pickets. Under this Act, any person who is employed is allowed to be a member of a registered trade union in an establishment, trade, occupation or industry concerned with his or her employment. However, those who are not citizens of Malaysia cannot hold a position as a member of the executive committee of a trade union or a branch, or any federation of trade unions. Neither can they be employees of the trade unions unless the union has been set up to represent the interests of persons who are not residents of Malaysia.

While foreign workers are allowed to join unions under the Act, they are not interested because of fear of reprisal from their employers. The contracts signed by the workers with their employers limit the rights of the workers. Among the conditions imposed by the employers is the prohibition to join trade unions.

The Industrial Relations Act 1967 regulates disputes between employers and employees. Migrant workers can invoke the machinery under this Act to seek remedy for any injustices done to them by their employers. Unfortunately, in practice, they are unable to gain any benefit and protection from the Act because the moment that they are dismissed, their work permits are revoked and the employers immediately apply for a check-out memo to be issued against them.

The above laws provide some protection to migrant workers but they are inadequate and are often not enforced by authorities effectively. In most cases, workers who exercise their right under the said laws face reprisal from their employers; trumped-up charges are filed against them, their work permits are cancelled and they are subjected to immediate deportation.

International Covenants / Bilateral Agreements
Malaysia is not a signatory to any one of the following international conventions on the rights of migrant workers although she is one of the receiving countries of millions of migrant workers:
- Convention concerning Migration for Employment (No. 97);
- Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (No. 143);
- Recommendation concerning Migration for Employment (No. 86);
- Recommendation concerning Migrant Workers (No. 151);
- Convention concerning Forced or Compulsory Labour (No. 29);
- Convention concerning Abolition of Forced Labour (No. 105); and
- International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.

The International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families is the latest convention which entered into force on 7 January 2003. It seeks to provide comprehensive protection on the rights of migrant workers and set moral standards on the protection of migrant workers in each country. As of June 2002, countries like the Philippines, Sri Lanka, Bosnia and Herzegovina, Uganda, Seychelles and Ghana have ratified the convention. These are mostly sending countries whose citizens go out in search of better lives.

While Malaysia entered into Memorandums of Understanding (MOUs) with labour sending countries such as Bangladesh, Indonesia, Pakistan, Sri Lanka, and Thailand, most MOUs lack the minimum standards for working conditions, including a defined minimum wage, hours of work, payment of holiday pay, rest days, and safe workplaces. The MOUs also fail to provide mechanisms for remedies for workers or outline sanctions for employers and recruitment agents who commit abuses.

JAPAN
Japan as a Major Receiving Country
In recent years, with Japan’s society and economy becoming increasingly internationalised, it has accordingly seen an increase in the number of foreign workers. As of 31 December 2002, the total number of registered foreign nationals was estimated to be 1,851,758.
With the population rapidly ageing with fewer child births and with the total population expected to begin decreasing in the 2000s, Japan is faced with the task of coping with a decreasing workforce and finding measures to cope with it. Some people would say that Japan should maintain its affluence by replenishing the declining population and workforce with foreigners. However, if we trace back the history of Japanese society and consider the Japanese people's perception of society and culture, it would not be realistic to suddenly introduce a large number of foreign workers into Japan.

The migration policy of Japan has become a major concern of policy makers, business people, workers' organisations, NGOs and the migrant workers themselves.

Protection of Migrant Workers: Migration Policy Issues
The amendments in the Immigration Act, which came into force in February 2000, are being viewed as punitive. The amendments removed the statute of limitations on the crime of illegal entry (under the old law, the penalty given to an illegal entrant who had been in the country for more than three years was deportation). The amendment also provides for a fine of up to ¥ 300,000 and/or up to three years in prison and further stipulates that once deported, the migrant will not be allowed to re-enter the country for five years (previously the period was one year). In applying the penalty, there is, however, no clear distinction made between those who have overstayed their visas and those who illegally entered the country.

The Ministry of Justice also implemented a programme encouraging the locals to report to the Ministry any foreign person they suspect of violating immigration laws. This programme received wide criticism from the public, several NGOs and politicians, for it violates the migrants' human rights. Such a programme unnecessarily creates a hate campaign against the foreign workers.

Employment Protection of Migrant Workers: Issues and Policies
Employment laws apply to both Japanese and foreign nationals. Article 3 of the Labour Standards Act specifically provides that an employer shall not engage in discriminatory treatment with respect to wages, working hours or other working conditions by reason of the workers nationality, creed or social status.

Similarly, under Article 5, Section 2 of the Trade Unions Act, the constitution of the trade union shall include a proviso that “in no event shall anyone be disqualified for union membership on the basis of race, religion, sex, social status or family origin”.

Article 3 of the Employment Security Act also stipulates that no one shall be discriminated against in employment, vocational guidance or the like by reason of race, nationality, creed, sex, social status, family origin, previous profession, or membership in a trade union.

Labour laws are applied not only to legal foreign workers, but also to illegal foreign workers under the Immigration Control and Refugee Recognition Act.

Although the employment laws specifically provide that foreign workers should be treated equally with local workers, such is not the actual case. The following describes the situation of the various categories of foreign workers in Japan, specifically the trainees, the entertainers, the spouses of Japanese, and the undocumented workers. While these workers are not considered “workers” under the employment laws because of Japan's seeming adherence to the policy of not employing unskilled foreign workers, Japan allows the backdoor entry of unskilled workers through the trainee system and the employment of nikkeijins (descendants of Japanese emigrants). The majority of the foreign workers in Japan falls into these categories.

Trainees
Legal workers from Asia make up the 50,000 trainees in Japan. Most trainees are in their twenties and come from China, Indonesia, Thailand and the Philippines—countries in which Japanese multinational companies have established a strong presence. The Japanese government stipulates that these workers are only allowed to engage in activities to learn and acquire technology, skills or knowledge at public or private organisations in Japan. In reality, trainees rarely receive training. Instead, they labour at inferior, temporary positions in industrial niches not occupied by the Japanese.
Most foreign trainees are not considered “workers”, therefore, they are not protected under the Japanese laws. Trainees’ compensation is limited to commuting and living expenses. The allowances of trainees are far below the Japanese standard salary and often significantly lower than the minimum wage. Monthly allowances are mostly from ¥40,000 to ¥100,000. Trainees are not allowed to do overtime work. However, trainees are often required by their employers to render overtime work but are not properly paid for it. Passport confiscations and forced money savings are also common practices for most dispatching organisations. These measures are to prevent the trainees from running away.

Under the revised Immigration Control and Refugee Recognition Act, the trainees, who are now called technical interns, are now covered by the Japanese labour laws, but their situation has not improved. The wages of technical interns are way below the wages of their Japanese counterparts. Although technical interns are “workers” in the legal sense, they too have found their wages cut back due to a series of deductions unilaterally imposed by employers.

Entertainers
Female entertainers who are engaged in theatrical or musical performances and other show business often work in the sex industry. Like the domestic helper and trainee, entertainers are not considered “workers”; therefore they enjoy no protection under Japan's labour laws. Hence, most entertainers are victims of serious violations of their employment contracts, wages and social and health benefits.

Several entertainment centres do not observe the maximum number of working hours per day, i.e. six hours, and the entertainers are often not paid for overtime work. The minimum number of rest days has not been observed either. Some promoters and club owners sometimes withhold allowance for food to the detriment of entertainers who had come to Japan with little or no money at all. As a result, they are forced to borrow money (at huge interest rates) from loan sharks. Thus, entertainers are forced to engage in dohan (a dating system) where they are required to date their clients after business hours, otherwise they will be fined.

Passport confiscation is also a common practice among club owners to allegedly prevent the entertainers from running away. This practice makes the entertainer subject to abuse and deprived of security. Some entertainers who experience abuse run away from their employers. Because their employers did not properly compensate them, they choose to overstay in Japan to pay their debts and to continue giving support to their families back in their home countries. Others who overstay their visa choose to marry Japanese nationals.

Spouses of Japanese
The recent years have been characterised by a growing diversity of migrant workers and changing problems. Many migrant workers have come to hold a certain attachment to living and working in the country, and form long-term relationships, including marriages and raising children in Japan. Most Asian women who are married to Japanese men came from South Korea, the Philippines and Thailand. Some came to Japan as brides to middle-aged Japanese farmers who could not find Japanese brides. Other foreign women came to Japan to work in the entertainment industry and overstayed their visas before marrying Japanese men. At present, most of them work as part-time domestic helpers, factory workers in small and medium enterprises and as entertainers.

Foreign women face difficult times with their Japanese partners due to several factors such as unfamiliarity with Japan’s language, culture, religion; the harsh conditions of farm life; and social discipline by Japanese mothers-in-law. Many have become victims of domestic violence.

The sharp increase in the number of marriages involving a Japanese citizen and a non-Japanese national have also led to increases in divorces amongst such couples. Divorce law in such cases is sometimes vague and many problem areas exist. If a spouse is holding a spousal visa, divorce means that this status will be revoked and this particular type of visa cannot be renewed. Once it expires, the woman may have to return to her home country.

The situation is further complicated if children are involved. The Japanese parent must have legally acknowledged the offspring for the child to be given
a long-term resident visa. Some men seem to think that if they divorce their foreign spouse, they will not have to pay anything as the wife will simply return to her native country. This partially explains the terrible poverty levels not only of many Japanese single mothers but more significantly of divorced foreign mothers. At the beginning of August 2002, a government survey revealed that single-mother families were, on average, among the poorest in Japan. Social welfare benefits for single-parent families are totally inadequate and in recent years have been the target of aggressive austerity measures.

In reaction to the growing number of divorces in Japan, the government has restricted the eligibility of single mothers to receive child-care benefits. The reductions of child-care allowances paid to such single-mother families certainly exacerbate their level of poverty.

**Undocumented Foreign Workers**

Another category of foreign workers comprises the so-called undocumented migrant workers, or those who overstay their visas, or enter Japan with forged passports or by other methods. These workers are mostly from Asian countries. By nationality, South Koreans comprise 23 per cent of these overstayers, followed by the Philippines, China and Thailand.

The Justice Ministry reported that as of January 2003, there were around 220,552 overstayers in Japan. The vast majority of visa overstayers work in so-called “3D jobs”. As most public welfare services are closed to them, illegal Asian workers live in Japan without health insurance and must pay all medical costs themselves. Men work as construction workers, factory workers and cooks. Women work mostly in bars, but some also work as waitresses, factory workers and domestic helpers. Their jobs are not guaranteed and none provide bonuses, paid holidays or company insurance.

Typically, undocumented Asian workers tend to work in small companies with fewer than 20 employees. Undocumented Asian workers in Japan are obliged to rely on informal channels, finding jobs through recruiting agents, brokers or friends. These ‘middle people’ take advantage of the workers’ illegal status by taking dispatching fees from them without securing them a job. Undocumented foreign workers also encounter irregular Japanese business practices such as uncompensated accident insurance, unpaid wages and arbitrary dismissal.

**International Covenants**

While Japan is a signatory to several Conventions and international instruments designed to give protection to migrant workers, national legislations are still to be enacted to enforce the principles and provisions outlined in the said international instruments. There is also no strict monitoring of the implementation of these instruments to ensure that the guidelines outlined in the instruments or conventions are implemented. Significantly too, Japan has not signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

**CONCLUSION AND RECOMMENDATIONS**

The essential focus of immigration policy in response to globalisation for both Malaysia and Japan has been on limiting the extent of illegal migration and in combating the employment of illegal foreign workers. In both countries, there is widespread misunderstanding and misinterpretation of the nature, scale and effects of the current international migration of workers. There are myths and half truths about migrant workers and the effects of that include stereotypes about involvement in crimes, spreading disease, etc. There is a need to expose these myths as incorrect.

While the benefits that ensue from irregular migration are acknowledged privately, the issues and problems besetting undocumented workers are often disregarded by receiving countries. Authorities usually ignore the irregular status of migrant workers during times of economic expansion. However, during times of economic downturn, irregular migrants usually reap the ire of politicians and a public generally reeling from the crisis.

Both governments have increased their policing measures and campaigns to get rid of undocumented workers, but they turn a blind eye on the employers and businesses which employ undocumented workers. They, however, utilise the irregular status of migrant workers to justify the exclusion of undocumented foreign workers from welfare services and the acquisition of legal status.
Information should be disseminated for both governments and the public to see migrant workers as an integral part of the local economy; and that such workers are necessary for the long-term health of the economy. The failure to realise these realities has led to unrealistic policies and programmes to replace migrant workers with local workers; overly restrictive entry policies which encourage the proliferation of underground migration and marginalise the migrant workers; and the restriction of the rights of migrant workers.

Policy and programme intervention should not involve introducing bans but promoting social integration and combating illegal employment in the context of reviving Asian economies. Instead of focusing attention on undocumented workers, the campaign should be against unscrupulous employers and recruitment agents involved in illegal employment and human trafficking.

More efforts should be made to providing accurate information to potential migrants so that their decision to go overseas is made in the light of full information about the costs and benefits of migration. Most migrant workers are employed in labour-intensive small and medium industries. Low wages, mistreatment and hazardous working conditions have come to be widely reported. The lack of job safety, health hazards, language barriers, discrimination and restrictions on geographical movement are the most serious problems reported by migrant workers.

Both governments should balance economic growth with protecting the rights and needs of migrant workers. Without labour standards, globalisation disproportionately benefits capital, increases income inequality and creates a race to the bottom for workers worldwide.

In both Malaysia and Japan, the lack of a comprehensive, well-coordinated policy on foreign workers in labour standards, labour relations and immigration matters also add to the complexities of the problems. Different offices with different functions handle the implementation of labour policies. More often than not, the policies of the different agencies diverge or even conflict. In several cases where problems arise, no agency is willing to assume responsibility and points at other agencies to resolve the problems.

In view of the growing problems of migration in the region, there is definitely a need for advocacy for empowerment of migrant workers. In Japan, there are already several migrant-serving NGOs and support organisations who are actively involved in the advocacy of migrants’ rights and welfare. To name a few, they are: The Center for Japanese-Filipino Families (CJFF); The Kalipunan ng Filipino Nagkakaisa (KAFIN) Center; and The Solidarity Network with Migrants.

In Malaysia, however, advocacy of the rights and welfare of irregular workers and the migrant workers in general is being initiated and principally done by locals in migrant-serving NGOs in the country. The migrant workers are still relatively unorganised. The status of undocumented workers is a great hindrance in organising them. Thus, migrant-serving NGOs like Tenaganita, CARAM-Asia, and Women’s Aid Organisation take the lead in the advocacy work for migrant workers.

Aside from giving welfare and legal services, they also focus on education, awareness raising and organising aspects. These NGOs provide the venue for the migrants to learn the importance of standing up for their rights. Although there have already been experiences where undocumented and migrant workers can overcome their status to pursue organising work, these are still limited.

One government alone cannot resolve the complex issues and problems involving migration in general. Regional cooperation among countries of origin and destination is necessary. This will help address issues which cannot normally be dealt with at the national level or through bilateral negotiations alone. There are many good national policy options already in place in the region. The greatest weakness lies in the lack of sufficient collaboration both among sending countries and between sending and receiving countries. A consultation process should be developed that will provide an opportunity to address these issues and to discuss regional mechanisms for more effective labour migration programmes in the future.
Notes

1. Immigration Regulations, 1963 reg. 16 (3).


3. Section 26 (1A) Trade Unions Act.


5. Section 29, Trade Unions Act 1959.
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A TRI-COUNTRY ASSESSMENT OF HEALTH REFORM
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CONCEPT OF HEALTH REFORM
Health reform, both as a term and as a process, follows no strict definition. Some of the traits common among countries that claim to be undergoing such process include: a process of change; a response to a major health system problem or crisis; aimed at a general increase in equity, effectiveness, efficiency and sustainability in health service delivery; and, it is system-wide and broad in scope and effect, often as part of a larger social reform agenda.

Health reform has recently become a global phenomenon. While the problems that are being addressed appear to be common and the tools and principles widely shared, there is no standard procedure for health systems reform. Countries, however, can learn from each other by trying to contextualise and adapt specific reform interventions to local conditions.

Most observers would ascribe the Thai reform process to the establishment of the 30-baht scheme or the universal coverage programme launched in 2001. This health financing reform, however, is only one among many other reform processes that are currently being implemented.

On the other hand, the Philippine Health Sector Reform Agenda (HSRA) explicitly identifies five key reform areas that are considered to be interdependent and interrelated. These areas are public health, health facilities, regulation, local health systems and financing (DOH). While the reforms are meant to be implemented as a package, implementation has not always been even across the reform areas.

In Japan, the term “health reform” entered the policy language sometime in the late 1990s when there was a strong clamour to contain costs in running the health system. There is reportedly no comprehensive policy on how the reforms will have to be accomplished and in which direction it will move next, aptly described as “muddling” itself through change throughout the years (Ikegami 56).

COUNTRY HEALTH SYSTEMS
Socio-economic Profile
In most cases, health systems are also dependent on the general health of a given country’s economic and socio-political life (Table 1).

It can be noted that while Thailand and the Philippines are both classified as middle income countries, the former has nearly twice the gross domestic product (GDP) per capita than the latter. This also means that Thailand is

<table>
<thead>
<tr>
<th>Table 1: Key Development Indicators, 2001</th>
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<tbody>
<tr>
<td>Parameters</td>
</tr>
<tr>
<td>Population (million)</td>
</tr>
<tr>
<td>Population growth rate</td>
</tr>
<tr>
<td>Total fertility rate</td>
</tr>
<tr>
<td>Dependency ratio per 100</td>
</tr>
<tr>
<td>GDP per capita (PPP $)</td>
</tr>
<tr>
<td>Gross National Income category</td>
</tr>
<tr>
<td>GINI coefficient</td>
</tr>
<tr>
<td>Human Development Index ranking</td>
</tr>
</tbody>
</table>

spending more on health, with health spending being 3.7 per cent of GDP compared to the Philippines with only 3.3 per cent. Both figures, however, are lower than the recommended 5.0 per cent by the World Health Organisation (WHO).

In terms of population, Thailand also has a smaller population as well as a slower population growth rate. Together with Japan, it has below replacement level fertility. The low dependency ratios in Thailand and Japan could also help explain its larger GDP per capita through the “demographic effect”. What is not shown here, though, is that Japan also has a rapidly ageing population which consumes 300 per cent more health resources than the average (Ikegami). Changing social norms have also caused a shift from family-based to institutional care of the elderly.

Equity and social cohesion is at times being judged based on the rich : poor gap in countries. A high GINI coefficient, as seen in the Philippines and Thailand, indicates that the gap between the rich and the poor in terms of population distribution in the country is relatively wide. In 2004, Japan ranked ninth in the world in terms of the human development index, while Thailand and the Philippines ranked 76th and 83rd, respectively.

The socio-economic situation of a country also reflects on the efficiency and effectiveness of its health system. However, efficiency measures, even if helpful, can have very limited impacts in under-funded health systems.

Structure and Organisation

The Thai health system can be described as pluralistic although it is predominantly public sector led and centralised. The Ministry of Public Health (MOPH) maintains ownership and management control of virtually all health facilities, except a few that are owned by other government entities and private corporations. While local governments enjoy considerable autonomy, the fact that they do not own the hospitals and health centres provides them with little involvement in the operation of the health sector.

As the main agency for health in the Philippines, the Department of Health (DOH) is responsible for overall health policy, but the major providers of public health services have been the local government units ever since basic health services provision was decentralised in 1991. There is also a strong private sector that includes private-for-profit clinical practices and hospital providers, as well as non-profit entities.

On the other hand, Japan’s health system is described as “universal and egalitarian” (Ikegami). Practically the whole population is covered by a health and welfare system that provides a relatively uniform set of basic services at a cost burden that is pegged to one’s capacity to pay. While financing of health services is done by more than 5,000 different insurance schemes, overall health policy and pricing is still centrally determined at the level of the Ministry of Health, Labour and Welfare (MOHLW).

Accessing Services

Both Thailand and the Philippines have a referral network policy that prescribes the levels of care that can be accessed based on one’s condition and needs. The gate-keeping policy under the universal coverage (UC) scheme in Thailand allows first contact by patients only with their pre-assigned health clinic, except in special cases like emergencies. The lack of gate-keeping and the poor state of facilities in the Philippines make facility bypass quite a common practice.

In contrast, Japan’s health system is said to be “undifferentiated” such that there is no formal referral and gate-keeping policy and fees are uniformly charged across levels of care (Ikegami 3). This has led to long waiting times and short consultation periods, particularly in university hospitals, where the perception of prestige and competence is highest. This has also created a positive bias for primary care, where the annual average is 15.8 visits per capita, more than twice that of the average in Organisation for Economic Co-operation and Development (OECD) countries (MOHLW). This has been cited as one of the reasons why health care costs are low in Japan.

Furthermore, in Japan, hospital admission covers both the acute and convalescing stages of the illness, which explains why the country has the longest average length of stay of 33.5 days per case (MOHLW 1999). Those who need rehabilitation or longer term care are referred to long-term care facilities set up for this purpose, where
patients can stay for months before being sent home (Ikegami).

Preventive and promotive care is being provided in the three countries although it is only in Japan and Thailand where well-defined and funded programmes are present, particularly on smoking, alcohol and public safety. Funding for these programmes comes mainly from excise taxes.

**Human Resources**

In Thailand, nearly all health profession students are government scholars. Upon graduation, they are required to serve the government for at least two years and are assigned to the various facilities nationwide using a system of lottery. Most professionals, however, still end up practicing in Bangkok and the central region. There is also the threat of a domestic brain drain where more experienced public sector staff transfer to the private sector where the pay can be three to five times higher. An estimated 57 per cent of private specialists in Thailand came from the public sector (Supakankunti 30).

Health human resource ratios in the Philippines are hard to determine due to poor documentation. More than 40 per cent of doctors, dentists and nurses are based in the National Capital Region alone, while the Caraga and ARMM regions have less than 2 per cent of all doctors practicing in that area (Lorenzo). The demand for nursing services in countries like the United States and the United Kingdom has caused the exodus of around 50,000 nurses in the past three years. While brain drain is not a new phenomenon in the Philippines (Joyce and Hunt), the current scale of outmigration of nurses is unprecedented. At present, some 4,000 physicians are retraining themselves as nurses, increasing the risk of shortage.

In Japan, an aggressive programme to develop health personnel in the 1970s has led to a high population ratio of health professionals. Some analysts, however, fear a shortage within the next ten years, particularly that of nurses, in the light of a rapidly ageing population. Projections show that nurse supply is seen to be adequate up until 2005 (MOHLW 24).

**Financing**

The Thai health system is primarily tax-supported. This is done through state subsidies in the form of reimbursements to health facilities. Government expenditure amounts to 57 per cent of all health care costs while the remainder comes from other sources such as co-payments, premiums, income from assets and services, private sector payments as well as donations. Payment for health care in Thailand is handled by four major payer groups classified according to the employer type. Costs for catastrophic illnesses will be reimbursed through the high-cost care fund allocated for this purpose. The details of the Thai health financing system are shown in Annex A.

In the Philippines, financing for health care is primarily from out-of-pocket sources (51.1 per cent) while government spending accounts for only 44.7 per cent. Of this amount, more than half is spent by local governments. Social insurance contribution is still at 9.2 per cent of health expenditures as of 2001 owing to a low coverage of only 55 per cent of the population (and barely 40 per cent of the poor). This is expected to increase in time as the more than 30 million poor have already been insured as of 2004. Annex B shows the various membership groups covered by the social health insurance programme of PhilHealth.

Meanwhile in Japan, health financing is primarily done through an insurance system that is based on the type of employment of the members. Those that do not qualify under any of the schemes, such as those who are unemployed, or are illegal aliens, avail of health care support through the public assistance system of each prefecture. Details of this system are shown in Annex C.

**HEALTH SYSTEM PERFORMANCE**

In Table 2, we see that the Japanese live longer than Thais and Filipinos. Japan also has very low maternal and infant mortality and diseases of a public health importance such as measles, polio and tuberculosis (TB) have also been practically eliminated. Based on outcomes and other criteria, the WHO ranked the Japanese health system as ninth in the world while Thailand and the Philippines are ranked 47th and 60th, respectively.
In Thailand, the reform process appears to have run in two distinct, but mutually supporting, tracks. As early as 1992, the effort to build the body of evidence and technology to manage and implement reforms was systematised through the establishment of the Health Systems Research Institute (HSRI) (Phoolcharoen). In 1996, pilot projects on health reform were implemented in selected provinces, which provided the necessary lessons to craft a reform strategy. This was further strengthened by the piloting of a universal coverage scheme beginning in 2001 (Srivanichakorn). A decentralisation law was also passed in 1997 although it remains unimplemented. Furthermore, there is an ongoing process of streamlining the health bureaucracy as part of the broader Bureaucratic System Reform 2002 and the 9th National Health Plan (2002-2007).

A parallel track in health reform was through a grassroots campaign for health reform that was started in 2000. This led to the crafting of a People's Health Constitution (PHC), which was drafted in 2001. Owing to the participative nature of the PHC, this document embodies the philosophy of the Thai health reform process, which attempts to harmonise Thai values with that of the Western health model in ensuring the people's right to health. At present, the health constitution draft is still with Parliament (HSRO).

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In the Philippines, the health system was assessed to be inadequate in dealing with a double disease burden brought about by inefficiencies and market failures. Social health insurance, particularly for the indigent patients, had very limited coverage and minimal benefits.

For Japan, the inadequacy of health coverage was the main reason for the establishment of several social security schemes which led to the achievement of universal health coverage in 1961. The current wave of reform beginning in the late 1980s was sparked by the bursting of the bubble economy and the need to confront an increasingly expensive system due to a rapidly ageing population.

**Table 2: Key Health Indicators**

<table>
<thead>
<tr>
<th>Parameters</th>
<th>Japan</th>
<th>Philippines</th>
<th>Thailand*</th>
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<tbody>
<tr>
<td>Life expectancy</td>
<td>81.6</td>
<td>70</td>
<td>69.3</td>
</tr>
<tr>
<td>Average percentage of total life expectancy lost</td>
<td>8.3</td>
<td>13.4</td>
<td>13.4</td>
</tr>
<tr>
<td>IMR per 1000 LB</td>
<td>3</td>
<td>29</td>
<td>22.0*</td>
</tr>
<tr>
<td>Under 5 mortality per 1000 LB</td>
<td>5</td>
<td>38</td>
<td>16.9**</td>
</tr>
<tr>
<td>MMR per 100,000</td>
<td>10</td>
<td>200</td>
<td>24.0*</td>
</tr>
<tr>
<td>HIV % incidence</td>
<td>&lt;0.1</td>
<td>&lt;0.1</td>
<td>1.5</td>
</tr>
<tr>
<td>Tuberculosis (TB) cases per 100,000 population</td>
<td>44</td>
<td>540</td>
<td>179</td>
</tr>
<tr>
<td>Malaria cases per 100,000 population</td>
<td>0</td>
<td>15</td>
<td>130</td>
</tr>
<tr>
<td>Undernourished population %</td>
<td>0</td>
<td>22</td>
<td>19</td>
</tr>
<tr>
<td>World Health Report ranking***</td>
<td>10</td>
<td>60</td>
<td>47</td>
</tr>
</tbody>
</table>

Notes: * 2002; ** 1998; *** this controversial ranking system was done in 2000 using several criteria that assessed health system performance and responsiveness.


**Policy Basis and Process**

**Rationale**

In each of the three countries, health reform appears to have been a product of economic, demographic and epidemiologic pressures on the health system. For Thailand, it was the realisation that the tax-based health system was getting very costly while at the same time not adequately providing coverage to people, particularly the poor.

In the Philippines, the health system was assessed to be inadequate in dealing with a double disease burden brought about by inefficiencies and market failures. Social health insurance, particularly for the indigent patients, had very limited coverage and minimal benefits.

For Japan, the inadequacy of health coverage was the main reason for the establishment of several social security schemes which led to the achievement of universal health coverage in 1961. The current wave of reform beginning in the late 1980s was sparked by the bursting of the bubble economy and the need to confront an increasingly expensive system due to a rapidly ageing population.

On the other hand, the Philippine health reform process spanned several decades and the HSRA is a product of those years of learning in the health sector. In the late 1980s, studies on the hospital and health financing sectors were conducted, which led to the enactment of a National Health Insurance Law in 1995. Prior to this, the Local Government Code was passed in 1991 which devolved major government functions to local governments, including health. In what was seen as a poorly managed transition, the health system fragmented and delivery of health services was disrupted and became more inequitable. By virtue of administrative issuances and a Presidential Executive Order, the reform process was formally begun under an HSRA framework in 2000.

There was little civil society involvement in the policy development process in the Philippines. This...
has changed, though, as reforms were implemented in convergence sites, and local governments are taking the lead in implementation. Several foreign-funded projects are currently in the preparation phase to develop advanced implementation sites using this strategy.

Inherent to its mature market and political system, the health reform process in Japan occurs through established networks of stakeholders. Throughout the years, policy development in Japan has been characterised as a bureaucracy-led consensus. Policies and even medical fees are being set politically in a “routinized” system (Ikegami). It is also being suggested that the current “muddling” approach is still the best evolutionary way by which Japanese health policy will be developed (Ikegami).

HEALTH REFORM INTERVENTIONS

Public Health and Disease Control

Disease prevention and control, particularly for HIV/AIDS, remain as a major concern in Thailand (Thamlikitkul). Also 2 per cent of the tobacco and alcohol “sin tax” is being used to fund the Thai Health Promotion Foundation that takes charge of healthy and safe lifestyle campaigns.

In the Philippines, direct services and implementation functions are decentralised to local governments. However, the DOH continues to provide direct support for key programmes such as TB control and immunisations. Efforts at securing multi-year budgets for TB control have failed.

Japan, on the other hand, concerns itself with promoting a healthy and active ageing process. While communicable diseases have been practically eliminated, the emphasis has shifted to preventing lifestyle-related conditions associated with smoking, alcohol, substance abuse and public safety.

Governance and Health Systems Management

At present, the management of the health system in Thailand remains centralised. A unified information system that collects, processes and reports health information among hospitals has been established. A streamlining process for the bureaucracy has also been started as part of a broad government campaign to reduce the size of the civil service by 5 per cent each year beginning in 2003.

In order to address the fragmentation of the system in the Philippines, the convergence site concept was developed. In 2000, the re-engineering of the DOH central office reduced the staff complement by 50 per cent and reassigned half the staff to forward service areas.

In Japan, health systems management is decentralised although the MOHLW continues to develop the standards and policies which it leverages on its subsidies. Local governments manage and operate their own facilities and insurance schemes. Information systems are also integrated from the national to the local levels.

In the area of development financing, Thailand intends to finance its reforms using domestic funds. These would include general appropriations, excise taxes, income from co-payments and user fees as well as investments. Japan is doing the same, aside from being the leading donor country in the region with overseas development assistance (ODA) equivalent to 0.23 per cent of its Gross National Income (GNI). Some 13 per cent of this ODA is spent for health activities.

The Philippines, on the other hand, has and continues to finance the reforms largely from foreign funds. Currently, policies are also being laid down that will ensure foreign assistance spending will be in line with HSRA principles and overall strategy. This apparent dependence on foreign funding is due to budgetary constraints, where the main bulk of spending goes to payment of salaries. This long dependence on loans is also contributory to the deteriorating social services, since nearly half of the annual budget goes to debt servicing.

Hospitals and Other Health Facilities

Both Thailand and the Philippines have opted to make hospitals autonomous, self-sustaining and less subsidy dependent, without necessarily negating its social objectives. However, due to widespread opposition from various sectors and the lack of local experience with facility autonomy, implementation of this approach has been limited.
In Thailand, quality assurance through accreditation is a voluntary exercise and supported by a coaching programme that utilises trained practitioners from among the member hospitals of the network. Some of its private hospitals have also decided to join the medical tourism bandwagon, competing with Singapore and Malaysia in attracting patients from all over the world for affordable medical procedures along with tourism packages (Choo; Supakankunti 36).

In contrast, government hospitals in the Philippines are subject to rigid managerial and financial controls. It was only lately that hospitals were allowed to earn and retain a portion of their income. In terms of quality assurance, the Philippine accreditation process is a compulsory requirement to qualify for reimbursements from PhilHealth.

In Japan, policies on privatisation have long been in place and many government facilities, especially universities, are already semi-private or private. The law prohibiting for-profit entities to provide direct health services has also been amended and private care agencies, especially for the elderly and the infirm, have been allowed to operate and receive compensation from the insurance system.

So far, medical malpractice is quite uncommon in the three countries although a growing trend is observed in terms of the number of cases that have been filed in the past years. However, many of these cases are also not reported and documented. In Japan, a formal arbitration process has been established by the JMA to provide an alternative to legal proceedings which could be very expensive and tedious to all parties concerned (Nakajima 1).

**Health Regulatory Bodies and Actions**

It would appear that the main regulatory concern for the three countries concerns that of pharmaceuticals. In general, market prices in Thailand have been kept low due to generic competition provided by the Government Pharmaceutical Organisation (GPO). In 2002, the government attempted the pooling of their drug procurement but the results were not favourable owing to delays in delivery by the GPO. With a large manufacturing base, Thailand has also positioned itself as a supplier of pharmaceutical products in the region and is also proposing to invoke its right to compulsory licensing and parallel importation in case prices of certain drugs of public health importance become unmanageable (Supakankunti 91).

The Philippines, on the other hand, attempts to contain prices through generic competition. However, due to the poor perception of the quality of generic products, innovator brands continue to hold market dominance. The government has also resorted to the parallel importation of several high-cost drugs but this has very limited volumes and market effects, except in the local setting where facilities used this as leverage for price negotiations. Initial experiences with pooled procurement proved promising, with price reductions of as much as 50 per cent from the previous year's bid prices.

A new procurement law has also been passed to further expand this into a national system covering all forms of government purchases. There is also an essential drugs list; however, the application of economic evaluation criteria is still limited. A drug price referencing system has also been developed for PhilHealth but is not yet operational.

Japan accounts for some 12 per cent of the global pharmaceutical market (Tsutani). Japanese companies also fund basic pharmacologic research to develop new molecules, and to some extent assist neighbouring countries improve their drug manufacturing and management systems (JPMA). A unique characteristic of Japanese health care is that the price for health care goods and services, particularly pharmaceuticals, is regulated. Prices are kept low by reducing payment levels on items that are prone to inappropriate volume expansion, by underpricing high technology and high-cost procedures and by employing a system of controlled fee increases (Ikegami).

**Health Financing**

Thailand's approach to universal coverage allows full coverage of the population, except for 3.2 per cent who are either non-Thai citizens or whose residence information cannot be verified. In 2003, efficiency gains translated to some 10.6 to 12.7 billion baht in savings for the health system (Tangcharoensathien).
Coverage remains a major concern for the Philippine social health insurance system. As premiums for indigents are paid for in part by local governments, the number of people covered is dependent on the capacity and willingness of local government units to enrol indigent members and pay for premiums. This still leaves nearly six million indigent families nationwide without insurance coverage. A model being developed is to require co-payments from members and, in return, restrictive ceilings that caused the low support value in the past will be removed. This “second peso” system is to be piloted beginning 2005.

While the two countries are concerned with coverage, Japan’s concern is focused on the elderly population whose needs may siphon off resources from younger members who are the ones actively contributing to the system. Thus, a separate fund for the elderly sector has been proposed, aside from the recent reforms that allow cross-subsidisation across member groups.

As there is no balance billing allowed in government hospitals in Thailand, anything in excess of the reimbursement rate would have to be absorbed by the facility, unless the case qualifies for high-cost care reimbursement. The case is similar in Japan and additional charges are usually incurred only when the patient demands extra services and amenities such as private rooms.

The Philippines allows balance billing for patients, which means that substantial out-of-pocket expenses are incurred. In most cases in government facilities, patients are often asked to buy drugs and secure diagnostics outside of the hospitals as these are most often in short supply.

VIABLE MODELS AND OPTIONS FOR PARTNERSHIP

Public Health

The approach of focusing resources on a specific objective and generating significant impact in public health outcomes appears to have worked in Thailand in the case of the HIV/AIDS epidemic and in the Philippines in relation to TB. In addition, the experience provided by the containment of the Severe Acute Respiratory Distress Syndrome (SARS) epidemic in 2003 and the current bird flu scare has highlighted the need for transparency and international cooperation in disease control.

Excise taxes on alcohol and tobacco can also be used to prevent and manage diseases related to the consumption of such substances as well as attend to other lifestyle-related conditions. The low incidence of high-cost conditions such as HIV/AIDS and trauma, as well as the focus on prevention and bias for primary care, have kept health care costs low for Japan.

Hospitals and Other Health Facilities

While a formal accreditation system is desired to ensure quality, patients and providers tend to find surrogate quality indicators which may prove expensive and inefficient if inadequately regulated. The Thai model provides a good model for a facilitative accreditation process in which coaching teams are provided to hospitals in order to help them comply with requirements. However, increased compliance would entail making accreditation compulsory or subject to significant incentives.

On a regional scale, the same cooperation can be harnessed by coming up with regional criteria for the quality of care and preferred outcomes which can be made binding to signatory governments. It was also suggested that financing incentives be used as a stimulus to shape the hospital system. For Japan, this is intended to promote a “trifurcation” in the system, where university hospitals will focus on high technology care, the medium-sized hospitals as general hospitals and the smaller and less equipped hospitals to providing long-term care services (Ikegami).

Governance and Health Systems Management

A basic requirement for reform is a comprehensive policy document that lays down the vision and strategies for reform. However, it is not enough that reforms get articulated on paper as they also need to have strong political support from politicians and communities alike, as exemplified by the Thai reform philosophy of “the triangle that moves the mountain” and the ensuing strategy of people’s health assemblies. Careful examination of the political landscape, however, is warranted as experience shows that appropriate
political timing such as elections can lead to the approval of some reform measures. It can be said then that the phrase “good health is good politics” (Solon) applies in these countries.

Also critical to the advancement of reforms is the generation of credible and relevant evidence on health reform interventions. The Philippines can greatly benefit from a unified system of evidence generation for health policy. Moreover, given the limited funds in both the public sector bureaucracy and academe, these research partnerships can be formalised between state universities and government agencies for mutual benefit and synergy.

On a regional scale, a regional system to gather evidence for policy development can be set up, such as the one being administered by the WHO on a global scale. This system can then serve as a regional database for critical health information. However, a basic infrastructure requirement for all these is an integrated health information system to collect and process the data. Also crucial to the success of reform strategies is the need for a critical mass of leaders and managers who understand the reform principles and possess the necessary skills to manage the process.

For donor countries like Japan, support can be more cost-effective if done with a systems perspective in mind. Recently, Philippine country support from the Japan International Cooperation Agency (JICA) shifted to a health systems perspective. This is consistent with the revised objective of JICA to shift to long-term strategy and capacity building for project management in recipient countries (JICA 143). Furthermore, as support for system-wide approaches is provided, it is also important for donor agencies to maximise regional externalities and support efforts to improve country health systems through cross-country partnerships.

Given the macroeconomic condition of countries such as the Philippines, ODA and other forms of foreign funding would also need an accompanying debt management strategy that leverages performance with access to funds.

**REGULATION**

The quality of products needs to be assured so that price can exert its influence in market competition. This is the reason why market competition can bring prices down in Thailand and Japan, but only to a limited extent in the Philippines. In terms of negotiating prices for health goods and services, considerable market share is also needed to exert such leverage. This is possible to do in Thailand and Japan where the single biggest payer is the government who runs the universal coverage system. Moreover, while the value of evidence-based tools is not discounted, equal importance is also to be given to the political process of decision-making (Ikegami).

In terms of human resource development, appropriate policies and agreements should be executed between human resource exporting and importing countries. This is to ensure that importing countries have a steady supply of human resource personnel without necessarily straining the staff complement of exporting countries while at the same time ensuring quality. Particularly for the Philippines, the adoption of return service arrangements and career support programmes for government scholars is becoming imperative. A convention on health human resource development is also necessary.

Lastly, as health goods become an increasingly important trade item, local legislation and procedures have to be made consistent with trade agreements and to maximise opportunities. The Doha Round of the World Trade Organisation/Trade Related Aspects of Intellectual Property Rights (WTO/TRIPS) provided several opportunities for developing countries to secure goods of public health importance.

**Health Financing**

While Thailand and Japan have adequately provided health coverage to their population, their next challenge is to address the need to include vulnerable groups in the systems. These include non-citizens and the poorest segments of society, which most often also live in the most inaccessible areas. Japan’s public assistance system provides a model where individuals who are not eligible for support by the system can have a sustainable fallback mechanism.
Japan was able to keep costs down by regulating prices. However, it may also need to change its premium structure according to more equitable parameters as well as employ wider cross-subsidisation, at least at the prefectural level to enlarge the pool (Ikegami). Similarly, Thailand’s gate-keeping approach helps make the system efficient. However, the system can further benefit from market segmentation as 20 per cent of those availing of the 30-baht scheme actually belong to the richest quartile. Facility investments also need to be provided, particularly in far-flung areas.

Proposals have been made to bring the schemes under a single payer system as this would provide more savings (Tangcharoensathien). Another innovation in Japan is a reinsurance scheme through a system of sustainability funds which a tax-based system like Thailand needs to seriously consider.

Despite the low coverage, the social insurance approach may still be the most appropriate mechanism for the Philippines, given its low tax collection rate and its decentralised health system. The issue of enrolling indigents, however, needs to be addressed by a tax-based (direct allocation) financing scheme, similar to the massive enrolment drive in 2004, if universal coverage is to be achieved soon.

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  - Clinical Epidemiology Unit, Siriraj Hospital-Mahidol University
  - Department of Social Pharmacy, Faculty of Pharmaceutical Sciences, Chulalongkorn University
  - Department of Pharmacoeconomics, Faculty of Pharmaceutical Sciences, The University of Tokyo
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  - Department of Health, Republic of the Philippines
  - College of Medicine, University of the Philippines Manila
  - School of Economics, University of the Philippines Diliman
### Annex A: Health Financing Schemes in Thailand, 2004

<table>
<thead>
<tr>
<th>Scheme</th>
<th>CSMBS</th>
<th>SSS</th>
<th>Private</th>
<th>UC</th>
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<tr>
<td>% coverage of population</td>
<td>9.0</td>
<td>6.1</td>
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#### Benefits

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<th></th>
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<td>Provider</td>
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<table>
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<tr>
<th>Inclusive conditions</th>
<th>All</th>
<th>Non-work related illness or injuries except 15 conditions</th>
<th>As stated in insurance contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maternity benefits</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Annual physical check up</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

| Promotion and prevention | Yes | Yes | |
|---------------------------|-----|-----||
| Services not covered      | Special nurse | Private bed, special nurse | Private bed, special nurse, eye glasses |

#### Financing

<table>
<thead>
<tr>
<th></th>
<th>General Tax</th>
<th>Tripartite contribution at 1.5% of payroll</th>
<th>Premium</th>
<th>General Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Source</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Financing body</td>
<td>Ministry of Finance</td>
<td>Ministry of Labour</td>
<td>Private companies</td>
<td>NHSO</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Payment mechanism</th>
<th>Global budget for inpatient; Fee for service with caps for outpatient; reimbursement</th>
<th>Fee for service with caps; reimbursement</th>
<th>Fee for service with caps; reimbursement</th>
<th>Capitation at B 2,012 per year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Co-payment</td>
<td>Balance bill</td>
<td>Balance bill</td>
<td>Depending on contract</td>
<td>30 baht</td>
</tr>
</tbody>
</table>

Note: 3.2 per cent remain uninsured (non-Thai citizens and those whose residency status cannot be verified).

**Sources:** Pannarunothai and Tangcharoensathien; Supachutikul; and Tangcharoensathien.

### Annex B: PhilHealth Membership Categories

<table>
<thead>
<tr>
<th>Membership Sector</th>
<th>Formal</th>
<th>Informal</th>
<th>Non-paying</th>
<th>Indigent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category</td>
<td>Regular employees of government and private agencies and qualified dependents</td>
<td>Self-employed, etc.</td>
<td>Retired employees covered by SSS and GSIS pension programmes</td>
<td>Households living below the poverty line</td>
</tr>
</tbody>
</table>

| Estimated % of membership per category (total coverage of 78%) | 28 | 9 | 4 | 37 |

| Premium share | 50-50 employer and employee share; maximum equivalent of 15% of gross income for those earning 15,000 a month and above | 1,200 per year | NONE | 50-50 local and national government share for 1,200 annual premium |

Note: *Poverty incidence is at 36.8 per cent so all the poor are covered, provided the enrolment is sustained.*

Source: PhilHealth.
Inpatient Hospital Care

<table>
<thead>
<tr>
<th>Room and board</th>
<th>Primary</th>
<th>Secondary</th>
<th>Tertiary</th>
</tr>
</thead>
<tbody>
<tr>
<td>200</td>
<td>300</td>
<td>400</td>
<td></td>
</tr>
</tbody>
</table>

a. Maximum of 45 days for members; and
b. Maximum of 45 days for dependents

Any unused benefit for any prior year shall not be carried over to the next year. One day's room and board shall be deducted from the 45-day allowance for every outpatient surgical procedure availed except cataract extraction.

Drugs and Medicines (per single period of confinement/availment)

<table>
<thead>
<tr>
<th></th>
<th>Ordinary case</th>
<th>Intensive case</th>
<th>Catastrophic case</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ordinary</td>
<td>1,500</td>
<td>1,700</td>
<td>3,000</td>
</tr>
<tr>
<td>Intensive</td>
<td>2,500</td>
<td>4,000</td>
<td>9,000</td>
</tr>
<tr>
<td>Catastrophic</td>
<td>8,000</td>
<td></td>
<td>16,000</td>
</tr>
</tbody>
</table>

X-Ray, Laboratory, etc. (per single period of confinement/availment)

<table>
<thead>
<tr>
<th></th>
<th>Ordinary case</th>
<th>Intensive case</th>
<th>Catastrophic case</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ordinary</td>
<td>350</td>
<td>850</td>
<td>1,700</td>
</tr>
<tr>
<td>Intensive</td>
<td>700</td>
<td>2,000</td>
<td>4,000</td>
</tr>
<tr>
<td>Catastrophic</td>
<td>4,000</td>
<td></td>
<td>14,000</td>
</tr>
</tbody>
</table>

Professional Fees (per single period of confinement/availment)

P150/day for general practitioners and P250/day for specialists

<table>
<thead>
<tr>
<th></th>
<th>Ordinary General Practitioner</th>
<th>Ordinary Specialist</th>
<th>Intensive/Catastrophic General Practitioner</th>
<th>Intensive/Catastrophic Specialist</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>600</td>
<td>600</td>
<td>900</td>
<td>900</td>
</tr>
<tr>
<td></td>
<td>1,000</td>
<td>1,000</td>
<td>1,500</td>
<td>1,500</td>
</tr>
</tbody>
</table>

Operating Room Fee (per single period of confinement/availment)

<table>
<thead>
<tr>
<th></th>
<th>RUV 5.1 and below</th>
<th>RUV 5.1 to 10</th>
<th>RUV 10.1 and above</th>
<th>Surgeon</th>
<th>Anaesthesiologist</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>385</td>
<td>0</td>
<td>2,160</td>
<td>Maximum of P16,000 @ 40/RVU</td>
<td>Maximum of P5,000 @ 40/RVU</td>
</tr>
<tr>
<td></td>
<td>670</td>
<td>1,140</td>
<td>3,490</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1,060</td>
<td>1,350</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Table B1: Indigent Member Benefit Entitlements in the Philippines (Cont’d)

<table>
<thead>
<tr>
<th>Benefit Package Coverage</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Primary consultations with general physicians;</td>
<td></td>
</tr>
<tr>
<td>(2) Laboratory fees for: chest x-ray, complete blood count, fecalysis, urinalysis and sputum microscopy; and</td>
<td></td>
</tr>
<tr>
<td>(3) Counselling and health screening services: visual acetic acid screening, regular blood pressure measurements, annual digital rectal exam, body measurements, periodic clinical breast examination, counselling for the cessation of smoking, and lifestyle modification advisory.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Provider/Delivery System</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Duly accredited and assigned RHU; and</td>
<td></td>
</tr>
<tr>
<td>(2) Duly accredited and assigned primary referral hospital within ILHZ if RHU is not accredited.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Availment procedure</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Beneficiary presents PHIC ID card; and</td>
<td></td>
</tr>
<tr>
<td>(2) Necessary services provided.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Provider payment</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Mode of payment: Capitation;</td>
<td></td>
</tr>
<tr>
<td>(2) Basis: Enrolled Family;</td>
<td></td>
</tr>
<tr>
<td>(3) Rate: P 300; and</td>
<td></td>
</tr>
<tr>
<td>(4) Disbursement: Quarterly upon submission of OCDP monitoring reports.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Other Benefits</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Normal spontaneous delivery (NSD) package, family planning (limited to bilateral tubal ligation, vasectomy and intrauterine device [IUD] insertion), tuberculosis - Directly Observed Treatment, Short-course (TB-DOTS), outpatient chemotherapy, dialysis, cataract extraction, and minor surgical procedures that are reimbursed under a fixed case payment rate.</td>
<td></td>
</tr>
</tbody>
</table>

Note: Benefits and terms for each member group are the same, except for the outpatient package that is available only for indigents and their dependents. Single Period of Confinement - refers to the series of confinements / procedures for the same illness with the interval between such confinements not exceeding 90 days within the calendar year. The member shall only be entitled to the remainder of the benefit ceilings set by the corporation for that period for drugs and medicines, x-rays, laboratories, and others. (Revised IRR of the NHI Act of 1995 – first edition, July 2000)

Source: PhilHealth.
### Annex C: Medical Insurance System in Japan

<table>
<thead>
<tr>
<th>Scheme</th>
<th>Health Insurance</th>
<th>Seamen’s Insurance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Category</strong></td>
<td>Employees in factories, manufacturers and firms</td>
<td>Day Labourers</td>
</tr>
<tr>
<td><strong>Coverage (% of population)</strong></td>
<td>28.3</td>
<td>24.1</td>
</tr>
<tr>
<td><strong>Managing Body</strong></td>
<td>National government</td>
<td>Health insurance societies</td>
</tr>
<tr>
<td><strong>Insurance beneficiaries</strong></td>
<td>Medical care benefits</td>
<td>Aged over 3 and under 70: 70%</td>
</tr>
<tr>
<td>Dependent’s medical care benefits</td>
<td>Aged 3 and under: 80%</td>
<td></td>
</tr>
<tr>
<td><strong>Benefits for high-cost medical care</strong></td>
<td>When patient cost-sharing is above the following maximum amounts, that is in excess provided for persons aged under 70</td>
<td></td>
</tr>
<tr>
<td>Low income: ¥35,400</td>
<td></td>
<td></td>
</tr>
<tr>
<td>General: ¥72,000 + (Medical costs -¥241,000) x 1%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>High income: ¥139,800 + (Medical costs -¥466,000) x 1%</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Cash benefits</strong></td>
<td>Sickness and injury allowance; Transportation expenses; Maternity allowance; childbirth and childcare lumpsum grant</td>
<td></td>
</tr>
</tbody>
</table>

### Scheme Details

#### Scheme | Health Insurance | Seamen’s Insurance
--- | --- | ---
Category | Employees in factories, manufacturers and firms | Day Labourers | Seamen
Coverage (% of population) | 28.3 | 24.1 | 0.0 | 0.2
Managing Body | National government | Health insurance societies | National government | National government
Insurer | Social insurance agency | Social insurance agency | Social insurance agency | Social insurance agency
Financial resources | Premiums | Rate % | 8.5 | 8.1 | 1st class 140, 13th class (2750) | 8.8
| Insured % | 4.25 | 3.6 | 55 (1050) | 4.4
Employer % | 4.25 | 4.5 | 85 (1700) | 4.4
State subsidy | All administration cost, 13% medical cost | Part of administration cost, Part of operating cost | All administration cost, 13% of medical cost | All administration cost, ¥3M assistance
Insurance benefits | Medical care benefits | Aged over 3 and under 70: 70% | | |
Dependent’s medical care benefits | Aged 3 and under: 80% | | | |
### Annex C: Medical Insurance System in Japan (Cont’d)

<table>
<thead>
<tr>
<th>National government employees Mutual Aid Associations</th>
<th>Local government employees Mutual Aid Associations</th>
<th>Private School Teachers and Employees Mutual Aid</th>
<th>National health insurance</th>
<th>Scheme</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employees of national public services</td>
<td>Employees of local public services</td>
<td>Teachers and employees of private schools</td>
<td>Farmers, self-employed, etc.</td>
<td>Category</td>
</tr>
<tr>
<td>2.0</td>
<td>5.0</td>
<td>0.7</td>
<td>39.7</td>
<td>Coverage (% of population)</td>
</tr>
<tr>
<td>Mutual aid associations of each agency</td>
<td>Mutual aid associations of each local authority</td>
<td>The Promotion and Mutual Aid Corporation for Private Schools of Japan</td>
<td>Municipalities Associations</td>
<td>Managing Body</td>
</tr>
<tr>
<td>8.1</td>
<td>10.47</td>
<td>6.6</td>
<td>Average annual amount per household: ¥156,267</td>
<td>Insurer</td>
</tr>
<tr>
<td>4.05</td>
<td>5.24</td>
<td>3.3</td>
<td>Rate % Premiums</td>
<td></td>
</tr>
<tr>
<td>4.05</td>
<td>5.24</td>
<td>3.3</td>
<td>Financial Resources</td>
<td></td>
</tr>
<tr>
<td>All administration cost</td>
<td>Local authorities pay all administration costs</td>
<td>Part of administration costs</td>
<td>Medical care benefit costs, etc: 50% for municipality; 32%-52% for associations</td>
<td>None</td>
</tr>
<tr>
<td>Insurer</td>
<td>Insured %</td>
<td>Employer %</td>
<td>State subsidy</td>
<td></td>
</tr>
<tr>
<td>Aged over 70: 90% (80% for persons above certain income group)</td>
<td>Medical care benefits</td>
<td>Insurance benefits</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Persons aged over 70</td>
<td>Benefits for high-cost medical care</td>
<td>Dependental’s medical care benefits</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single individual: Low income I and II: ¥8,000; General: ¥12,000; High income: ¥40,200</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Household unit including inpatient: Low income I: ¥15,000; Low income II: ¥24,600; General: ¥40,200; High income: ¥72,300 + (medical costs ¥ 361,500) x 1%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Funeral expenses + additional benefits from association</td>
<td>Transportation expenses; Optional benefits: childbirth and childcare lump sum grant; funeral expenses</td>
<td>Cash benefits</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Annex D: Timeline of Major Health Reform Milestones

<table>
<thead>
<tr>
<th>Year</th>
<th>Thailand</th>
<th>Philippines</th>
<th>Japan</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt; 1940</td>
<td></td>
<td></td>
<td>National health insurance law passed</td>
</tr>
<tr>
<td>1960-69</td>
<td></td>
<td></td>
<td>UC by 1961; 70% cost coverage enforced in 1968</td>
</tr>
<tr>
<td>1970-79</td>
<td>Free medical care for the poor</td>
<td>Alma Ata Primary health care approach; Medicare Act passed</td>
<td>Free medical care for elderly 1972; High-cost medical care approved 1973; aggressive establishment of medical schools</td>
</tr>
<tr>
<td>1980-84</td>
<td>CSMBS established; Health card project 1983</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1985-89</td>
<td>HSRI established</td>
<td>Generics Act passed</td>
<td>Cap limits on high-cost medical care</td>
</tr>
<tr>
<td>1990-94</td>
<td>Social security act enforces patient gatekeeping</td>
<td>Hospital and Financing Development projects</td>
<td>Limits on OPD cases seen in university hospitals; insurance fund stabilising scheme established; in home care promoted</td>
</tr>
<tr>
<td>1995</td>
<td></td>
<td>NHIL passed; Devolution</td>
<td></td>
</tr>
<tr>
<td>1996</td>
<td>HCRP</td>
<td>PhilHealth established</td>
<td></td>
</tr>
<tr>
<td>1997</td>
<td>Autonomous hospital proposal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1998</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1999</td>
<td></td>
<td>Health sector reform Agenda launched</td>
<td></td>
</tr>
<tr>
<td>2000</td>
<td></td>
<td>Benefit coverage and indigent enrollment increased; parallel importation started</td>
<td>HSRO</td>
</tr>
<tr>
<td>2001</td>
<td>UC pilots; autonomous hospital pilot in BanPhaeo; payments using capitation</td>
<td>Convergence approach endorsed</td>
<td></td>
</tr>
<tr>
<td>2002</td>
<td>UC Act passed; nationwide UC implemented; CSMBS system reform; PHC submitted to Parliament; Decentralization Act</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2003</td>
<td></td>
<td>Start of preparation activities for health reform projects</td>
<td>Gold Plan launched</td>
</tr>
</tbody>
</table>
REFERENCES


Japan Pharmaceutical Manufacturers Association (JPMA). JPMA 2004. website


_______. Office of the National Economic and Social Development Board (NESDB) and the United Nations Country Team, Thailand. 


INTRODUCTION

Many nations in the world today are facing the challenges arising from a demographic and socio-economic phenomenon known as “population ageing”. The term refers to a steady increase in the percentage of elderly in a country’s total population from under 5 per cent to more than 25 per cent. The main reason for population ageing is because of a rapid decline in the fertility rate. A secondary reason is the survival of larger numbers of people into old age, whether into the “young old” sub-group or the “old old” sub-group.

Malaysia’s elderly population (using a definition of 65 years of age and above as “elderly”) is less than 5 per cent of the total population at the present moment. However, the Population Division of the Department of Economic and Social Affairs of the United Nations has projected that this will rise to 9 per cent in 2025 and 15.4 per cent of the total Malaysian population in 2050 (United Nations, Malaysia).

Such a high percentage of elderly people in the total population would put significant pressure on the health and social services system as well as on the social security system of Malaysia. This is because the elderly (especially the “old old”) are heavy users of health and social services and because the elderly are usually retirees who are supported by the working members of the rest of society.

Currently, Japan has one of the world’s oldest populations. In 2000, about 17 per cent of its people were elderly (Japan. Ministry of Health, Labour and Welfare). The Japanese have had many years of experience in dealing with an ageing population and in providing them with facilities and services. Coupled with the fact that Japanese health and social welfare indicators are among the best in the world, this makes it worthwhile to learn from the Japanese experience and its successes and failures in safeguarding the welfare of the aged.

This paper will deal with population ageing and the challenges associated with social security and the organisation and financing of health and related social services to the elderly in Japan from a macro perspective. The Japanese Government introduced a “long term care insurance” scheme for its elderly in April 2000. This scheme will also be discussed briefly in this paper. Overall, the experience of the Japanese with social security and the organisation and financing of health and related social services to the elderly can perhaps provide some useful lessons for Malaysia as our population undergoes the ageing process also.

COMPARATIVE DATA ON POPULATION AGEING IN JAPAN AND MALAYSIA

Selected data pertaining to population ageing in Japan and Malaysia are presented below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Japan</th>
<th>Malaysia</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>23.2</td>
<td>6.6</td>
</tr>
<tr>
<td>2005</td>
<td>26.3</td>
<td>7.0</td>
</tr>
<tr>
<td>2010</td>
<td>30.2</td>
<td>8.1</td>
</tr>
<tr>
<td>2015</td>
<td>32.6</td>
<td>9.7</td>
</tr>
<tr>
<td>2020</td>
<td>34.0</td>
<td>11.5</td>
</tr>
<tr>
<td>2025</td>
<td>35.1</td>
<td>13.4</td>
</tr>
<tr>
<td>2050</td>
<td>42.3</td>
<td>20.8</td>
</tr>
</tbody>
</table>
Looking at the above data in Table 1b, in 2000, people in Japan aged 65 and above already made up 17.2 per cent of the total population. This is projected to steadily increase to 22.4 per cent in 2010 and to 28.1 per cent in 2020. As for Malaysia, in 2000 the percentage of people aged 65 and above was only 4.1 per cent. However, this is projected to also steadily increase to 5.1 per cent in 2010 and to 7.4 per cent in 2020.

The Japanese population data as presented in Table 1c is especially interesting in that by 2010, 6.2 per cent of the people would be aged 80 and over (the “old old”) and by 2020, it would be an incredible 9.1 per cent of the total population. Thus, the demand for health, social and other services used heavily by the “old old” population group would be high, and public and private expenditure on such services would also be correspondingly high. Malaysia would not be as strongly challenged as Japan. However, the authorities also need to plan for the future because although Malaysians aged 80 and over would only be 1.1 per cent of the total population in 2020, those aged 65 years and above are projected to add up to about 7.4 per cent in 2020.

Population ageing is always accompanied by “the feminisation of ageing” because of the longer life expectancy of females as compared to males. It has been pointed out that elderly females are at higher risk of being poor than elderly males because of reasons such as widowhood (women tend to marry older men and women also have longer life expectancy than men), lower educational attainment, less savings and lower social security benefits because of lower rates of labour force participation in the past and so on (Tan and Ng).

In terms of social security costs, benefits and burdens are projected to increase far beyond the level of economic growth, and revision and creation of a sustainable system have become urgent issues ... In fiscal year 2001, medical costs for treating the elderly (the cost of medical care for citizens aged 70 or more, and for those between the ages of 65 and 70 who have recognised disabilities) was ¥ 11.7 trillion or about one-third of the total medical cost, and this proportion is increasing every year ... The cost of medical care per capita averaged ¥ 246,100 in fiscal year 2001. Per-capita medical care costs for the elderly averaged ¥ 756,618 a year (Japan. Ministry of Public Management, Home Affairs, Posts and Telecommunications. Chapter 15).

Components of the social security system of Japan that are directly related to the elderly include the following:
- Health insurance;
- Long-term care insurance;
- Public pension;
- Income assistance (“Public Assistance” in official terminology);
- Services for the elderly (“Welfare for the Elderly”);
- Assistance for the disabled (“Welfare for the Disabled”); and
- Public health.

Health insurance, long-term care insurance, and public pension are compulsory social insurance schemes. These provide either cash or in-kind benefits to beneficiaries and are funded by premiums, government subsidies and co-payments paid by users. Income assistance, services for the elderly, assistance for the disabled, and public health, on the other hand, are paid for by general tax revenue (Japan. National Institute of Population and Social Security Research).
In-kind benefits for the elderly include “at-home services” and “institutionalised services” while in-cash benefits for the elderly include disability pension, old age and survivor’s pension and “assistance for households which take care of its own elderly” (Japan. National Institute of Population and Social Security Research).

In fiscal year 2001, Japanese social security benefit expenditures totalled ¥ 81.4 trillion (22 per cent of the national income). The major portion of this amount was accounted for by “old age” benefits, e.g., pension payments, and “sickness and health” benefits, e.g., medical related expenditures for the elderly. Thus, pensions accounted for more than half of total social security benefit expenditures at 52.3 per cent, while medical care expenses accounted for 32.7 per cent, and social welfare and other expenses accounted for 15 per cent (Japan. Ministry of Public Management, Home Affairs, Posts and Telecommunications).

Because of rising costs, the government is attempting to transfer more and more of the financial burden to citizens in the form of higher premiums and higher co-payment charges (United Nations, Report).

Although the life expectancy of the Japanese are among the best in the world (85.33 years for women and 78.36 years for men in 2003), population ageing has increased the burden of disability and disease, especially for chronic and degenerative diseases and conditions such as heart disease, high blood pressure, cerebrovascular disease (such as stroke), falls leading to restricted mobility or being bedridden, senile dementia, diabetes, arthritis and so on. Therefore, it is not surprising to find that expenditures on medical care for the elderly have been rising over time in Japan.

In recent years, leading causes of death in Japan include cancer (with a death rate of 245.3 per 100,000 population), heart disease (126.4 per 100,000) and cerebrovascular disease (104.7 per 100,000). These three groups of diseases account for about 60 per cent of all deaths in Japan. Cancer alone accounted for 30.5 per cent of all deaths (Japan. National Institute of Population and Social Security Research).

The increasing numbers of elderly have also increased demand for long-term care. Changes in Japanese demography such as migration of the young to the cities, higher labour force participation by married women, and the increasing average age of family members (especially the eldest son and his spouse or the eldest daughter and her spouse) who are caregivers to their elderly parents makes seeking care from non-relatives more and more necessary (Kojima; Takegawa).

Partly in response to this, the Long Term Care Insurance scheme was introduced in 2000. The scheme covers services for those staying at home, e.g., help with ADL (Activities of Daily Living such as bathing), as well as for those who are institutionalised, e.g., in places such as special nursing homes (Hiraoka). However, this programme is also experiencing the problem of rising costs.

PUBLIC SOCIAL SECURITY SCHEMES FOR THE ELDERLY IN MALAYSIA: THE SITUATION IN 2004

This section will briefly outline the main existing schemes for social security and for the provision of social and health services to the elderly in Malaysia. The main social security scheme in Malaysia for private sector workers and for non-pensionable public sector workers is the Employees Provident Fund (EPF), which consists basically of individual retirement accounts funded by individual payroll deductions and employer contributions and managed by the government.

This scheme avoids the main challenge of “pay as you go” systems such as the United States social security scheme, i.e. the challenge of taxing the working population to support ever increasing numbers of retirees. However, it also means that there is no redistribution from one segment of the population to another.

Besides this, people who have lower paying jobs will also have less money to withdraw from their EPF account upon retirement than people who have high paying jobs. Another problem is that not all Malaysians possess an EPF account (or are covered by the Civil Service Pension Scheme): those excluded include the self-employed who chose not to participate in the scheme, agricultural workers, casual labourers, those who never worked outside the home such as full-time homemakers and so on (Siti Hajar Abu Bakar and Faizah Yunus).
In fact in 1999, out of a total labour force of 9.01 million, the EPF had only 53.1 per cent of these as “active members” (where active members are defined as those who have made at least one contribution in the last twelve months) (Ong). In 1998, according to government figures, the EPF, the Civil Service Pension Scheme and all other pension schemes only covered 61.8 per cent of the labour force. Thus, 38.2 per cent of the labour force was not covered by any scheme at all (Ong).

EPF accounts consist of three parts called Account I, Account II and Account III. Funds accumulated in Account II (30 per cent of the entire EPF account) can be withdrawn to purchase housing while funds accumulated in Account III (10 per cent of the entire EPF account) can be used to pay for the account holder’s health care expenses (or the health care expenses of a close relative such as spouse, children, parents or siblings). Upon reaching retirement age, all three accounts are merged and the account holder can withdraw the funds accumulated either in a lump sum or in partial payments over time (Mohd Fauzi Yaacob and Muhd Fadhil Nurdin).

The Department of Social Welfare of the Ministry of National Unity and Social Development also provides financial assistance for the poor elderly, material aid such as walking aids and spectacles, and institutional services in the 11 Old Persons’ Homes operated by the federal government (Mohd Fauzi Yaacob and Muhd Fadhil Nurdin; Ong).

In Malaysia, there is another publicly operated scheme called the Social Security Organisation (SOCSO). This compulsory scheme for lower-earning workers is a form of workers’ compensation in that it provides benefits (including medical benefits) in cases of employment-related injury, disability or death, to the account holder or dependents. It is funded by individual payroll deductions and by employer contributions.

SOCSO has two main parts called the Employment Injury Scheme (EIS) and the Invalidity Pension Scheme (IPS). SOCSO is linked to the welfare of the elderly only if the disabled account holder lives into old age or if the dependents of the (deceased) account holder are elderly (Siti Hajar Abu Bakar and Faizah Yunus).

LESSONS FOR MALAYSIA FROM THE JAPANESE EXPERIENCE
• Lesson Number One: Make Things Less Fragmented and Complicated

An analysis of the Japanese social security system reveals that important components such as public health insurance and public pension are too fragmented and complicated (Japan. National Institute of Population and Social Security Research):

The public health insurance system consists mainly of
1. about 1,800 Society-managed Health Insurance units for employers and employees of firms at and above a certain size;
2. a single Government-managed Health Insurance scheme for smaller firms; and
3. the National Health Insurance scheme administered by individual municipalities for the self-employed, farmers, workers of smaller firms (i.e. firms not participating in the Government-managed Health Insurance) and their dependents.

This complex system gives rise to high overall administrative costs and also reduces the extent of risk-pooling necessary for an effective and financially viable system of health insurance (Phua). Thus, many National Health Insurance units are in deficit and require substantial government subsidy. This is not surprising because such region-based units collect their premiums from individual households based on income, property and number of people within each household. Thus, municipalities with low average incomes and high percentages of elderly (such as rural areas experiencing high emigration of young people) would be especially affected.

The public pension system is a three-tiered system consisting of the public Basic Pension (first tier), the public Employees’ Pension Insurance (second tier) and optional schemes (third tier).

Basic Pension is compulsory for all Japanese residents while Employees’ Pension Insurance is mandatory for all employees of firms above a certain size and the premium is shared between the employee and the firm. The optional third tier consists of either an employer’s private pension scheme (coupled with a one-time lump sum retirement allowance) or comes in the form...
of a collective National Pension Fund run by the government.

Again, this complex system gives rise to high overall administrative costs and also reduces the pooling of funds necessary for financial viability. Factors such as population ageing, the decade-long stagnation of the Japanese economy and extremely low interest rates mean that the “pay as you go” Basic Pension scheme and the Employees’ Pension Insurance scheme are under financial threat. Thus, the government has responded by reducing benefits, raising premiums and moving the pensionable age upwards.

It is also necessary to learn from the Japanese experience and avoid the problem of risk-pooling that actually makes potential financial problems worse, i.e. a form of adverse selection whereby financially solvent pension schemes refuse to join in risk-pooling while those which are facing financial insolvency attempt to join the risk pool.

• Lesson Number Two: Anticipate the Possibility of Escalating Costs
Social security programmes and social services should be introduced or enhanced to promote the quality of life for population sub-groups such as the elderly. However, the government of Malaysia should anticipate the probability of escalating costs (especially in open-ended programmes without financial caps).

The Japanese experience with its various public pension schemes and with medical care expenditure as well as with the more recent Long Term Care Insurance scheme certainly illustrates this very well. For example, the policy of providing free medical care for senior citizens aged 70 and over (introduced in 1973) resulted in rising costs as well as the phenomenon of “social hospitalisation” whereby elderly people were kept in hospitals for long periods although there was no medical need to do so simply because of an inadequate supply of long-term care facilities (Ishikawa and Maeda).

Another lesson for Malaysia from the Japanese experience is the fact that attempts to control costs and to raise revenue through measures such as raising the eligibility age for full pension, raising premiums and co-payment charges, cutting benefits and abolishing wage indexation for pension benefits are unpopular and will generate a lot of political resistance (Takayama). Similarly, the proposal that the Japanese consumption tax should be raised and that the revenue derived from this should be used to support the elderly population is controversial.

A less controversial proposal is to introduce public policies that encourage and provide incentives for the elderly to participate in the labour force in larger numbers. This would generate more revenue for the various pension schemes (Oishi and Oshio; Seike).

• Lesson Number Three: Take Steps to Deal with the Challenge of Non-Compliance and Non-Payment/Default in Mandatory Schemes
The supposedly mandatory Basic Pension scheme of Japan has been facing challenges such as increasing non-compliance (i.e. people who fail to participate) and non-payment/default (i.e. participants who fail to pay their premiums regularly and in full). In fiscal year 2002, the rate of contribution to the national pension scheme was at a “record-low 62.8 per cent, with 40 per cent of taxpayers in arrears” (Daily Yomiuri, “Poll”).

Recently, there was a major scandal because leading politicians from both the ruling political party—the Liberal Democratic Party—and the major opposition parties such as the Democratic Party of Japan have been exposed as defaulters. Thus, Yasuo Fukuda (the Chief Cabinet Secretary to the Prime Minister) and Naoto Kan (the leader of the opposition Democratic Party of Japan) were forced to give up their posts upon exposure in the mass media as defaulters. Fukuda (in addition to six other cabinet ministers!) admitted that he did not make payments for 37 months in total while Kan admitted that he failed to make payments while serving as health and welfare minister in the 1990s (BBC News, “Japan Minister”).

This failure to make payments to the compulsory scheme could happen because although there is automatic deduction from the payroll for most Japanese employees, politicians, students and the newly unemployed are supposed to make payments on their own. This loophole has resulted in non-payment by 40 per cent of the 18 million self-employed and students aged 20 and above in fiscal year 2002 (BBC News,
“Japan Minister”). The pension scheme scandal even affected Prime Minister Junichiro Koizumi himself—it turned out that he had failed to make payments for six years and eleven months (before payment was made mandatory by law in 1986) (BBC News, “Koizumi”).

Fortunately, Malaysia’s EPF retirement scheme and SOCSO (which pays disability benefits and dependent benefits in job-related injuries and deaths) do not face such a massive problem: the non-payment rate by employers for the EPF was 10 per cent in 1994 and 5.6 per cent in 1995 (Mohd Fauzi Yaacob and Muhd Fadhil Nurdin). Even so, the Japanese experience indicates that payments for social security schemes should be deducted from payroll whenever possible and that schemes that depend on individuals to make payments (such as Malaysia’s EPF accounts for the self-employed) are more likely to experience higher rates of non-payment/default.

Furthermore, trust in the solvency of the system by ordinary people is important in order to decrease rates of non-compliance and non-payment/default. Japanese surveys have shown rising levels of distrust in the system and this is more pronounced in the younger age groups. In the August 2003 survey, 57 per cent of all respondents said they had no faith in the system. More alarmingly, an astonishing 82 per cent of respondents in their 20s said the same thing (Daily Yomiuri, “Poll”). Thus, it is not surprising that non-payment/default rates are higher among younger age groups.

Proposed measures to reduce non-payment/default rates by individuals include making it easier for people to make payments (such as paying at a bank), “discontinuing the issuance of driver’s licenses or passports for those in arrears ... (and seizing) the postal and bank accounts of people who do not pay the premium” (Daily Yomiuri, “Govt”).

• Lesson Number Four: Avoid Putting Unnecessary Financial Pressure on Firms and Individuals

Japan’s decade-long economic stagnation (coupled with very low interest rates) has made it harder for companies to meet mandatory social security financial obligations. Society-managed Health Insurance units and Employees’ Pension Insurance schemes are especially vulnerable to downturns in the economy. Thus, some corporations have even taken the drastic step of eliminating their Employees’ Pension Insurance so that their employees are covered only by the Basic Pension. Individuals who lose their corporate jobs and turn to self-employment are also more likely to be under greater financial pressure and, therefore, are more likely to engage in non-payment/default.

In negative economic situations such as recessions and stagnation, Malaysia should learn from nations like Singapore rather than from Japan, e.g., by noting the policies undertaken by the Singapore government with respect to its Central Provident Fund (CPF) retirement scheme, such as temporarily lowering the rate of mandatory financial contribution by the employer and/or the employee.

• Lesson Number Five: Anticipate Possible Shortages of Facilities and Staff

The final lesson for Malaysia comes from the experience of Japan’s Long Term Care Insurance scheme. Aside from financial lessons such as rising costs and difficulty in controlling these costs, we should also look at issues such as availability/adequacy of facilities and human resources. Facilities (both private and public) include long-term care institutions for the elderly while human resources include health and social welfare personnel such as doctors specialising in geriatrics as well as nurses, nursing aides, physiotherapists and so on.

There should also be an adequate public transportation system for the elderly so as to facilitate their care-seeking; otherwise, the phenomenon described by the National Institute of Population and Social Security Research as “Insurance, but no Service” would arise (Japan. National Institute of Population and Social Security Research. 41).

Another lesson from Japan is to avoid significant geographical maldistribution of facilities and human resources needed for the care of the elderly. There should be a reasonable match of resources with need. As a result of the migration of young Japanese to the urban areas, “population ageing” in the rural areas has been more rapid than in the cities. Even in 1995, some rural prefectures already had populations in which people over age 65 made up more than 20 per cent of all residents (Maeda and Ishikawa).
Thus, although the absolute numbers of elderly in the urban areas may be larger than that in the rural areas, the latter will need additional facilities and human resources simply because there are fewer younger family members around to take care of the elderly living in the rural areas. Furthermore, the rural elderly are more likely to be living in scattered homesteads which may be more difficult to reach; hence, the importance of taking transportation problems into consideration in the planning of social services for the rural elderly.

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Notes
1 Actually, different governments use different ages in their definitions of the elderly, e.g., the Malaysian government uses age 55 and above. Here, I am using the figure of age 65 and above (which is commonly used by the developed nations).
2 The Japanese government figure is 17.4 per cent while the United Nations figure is 17.2 per cent.
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PROSPECTS OF TRADITIONAL MEDICINES OF THE PHILIPPINES AND INDONESIA FOR COMPLEMENTARY AND ALTERNATIVE THERAPY IN THE ERA OF GLOBALISATION
MANGESTUTI AGIL
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BACKGROUND
In the history of drug discovery, the importance of drugs from animals, microbials and higher plants is well established. Even though there was a trend to remove many old botanical drugs from official compendia in the middle of the 20th century, in recent years, many natural product-derived drugs have been introduced into therapy in western countries. This trend will continue in the future for the treatment of certain diseases such as cancer and infectious diseases, in the form of anti-malarial agents and anti-viral agents, among others.

Like in almost every part of the world, people in the Philippines have been using herbs and other natural resources from their surroundings for health purposes. This can be traced back to ancient history before the Spanish colonisation, especially among those who live in the mountainous areas across the country. This has led to the highlighting of the health benefits of some naturally abundant herbs, which have been empirically known and understood since that time.

Some factors which give support to the application of natural materials for medical purposes are that these materials are very easy to obtain and to grow, and they have relatively few side effects. From history, it was during the Spanish period that priests performed significant roles in the health sector. Most of the healers during that time were prominent priests who used natural medicines. Knowledge on the healing properties of the plants of the Philippines can be studied through some manuscripts which were written during the Spanish period.

Efforts to give a scientific background to the application of natural-based medicines for health started during the American occupation period, with the establishment of some government laboratories which conducted many different research activities. Since then, surveys and other research continue to find basic scientific proof for the application of the medicines. The Philippine Government gives full support to every effort which could enhance the performance of complementary and alternative medicines. One of the important goals of the government is to be able to produce safe and low-cost medicine.

OBJECTIVES
The objectives of this research are to conduct a thorough investigation to study and understand the history and philosophy of the traditional medicines of the Philippines for complementary and alternative therapy, the role and implementation of traditional medicines in primary health care services in the community, the ethnomedical documentation of the traditional medicines of Filipino ethnic groups, and research on traditional medicines.

METHODOLOGY
Data was collected through literature studies, interviews and discussions with researchers, drug manufacturers of small and large traditional medicine industries, non-governmental organisations (NGOs), medical practitioners and other health professionals, as well as local inhabitants.

Data on ethnomedical and ethnopharmacological studies was obtained from researchers from the College of Medicine and College of Pharmacy, University of the Philippines. Interviews were conducted to gather data on the research, production and distribution as well as government policy on the traditional and
alternative medicines of the Philippines. A library search was conducted to trace written documentation on traditional medicines at the Library of the College of Pharmacy, University of the Philippines.

A community survey on the herbal medicines of the Philippines was conducted in Luzon, Davao and the Visayas island group to study the traditional healing practices using herbal and other natural products and non-herbal treatment modalities. Information for the study was collected through a survey form. Main data was collected in Luzon from 450 respondents, while supporting data was collected in Davao and the Visayas. Data collected was about herbal medicines, practices of traditional healers using non-herbal modalities, demographic information, and particular symptoms, diseases and conditions.

RESULTS AND DISCUSSION

Collection of Data
Ethnomedical and ethnopharmacological studies on the traditional medicines of the Philippines have long been conducted by researchers from the College of Medicine, University of the Philippines. The research includes the conducting of interviews to gather data concerning research and government policy on traditional and alternative medicines. Written publications on herbal medicines and other natural-based medicines are available in bookstores and libraries. A forum has also been established by a government body to accommodate the requirements by parties concerned with discussing ways to enhance the performance of medicinal plant research. Substantial information on medicinal plant research can be obtained from the forum.

Discussion
In the Philippines, the practice of using traditional medicine for health purposes has been very popular among people from different parts of society for centuries. The information on the benefits of using it, which is passed down through generations, becomes an alternative way in curing and preventing diseases and also in maintaining health. Based on existing factors such as the great biodiversity of the country, existing written documentation of medicinal herbs, inadequacy of primary health services in remote areas, and the high price of medicines, the Philippine Government has decided to encourage the application of medicinal plants in primary health care services.

Some important steps have been taken by the government to reach this goal. One of them is the establishment of the National Integrated Research Program on Medicinal Plants (NIRPROMP), which integrates various researchers with different educational backgrounds to conduct research aimed at producing scientific data for the general application of herbal-based medicines. The government has already conducted a community survey as a first step to learn about medicinal herbs and other natural products which are commonly used and are very familiar in the daily life of the Filipinos.

Based on the results of the survey, there is a list of the top ten medicinal plants which are recommended for investigation. Since the establishment of NIRPROMP in 1977, four out of the ten plants have undergone complete research and passed intensive preclinical and clinical research studies in 2003. They can now be promoted by the Department of Health for use nationwide. Consumers can now buy various kinds of registered products made of validated medicinal plants in licensed pharmacies and drug stores at reasonable prices. This means that the government has started a programme to provide affordable drugs for the community.

The Bureau of Food and Drug Administration (BFAD) of the Department of Health of the Philippines strictly controls permits on the distribution of food, drugs and cosmetics and in giving licenses to new pharmacies and drug stores. Therefore, illegal practices of drug distribution cannot be found anywhere other than the selling of fresh medicinal plants and abortifacients in a famous black market in Quiapo, which is some 30 minutes from Manila City.

As the Philippine Government has proven that it takes a very long time to finish research on plants before it can get approvals from the BFAD, another question emerges: how long do people have to wait before they can afford to buy drugs to cure and prevent diseases? One of the reasons why it takes so long to conduct such research is high expenditure. The Department of Science and
Technology, which finances all the research, cannot provide all necessary funding immediately as it is dependent on the national budget.

As a comparison, today in the United States, it usually requires an expenditure of some US$500 million to bring a drug to market, which takes up to two decades. This situation of course will not solve the critical problems in the health sector faced by the Philippine Government, namely, the soaring price of medicine which is 40-70 per cent higher than other countries. As the five leading causes of morbidity for the general population are still infectious diseases, namely, bronchitis, diarrhoeal diseases, influenza, pneumonia and tuberculosis, immediate action to reduce the price of medicine to help people in combating infectious diseases is necessary.

The government has launched a programme to reduce drug prices by 50 per cent, which includes introducing generic drugs instead of imported ones, encouraging the growth of local pharmaceutical industries which use local raw materials and lowering the budget for the promotions of drugs. It is far easier to control and manage the production and distribution of 'western medicine' which has been approved, than to work with traditional medicine, since it will take relatively less time and expenditure.

The situation in Indonesia is rather different, with the Indonesian government now facing a very difficult problem in controlling the practice of producing and distributing traditional medicine. It actually started when the government declared it was recognising the application of Indonesian traditional medicines in primary health care services. Although it is already equipped with the necessary regulations to control the production, distribution and quality control of the medicine, violations of the law are increasing and becoming more serious.

At present, 70-80 per cent of the population of Indonesia still maintains its health by taking indigenous medicine mostly prepared from herbal material popularly known as jamu. The popularity of jamu is partly due to the fact that empirical knowledge on the therapeutic activities of the medicine has been passed down through generations. Some other factors that contribute to its popularity are as follows:

- Taking jamu is part of Indonesian culture and thus cannot be easily separated from the daily life of Indonesians.
- A large number of formulae can be found. There are about 336 ethnic groups and each has its own recipes.
- Indonesia has abundant natural resources. As the second richest country in the world in terms of biodiversity, Indonesia has 28,000 species of plants, 1,000 of which are medicinal plants.
- Indonesians believe that traditional medicines are relatively safe, while western medicines are regarded as toxic.
- Health care facilities in remote areas are poor.
- Modern health care facilities are unaffordable.

It is virtually impossible to persuade people to stop taking traditional medicines. Therefore, it is time for the Indonesian Government to take action to prevent the community from getting unexpected clinical outcomes and suffering adverse effects in using traditional medicines. Conducting scientific research on medicinal plants and giving public education about medicine are two main things which could ensure both the quality of medicines and the quality of information about medicines available to consumers. Some immediate actions that should be taken are as follows:

- Ensure the quality of over-the-counter medicine. Stores and pharmacies should be equipped with all necessary information that can be understood by laypersons, including adequate labelling and instructions such as the medicine's name, indications, contraindications, dosage, drug interactions, possible side effects, and warnings on unsafe use and storage.
- Monitor advertisements on radio, television, newspapers and the Internet.
- Arrange public education campaigns as often as possible that include the participation of medical doctors and pharmacists. Educating the public will increase their awareness of the risks in using unlicensed traditional and western medicine that is sold by street vendors either in remote areas which are far from proper health care facilities, or in big cities.
Unlike in the Philippines, in Indonesia, research on the benefits of natural products on health has not been integrated yet. So far, the government has not taken any action to coordinate research that is being done by the many research institutions. In 2003, the Indonesian Bureau of Food and Drug Agency initiated an integrated research project on the top ten priority plants which is to be carried out among various research centres from selected universities. The aim was to obtain complete scientific data on these plants. Although it would take more than ten years and huge expenditure to complete research for every plant, postponing it will bring another problem: the sacrifice of people’s safety.

Paying attention to the controversy over the importance of conducting investigations on natural-based medicines is crucial. There are still some important impediments to developing more plant-based pharmaceutical drugs such as the unavailability of time and financial resources to identify and to explore thousands of plants. Moreover, plants cannot be patented unless their chemical compositions are changed. Thus, pharmaceutical companies are not willing to make an investment for research if they cannot patent the resulting products (Sverdlow).

Despite these realities, the excitement of doing research in the forests persists. Instead of developing drugs in a laboratory, explorations to seek a plant that could save million of lives because of its therapeutic action are still of interest. This is due particularly to some other factors such as the growing demand to give scientific basis to traditional Asian treatments and growing evidence of the therapeutic properties of Chinese medicines as a result of support through hard research in China, Taiwan, Hong Kong and Singapore. There is therefore still hope to improve the performance of traditional medicines in the Philippines and Indonesia, such as through the exchange of experiences.

It is very interesting to learn that almost all of the plants which have undergone complete scientific research in the Philippines are not as well known among Indonesians and do not automatically attract researchers. However, because those plants can grow well in almost every part of both countries, it will open opportunities for Indonesian researchers to start investigating the plants and use all the information gathered in the Philippines as references.

More interestingly, there are some plants which have been used by Filipinos in their daily life as vegetables that are not so popular in Indonesia. Ampalaya (Momordica charantia) is a good example as the plant grows well in Indonesia. Research on its pharmacological activity confirms its anti-diabetic property, and Filipinos use all parts of the plant in their daily dishes while Indonesians are reluctant to eat it because of its bitter taste.

Likewise, there are some other plants listed in Indonesia’s top ten priority list of medicinal plants which are not widely known in the Philippines. Through better cooperation between both countries, exchange of research information can be very beneficial, especially in the efforts to give scientific basis to the application of herbal-based medicines.

In countries like Indonesia and the Philippines, no one can stop people from using traditional medicines even though their efficacy has not been proven scientifically. However, we must always remind them about possible negative side effects that can happen and educate them while waiting for researchers to complete their work.

A big percentage of biologically active plant-derived substances was discovered by following up on leads from traditional medicines (Kinghorn). Until today, scientists from all over the world still believe that most drugs are biologically active plant-derived substances and new inventions can be made by conducting thorough investigations on traditional medicines. Thus, ethnobotanical, ethnopharmacological and ethnomedical studies are the best ways to study and explore natural resources that have been used for centuries for maintaining and restoring health.

Some research work that has been conducted to study the healing practices of the indigenous people of the Philippines are beneficial to uncover the mystery of the traditional medicines and become a very effective way in learning and understanding it. This is especially important for a country which is rich in biodiversity, which we can explore through ethnobotanical studies.
the Philippines, ethnomedical and ethnopharmacological studies have been conducted by researchers from the College of Medicine, University of the Philippines.

Some of these studies have been conducted among indigenous Filipinos living in the mountains or their fringes, or near the sea. Each ethnolinguistic group has traditional practices, including those that refer to healing. The people have used plants and other natural products from the forests and the sea to treat illnesses. The studies include documentation of traditional healing practices, anthropological overviews, descriptions of traditional healers, herbal and non-herbal treatment modalities, concepts of health and illness, descriptions of study sites, and health perceptions, beliefs and practices.

Some researchers have also given attention to more specific issues such as practices and beliefs during pregnancy and childbirth, environmental sanitation and nutrition. Actually, research has been conducted to help in advocacy efforts to preserve the indigenous people's ancestral homeland as well as the biodiversity of their ecosystem (Dayrit, Ocampo and De La Cruz).

As Indonesia and the Philippines are home to a number of ethnic groups, where each has its own healing practices that make it very precious, both countries have to encourage ethnobotanical studies as a way to uncover the secret of traditional medicines. For example, through the community surveys done for this research in some places in three different islands across the Philippines, it was learned that people who live in remote areas still know about the healing power of medicinal plants; they do not use medicinal plants regularly in their daily life; but the people are very enthusiastic to participate in health education programmes on medicinal plants.

Without national effort though, there will be a gradual loss of the country's heritage as the number of members of the tribes who still have a grasp of and practise their old traditions is decreasing. Many of the indigenous practices have not been passed to the younger generation and the use of medicinal plants is now being slowly replaced by commercial medicines.

So far, the results of several ethnobotanical studies that have been conducted have not been officially published for many reasons, such as limited budget and results. Therefore, it is the responsibility of both governments to conduct an integrated ethnobotanical study which covers the whole country, including oceans and seas. Not only higher plants, but also bacteria and fungi which have large diversity and potential uses, should be investigated intensively. The goal of the study should be the publication of an official herbal pharmacopoeia, which gives complete data on herbal medicines and other natural medicines.

Financial support from non-governmental or international organisations should be considered, especially by nations rich in plants and other natural resources but poor financially. However, many developing countries like Indonesia and the Philippines worry about theft of their local plants and knowledge by Western researchers and pharmaceutical companies.

In the Philippines, a major obstacle in supporting healing practices with the use of medicinal plants is the difficulty in finding raw materials. This was not a problem in Indonesia, since the government established a programme to encourage every family to grow medicinal plants in their own gardens for health purposes. There are local farmers who are successfully running businesses in medicinal plant plantations and later become suppliers of the materials for industries, markets and consumers. Some even run their own practices as herbalists without any educational background on the subject.

Although there are some communities in the rural areas in the Philippines that grow medicinal plants in their own gardens, they do not attempt to use them unless there is an emergency. People who own big medicinal plant gardens and use the materials in their practices as doctors or herbalists can still be found, but they are very rare. There is no other way to solve the problem of raw materials in the Philippines other than encourage people to grow medicinal plants in their surroundings. In the future this will become a big business since the Philippines is one of the countries rich in biodiversity.
During the community survey for this research, a very interesting experience came from the arranging of a community gathering to solve some difficulties that we faced in collecting information through a survey form. In the gathering, we met people, interviewed them and helped them to fill up the forms. We then realised that such gatherings can become a very effective media for conducting continuous health education programmes. During the gathering, we informed participants about medicinal plants and other herbal-based medicines, including imported ones. Participants showed their appreciation as this was supposed to be the first such forum ever conducted in their communities.

Since everyone participated in the forum, it can be concluded that they were actually lacking information about health matters and were eager to increase their knowledge. This is actually the role of pharmacists—to inform and educate people about medicines. Such gatherings are sometimes conducted by Indonesian pharmacists in some big cities in Java, a densely populated island where the central government is located. As pharmacists from both countries are now facing very sensitive problems concerning their role in the community, it is advisable to show their ability in giving information about medicines at their pharmacies and through community gatherings.

A very important way to understand ancient therapies using natural medicines is by finding out the philosophy behind their medication. Traditional Chinese Medicine and Indian Ayurvedic Medicine clearly state their view that ill health comes from an imbalance that has occurred between humans and their environment. They believe that through a holistic approach, mankind can stay in good health, namely by keeping a healthy lifestyle.

Unfortunately not all traditional medicines are clear about the philosophy behind its medical system and this is true for Philippine natural medicines which emerged in the pre-Spanish time.

An interesting phenomenon which has already taken root in the life of Filipinos for centuries is the role of hilots and herbolarios in their daily life. Hilots and herbolarios use medicinal herbs in healing, employing skills passed on from previous generations. Almost everyone across the country recognise herbolarios and the mangghihilot as people to be visited before seeking a medical doctor’s advice. Even patients who live in urban areas trust them and believe in their ability, psychologically feeling relieved after a treatment.

Likewise, the practice of consulting hilots has been passed from generation to generation. Whether in big cities or in remote areas, mothers always seek help from hilots whenever their children get sick. Generally, hilots just apply certain balms or vapour rub and perform massages for not more than 10 minutes. Most of them never acquired formal education on massaging and other alternative healing methods, as they got it from the generations before them.

In our thorough interviews with hilots, they always mentioned that the power of miracles is believed to have brought them to their present capability of healing people. Some even mentioned near-death experiences as the only sign from God that urged them to dedicate their lives to humanity. It was the power from God that came to them directly or through the Blessed Mother and the saints.

The healing skills of certain practitioners, including spiritual healing, were based on individual experiences which they got by exploring the characteristics of nature. They believed in the protective powers of roots and herbs and in spirits. It can therefore be concluded that the practice of healing in ancient therapies among indigenous people does not follow any specific philosophy.

Based on the information gathered in our interview with hilots, it can be concluded that the Philippine Government has to enhance their skills to improve their role in primary health care services, especially in remote areas which medical doctors seldom reach. This is because hilots are national assets of the Philippines. The same would apply to herbolarios.

In Indonesia, the number of herbalists and faith healers is growing very fast. As in the Philippines, they claimed they got their power directly from God. Their ability in healing was based on individual experiences which they
got by exploring the characteristics of nature. Regardless of their educational background, people of different status sought their help even after asking doctors’ advice. Data indicated that newspapers and other mass media are very powerful weapons in transferring information about famous faith healers, herbalists and other traditional practitioners. The treatment they practise is popularly known as complementary and alternative therapy or medicines.

There are different kinds of complementary and alternative medicine disciplines which are growing in popularity very quickly in Indonesia. These include acupuncture, herbal medicines, homeopathy, massage, meditation, reflexology, spiritual healing, Traditional Chinese Medicine and Ayurvedic Medicine. So far, the government has not insisted on the need for qualifications before practitioners are allowed to practice. This condition is rather different in the Philippines, where the practice of complementary and alternative medicines other than that performed by hilots and herbolarios is not so popular among people living in remote areas and only can be found in big cities. These are still regarded as luxurious treatments.

Another interesting phenomenon in the Philippines is the role of Catholic churches in traditional medicines. A community gathering on traditional medicines which I conducted in Nabunturan was announced at a Sunday evening mass, which was one day before the event. People were very enthusiastic and many attended the gathering. I realised the important role of Catholic churches in encouraging people to enhance their knowledge and understanding of traditional medicines. One participant of the gathering told me about a course on herbal plant preparations that was once conducted by a diocese there, in which she participated. She then became a therapist and now helps patients by performing massages and preparing some herbal-based medicines.

It is obvious that churches can play an important role in the dissemination of knowledge and the proper use of herbal-based medicines to the community. This is because the majority of the population in the Philippines is Catholic.

CONCLUSION AND RECOMMENDATIONS

Traditional medicines are a very valuable asset which plays an important role in the improvement of people’s general health status. This value is heightened due to the wealth of knowledge of the healing properties of plants especially among the indigenous people of the Philippines and Indonesia, combined with other factors such as the rich natural resources of the country, the soaring price of medicines and inadequate primary health care facilities especially in the remote areas.

As we enter the 21st century where interest in natural products is high, there is increasing attention on herbal and other natural-based remedies. This indicates that there is an increasing demand to give scientific proof to the efficacy of natural-based remedies. Since China, Taiwan, Hong Kong and other Asian countries have been declared as world leaders in research on traditional remedies, it is about time the Philippines and Indonesia put more emphasis on the encouragement of research on their traditional medicines. This is also true with other complementary and alternative therapies since there is evidence to show that complementary and alternative therapies are practised parallel with orthodox medicine.

It can be concluded from the research that there is no specific philosophy behind the traditional medicines of the Philippines. Traditional medicines play an important role in health care in remote areas in the Philippines. There is ethnomedical documentation of the traditional medicines of Filipino ethnic groups. Research on traditional medicines is being done by various research institutions, including an integrated research programme under NIRPROMP. Although some ethnic groups in Indonesia have their own philosophy for their traditional medicines, there is no scientific proof that Indonesian traditional medicines have a specific philosophy. Research on traditional medicines has been conducted in Indonesia, but it has not been integrated by any government institution.

The governments of both countries have to encourage ethnomedical studies to explore natural resources for potential drugs and accord a bigger role to religious institutions to help in the dissemination of knowledge and proper use of natural-based medicines. Traditional healing practices which are rooted in the hearts of
the population have to be preserved and improved to enhance their performance. Since we only have a very limited time, it is necessary for collaboration between the two countries and other Asian countries in order to solve the problems we are facing. By working hand in hand, all researchers will have more opportunities to understand the problems and solve them.

There are three main factors identified through this research that will greatly contribute to the development of traditional medicines for complementary and alternative therapy in the era of globalisation:

- The necessity of conducting ethnobotanical studies to explore traditional medicines through community surveys;
- The role of religious institutions in the Philippines to help people understand natural-based medicines; and
- The important role of pharmacists in increasing knowledge on medicines among the people. This can be done in their workplaces or in regular community gatherings. The establishment of a drug information centre is another way to educate people on medicines.
REFERENCES


INTRODUCTION
I spent almost one year in Japan, particularly in Kyoto, conducting research about Japanese comics or manga and animation or anime. During that period, I read six main manga magazines which circulated to a wide range of readers: *Shukan Shonen Jump* and *Shukan Shonen Sunday* for boys, *Big Comic* for young adults, *Morning* for general manga lovers, *Nakayoshi* for young girls, and *You* for teenage girls (they are easily categorised by their advertisements; for example, lots of body building advertisements are found in the manga magazine for adults while cute stationery advertisements are found in manga for girls).

In terms of paperbacks, more than 70 titles of manga from various genres have been studied. I also spent time watching around 45 anime comprising television animation and film animation.

In general, I tried to cover a wide range of manga and anime genres as well as explore them in a crossover production form, for example, the same story appearing in both manga and anime forms. Unfortunately, due to my minimal knowledge of the Japanese language, I am emphasising less on content analysis which focus on qualitative and survey methods, and more on employing a semiotic analysis concerning the relationship of the elements to each other. To some extent, the objective is to emphasise the importance of the significance which readers attach to the signs within a text.

Although manga, anime and video games are the products of Japanese pop culture and virtually entwined with the Japanese way of life, they also act to form a media community where there is a shared culture across the nation. I, therefore, would like to address the notion that this phenomenon is not limited to Japanese society but includes any postmodern society.

REPRESENTATION: NEW TECHNOLOGY CREATES NEW SIGNS
It is inevitable to say that *Shonen Manga* or comics for boys is full of ‘fighting’ although after the economic collapse in Japan, there have been a number of manga with non-belligerent themes—the so-called soothing story manga (Tesshu 176). This type of manga target mostly adults and advocate the acceptance of things as they are. Nonetheless, the dominant space is still occupied by fighting, and even the soothing story manga has played a role in preparing the readers for the next fight.

Looking through the fight scenes of *Shonen Manga*, I was struck by the amount of cultural meaning attached to the behaviour of its characters, its costumes as well as its scenes. Not only has the appearance changed from the manga of the 1960s and 1970s, the attitude has also drastically changed.

I have found two main aspects that distinguish today’s *Shonen Manga* from those of the popular *SF Manga* (Sci-Fi comics) of the 1960s and 1970s. The first is the invasion of Role Playing Games (RPGs) for family computers or *Famicom*. This started in the mid-1980s with the artistic style of Akira Toriyama, the inventor of the globally popular *Dragon Ball*, and Kasuhiro Otomo, the producer of the world famous *Akira*. The second is the absorption of Gag manga into mainstream manga in the 1970s, pioneered by Fujio Akatsuka.

Science Fiction Manga in the 1960s
At the beginning of the 1960s, the manga genre called
SF or Science Fiction dominated all kinds of manga. Its popularity had brought it from the two-dimensional comic books to TV animation following the boom in family TV viewing in Japan. This phenomenon could be clearly seen in the big hit *Tesuwan Atomu* or *Astro Boy* in English, which was the creation of the father of modern Japanese comics, Tesuka Osamu. Astro Boy, the cute robot with a pure heart has even shaped the perspective of science as having a bright future for the Japanese.

In general, SF Manga revolves around the fight between a hero robot and a villain robot. Obviously, scientists play a distinctive role in every story. Their roles are to ‘give birth’ to highly efficient robots. It could be said that the scientists are the representation of males who replace the female mother. However, what the males give birth to is an artificial body. Moreover, the purpose of invention may vary depending on what kind of scientists they are—good ones, bad ones or mad ones. In some cases, the evil robots are coincidentally born out of the mistake of a scientific experiment, such as in the story of Godzilla, a scaly prehistoric monster which is awakened by American nuclear testing.

The way the stories start and end with science largely reflects the worldview of modern science, which is to consider the world as an object in a closed system. Only scientific knowledge can cope with scientific issues.

However, blood relationships and family also play a central role in these stories. The robots invented by the father are usually piloted perfectly by his son or his relative. The relationship between the robot with no brain and the human who controls him is not just a utility function but acts as a message. This is true even when there is almost no sign of a relationship between humans and machines. For example, in *Mobile Suit Gundam*, the story contains no specific ties between Amuro and Gundam. Instead, the robot plays a main role as a medium in establishing the relationship between father and son. The robot also acts as a message communicating across generations.

The extent of the role of the robot in stories is what makes for the enormous distinction between Japanese SF and Western SF (earth and world perspectives). However, after the invention of RPGs, the family-oriented theme in SF Manga has been diluted. This is clearly seen in the rising popularity of *Sazae-san*, a story depicting a typical white-collar family with a sense of humour, full of optimism and respectful of traditions.

In brief, the conventional theme of SF Manga has revolved around demon robots built by modern science but ultimately destroyed by good robots, with both the hero and the villain coming from the same inventor. The first giant robot of Japanese manga is said to be Tetsujin 28 Go or Ironman No. 28, a robot with no brain, created by Mitsutero Yokoyama in 1958. The robot was completely piloted by a young boy, Shotaro, using radio wave signals. The enemies of Tetsujin 28 Go were the robot’s own ‘relatives’, Tetsujin–26 and Tetsujin–27.

In general, the stories of SF Manga can be classified into two groups. The first has a fight partner storyline featuring cooperation between the robot with no brain and its pilot, as I had described previously. The story of Tetsujin 28 Go, the first giant robot, established the conventional structure for this genre, while the well-known *Mobile Suit Gundam* could well exemplify the same theme and its continuity. The second group features the autonomous robot that is free from human control. It could be either artificially created or an integration of human parts and artificial organs. The hero is, therefore, a superhuman who employs his artificial, highly efficient body with a pure human heart.

Apart from *Tesuwan Atomu*, another good example of a story of this genre is Shotaro Ishinomori’s *Cyborg 009*, first published in 1963. Shotaro Ishinomori was enormously inspired by Tesuka Osamu and is one of the most distinctive SF Manga artists. *Cyborg 009*’s narrative is about a team of nine people—Cyborgs—fighting for
justice and peace against a powerful evil organisation. All of the nine Cyborgs are in fact humans unwanted by society. The Big Ghost, an evil organisation, kidnap

es them and changes them into Cyborgs for warfare. However, all of them—from Cyborg 001 to Cyborg 009—rebelled against the Big Ghost and battled to escape from this evil organisation.

Although the story focuses on the team as fighters, the main character, in the form of the last Cyborg or Cyborg 009, is a juvenile delinquent from Japan. This is an identity which the Japanese love to see themselves. The story also reflects a large degree of the Japanese view of other stereotypes. The gangster-like character of the American and the cool and competent African are clearly seen in the form of Cyborg 002 and Cyborg 008 respectively.

Interestingly, the Cyborgs’ mentality and behaviour have not changed from when they were humans. Moreover, these have been amplified, and it became a crucial concern for Dr. Gilmore, the scientist in charge of creating all the Cyborgs, to design the additional artificial parts. For example, Cyborg 007 was a gifted actor, and when he became a Cyborg, novel knowledge was installed befitting his natural talent. Another interesting case is Cyborg 006. He became the ‘flame thrower’ because he was a Chinese chef and the Chinese dragons associated with his cooking could breathe flames. So even when he became a Cyborg, his duty was to cook, burn enemies and make tunnels using his talent in handling fire.

These particular aspects have largely reflected the notion of identity. New identities have been reconstructed through new bodies based on previous occupations, such as 007 who was an actor and 006 who was a chef. Although both 006 and 007 did not choose their new bodies, the author and the readers commonly understand that 006 and 007 are satisfactory reconstructions because their new bodies are based on their previous ‘lifestyles’ or, in this case, their previous occupations.

What’s more, occupations in post-traditional societies are freely chosen. Therefore, it could be implied that both author and readers accept identity reconstruction particularly if the new identity is based on personal choice. Nonetheless, as the operation of changing human to Cyborg is done one person at a time, we cannot perceive how technology has dealt with more identity changing.

There are also certain aspects of racial issues that are disclosed in this story. As the story deals with multiracial protagonists, the author wisely manipulates universal morality as its central concern. The story shows acceptance of a team that has a mix of races and, at the same time, opposition to nationalism and racialism.

As the words usually found in SF Manga include “mutant”, “android”, “time machine”, “teleport”, “black hole” and “worm hole”, it obviously shows that SF Manga is science-based and projects to the future. Although not all stories are optimistic views of the future, they attach scientific advancement to the global human future.

In other words, imagination in SF Manga owes enormously from scientific knowledge and its predictions. For example, the characters’ outfits in general look like those of a spacecraft crew. The logic governing costume design is to rely on or resemble scientific logic—the character always wears long sleeved suits with boots in order to protect them from cosmic rays. In conclusion, this brings us to an intriguing aspect of SF Manga—its unique ability both to reflect and comment upon modern culture.

**Role Playing Games**

RPGs are a games genre that involves intricate plots and character development. Taking on roles as characters in a game, the players usually choose the various attributes of their characters in terms of statistics, items or abilities, in order to advance in a game. The key aspects of early RPGs are found in *Ultima*, the American RPG developed in 1978, which has a top-down perspective and character ‘level up’ characteristic indicating the gaining of character ability. These two characteristics still dominate today’s RPGs.

The very first RPG experiences for the Japanese were *Dragon Quest* and its North American version, *Dragon Warrior*. It was a noteworthy project in 1985 because it was fully supported by the *Shukan Shonen Jump* magazine, riding on the popularity of *Shonen Manga*, and the big hit that was the Famicom.
Employing the concept of American home video games on a machine called Atari (where various games could be played on one machine), Nintendo introduced the Famicom to the Japanese in 1983. Super Mario Bros., released in 1985, brought worldwide success to the Famicom. During the time that the Famicom was the most popular among console games, game developers started to do their creative work on personal computers (PCs). In short, game designers used PCs to experiment on their inventions.

As the number of PCs was limited compared to the number of Famicom at that time, PC games that caught the public’s interest would be developed on the Famicom platform, where their popularity would be unlimited. Yuji Horii, a freelance writer for the Shukan Shonen Manga, was also a PC game designer. Inspired by American adventure games which allowed players to read stories on their PC, he developed Portpia Renzoku Satujin Jiken, an adventure game in which the story is developed by players entering a command and receiving an answer. It was a distinct step in the history of Japanese game development as it introduced player interaction.

As a gifted storywriter, Yuji Horri was attracted by the idea that the storyline would unfold according to players’ interactions, so he came up with the idea of producing RPGs. He became the key person to project the marrying of the two grand social phenomena, manga and Famicom games. At that time, the Shukan Shonen Jump had a circulation of six million copies per year, a phenomenon that owed its glory to Dragon Ball, drawn by Akira Toriyama.

Assigned by Kazuhiko Torishima, the editor of the Shukan Shonen Manga, the first RPG project, Dragon Quest, is said to be created by a “dream team”—Yuji Horii wrote the storyline, Akira Toriyama designed the characters and Koichi Nakamura, who later became the President and Chief Executive Officer of ChunSoft, was responsible for programming.

Wizardry, the American RPG, had a lot of influence on Dragon Quest in terms of how playing experience affected a character; a character would mature by going through various experiences and the enemies were stronger when the player entered specific places. Wizardry also introduced the dragon, which is the mythic element that replaced SF elements like the Cyborg and android. In short, it was at that time that people changed their view of fantasy from science to myth.

In the first Dragon Quest game sold by Nintendo in 1986, the story was briefly about a brave warrior who was supposed to defeat the Dragon Lord in order to bring peace back to the land. The player had to figure out the story by himself or herself, using a storytelling villager’s tale as a guide. The player had to face various monsters, particularly the dragon family and monsters derived from mythology. For instance, the Chimera, most famous in Greek mythology as a female fire-breathing monster with a lion’s head, a goat’s body, and a dragon or serpent’s tail, became in Dragon Quest a giant vulture that could breathe fire.

The enormous success of Dragon Quest can be seen in its continuing popularity from 1986 until today. Dragon Quest VIII is the latest version released in 2004. It has been developed for various platforms: Famicom, Super Famicom, Playstation and Game Boy. Each series left its mark—the first for introducing RPGs, the second for allowing a player to play in a team, while the third had a fabulous ending. The game’s national popularity can be seen in its sales—2.4 million copies for Dragon Quest II in 1987, 3.8 million copies for Dragon Quest III in 1988, and 3.1 million copies for Dragon Quest IV in 1990 (Kentaro Inoue 63).

Moreover, the word for ‘heal’ in Dragon Quest is “hoim”, which is a nonsense word, but because of the popularity of Dragon Quest, it has been added to the Japanese vocabulary. However, Dragon Quest has not been the only game to experience such glory, as success also came to Final Fantasy and The Legend of Zelda, created by Shigeru Miyamoto, who had previously created the successful Super Mario Bros.

Japanese RPGs are distinct from Western RPGs in their strong communal aspects and other unique characteristics. Firstly, they have a unique artistic appearance. As RPGs were developed during the boom of manga, the manga technique played an important role in the games’ appearance. At the beginning, the limitation of the games’ memory meant there was no possible way to employ the artistic style of manga.
While in manga no colour was used—only black and white—nonetheless, the RPG designers developed colour expressions in order to distinguish one character from another by using contrasting colours.

The games’ storyline and characters also closely resembled those in manga. Specifically, the character design employed the deformation technique of manga, the way manga artists had invented their own human figures and the proportion of the games’ settings. Akira Toriyama’s Dr. Slump, published in 1984, would be a distinctive example of this technique.

It should be noted that creating games in the 1980s was limited by the size of the disk memory. In particular, scene changing and the many conversations, said to be crucial features of playing RPGs, consumed most of the memory on the disk. The most crucial aspect of character design, including its animation, was to use minimum memory. Deformation techniques from manga therefore had to be employed effectively, for example, by changing the human body’s proportion to an almost square proportion. The results were so dramatic that this technique has brought about cute characters that dominate the appearance of games till today.

The second key difference between Japanese and Western RPGs is the play of words. As there were disk space limitations, conversations became carefully calculated. Moreover, because players were linked only by words, every line had to be rich in both communicativeness and emotion. Shigesato Itoi, the copywriter and person in charge of creating the RPG, Mother, in 1989, explains that his work referred to haiku, the Japanese poetry form in which the challenge is to convey a vivid impression in only 17 Japanese characters.

Since the lines are only written with the basic Japanese alphabet, I wanted them to ‘speak’ to you. I would actually say them aloud, re-digest them, and try to listen to them with my heart. I would erase them when I felt they weren’t good; I wrote them one by one, as any other manuscript .... If I were to venture a remark, it was like haiku. Even haikus have the ‘so what?’ kind of feeling (Itoi 60).

As the beauty of haiku is in its lightness, simplicity, openness and depth, Japanese RPGs’ wordings share these haiku features, and could therefore unfold and stimulate players’ imaginations.

The last aspect of how Japanese RPGs are distinct from others is that, interestingly, Japanese game developers have put an emphasis on sociological concerns rather than technological ones, which is opposite to the normal understanding of RPGs. It is notable that friendship, teamwork and cooperation play a central role in manga, especially in Shonen Manga.

Learning from this social phenomenon, game developers have created games that allow various players to participate. For example, in Zelda II, game designers allow four people to play together, following a superb storyline. Moreover, in order to support this idea, hardware companies like Nintendo have invented a connection port that can link individual handheld games or Game Boys to each other so that individuals can play games within their networks and carry out impressive teamwork.

The direction of game development nowadays is quite opposite to that of the early 1990s. At that time, game prospects had relied on Virtual Reality (VR) technology, focusing on the individual and the immersion of the self in a game’s space or virtual space. However, as the unsuccessful Virtual Boy from Nintendo shows, this approach did not do very well.

Toriyama’s Manga

Akira Toriyama debuted around 1980 with the huge commercial success of his first series of Dr. Slump, published in the Shukan Shonen Manga. Given the popularity of Dr. Slump, it was made into a TV animation feature a very short time after the launch of the manga version. The story is about a goofy scientist and his inventions, mainly a hyperactive robot named Arale.

Featuring a slapstick style, Akira Toriyama’s first work was influenced largely by the Japanese Gag manga in the early 1960s. Toriyama shared with Akatsuka, the king of Japanese Gag manga, “irreverent parody of the real world”. Dr. Slump, Toriyama’s main character,
was a parody of a hero. Although he was a genius of a scientist, he showed his idiosyncrasies through his ridiculous gadgets. Although he helped others, no one showed respect for him. Instead, he was always made fun of.

Parody was also used in Toriyama’s artistic drawings. In the same style used for Gag characters, the figures of Dr. Slump, Arale and other characters were deformed. In other words, the deformation technique became a tool for manga artists to express parodies of the real world.

However, Toriyama’s work went beyond that. He deformed everything from scenes to characters, and all of them were proportionally related to each other. In doing so, he created his own manga language where the tension between imaginative space and real space became diluted. In other words, within the Toriyama sign system, the signifier—scenes or characters—has nothing to refer to or talk about in terms of the signified real world, real society or social judgments.

For example, Penguin Village, an imaginative place in which almost all of the characters in Dr. Slump live, captures what is essentially American suburban life. There is, however, nothing in the story that refers to an American lifestyle. The artist uses the social meaning of the American suburb only so that Japanese can understand clearly that the place he has created is not Japan; it is another place that is the foundation for creating this imaginative place.

This technique was later developed in his globally successful Dragon Ball. In this story, Toriyama invented his own cosmos. In the first episode, called Dragon Ball, the place in which the story takes place has the shared characteristics of a hidden place in China. However, a later episode called Dragonball Z sees the story take place in outer space. Instead of referring to common scientific knowledge about the universe, Toriyama designed his own cosmos.

Some of Dragon Ball’s world resembles an ancient cosmos in the way that the heavens are layered and placed on top of each other. In detailed drawings, he was so descriptive in designing his universe that he even designed the relationship between planets and their characters, according to his own logic.

It could be said that the scientific basis for the story, which once played an important role in SF Manga, had been diluted. As shown in Toriyama’s work, new laws have been invented systematically with less attention to common scientific knowledge. The enormous hit of Dragon Ball has been very influential not only to readers but also to writers. After Toriyama, manga has proven itself as being no longer media representing reality, but its own reality.

CONCLUSION

One significant aspect that distinguishes modern from postmodern society is the change from the use of traditional values and the values related to exchange, to symbolic exchanges. To some extent in capitalism, people consume goods while in post capitalism, people consume signs. Consumption therefore becomes a mode of being, a way of gaining identity. In other words, the meaning of our life is in what we consume, rather than in what we produce. Although this idea seems to be superficial and could lead to the idea of social control, the general idea is useful to the analysis of identity in the face of new technology, particularly in terms of media and information.

In conclusion, it could be said that identity that is consumed through the media plays a role in social phenomena as follows:

- **Function**: Our society is so complicated that an individual hardly holds on to only one universal rule. Many rules, therefore, have been invented as tools to govern society—some are oppressive and others are repressive. What makes manga a popular tool for society is that it functions as a myth. Both manga and myth are confined places in which the readers feel relieved from social rules.

The significant changes in Shojo Manga (girls’ manga) since the mid-1980s clearly illustrate this phenomenon. The story and characters of Shojo Manga have shifted in a dramatic fashion from an imaginative space to a more delicate and realistic plot, calm atmosphere and emphasis on the relationship between the character and the reader’s feelings. As a result, manga has become a sort of ‘counselor’ for readers. Whenever the readers feel repressed, they will jump from the real to a manga.
space which provides relief from repression. To some extent, manga does not just represent reality; instead it is a space in which the individual can be private.

• **Representation:** It is obvious that today, manga characters do not employ particular stereotypes any more. The stories and the main characters now revolve around various aspects of storytelling such as supportive characters, stylish costumes or overwhelmingly impressive places. From previously focusing only on the main character, the stories have changed and play around many characters. In other words, various kinds of characters are depicted, and this has made the stories more fascinating.

Moreover, the characters invented around the 1980s are distinct from earlier inventions. A distinct example is the birth of parody manga by Tatsuhiko Yamaue. Yamaue invented Komawarikun, a schoolboy from Gakideka, who has been one of the most popular Gag manga characters since 1974. Komawarikun wears a police uniform embellished with ridiculous neckties. The neckties are borrowed from other significant characters and are used as a tool to devise Komawarikun’s identity. As a result, you can hardly tell exactly who he is. However, this ambiguous but expressive image has played a role as a sign of social resistance. This technique of using other character elements as objects to identify a particular character has been vastly experimented upon till today. Welcomed by readers, these kinds of manga have made fluid identities familiar to readers.

• **Production:** It is unavoidable to say that fan culture is a crucial part of the manga realm. Once considered a consumer body, fan culture has become the key element in identity consumption due to the reproduction of stories. *Dojinshi*, a huge amateur manga writers’ event, is one of the concrete forms of fan culture. These manga writers reread, redraw, rewrite and distribute their reproductions within their circles. A circle is a group sharing the same interest and is fond of the same manga story.

Generally, the reproduction of the story again and again and from different angles is favourable within the circle. Fan culture, therefore, is not a consumer body but a cultural production. Whenever one consumes something, it counts not only as consuming a product but also as a way of consuming a product and how to deal with the product properly. So consumerism becomes a productive activity. In other words, we may come to better understand behaviour by examining the stories of people that they consume and construct.

**Notes**

1. There are various definitions for the word and history of manga. In this paper, I would like to use the term manga to mean Japanese comics in both book and magazine form which has its own characteristics that are distinct from Western comics.


3. Video Game Console released by Nintendo.
REFERENCES


MALAY POP MUSIC: BETWEEN MARKET AND NATIONAL IDENTITY
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INTRODUCTION
A Brief History of Malay Pop Music: From Western Culture to Islamic Culture
Pioneered by royal musicians in the 1930s, the truest form of Malaysian popular music is a fusion of elements from various music cultures in the country. In the 1940s, P. Ramlee created a uniquely Malaysian style based on Malay folk music and infused with elements from various local music cultures. His songs, which numbered over 250, reflected the influence of a syncretism of Malay music forms, especially the inang, zapin, masri, adli, bonia, and joget forms, as well as Western dance rhythms (rumba, slow fox, waltz, cha-cha, mambo and twist), and Hindustani and Arabic melodies and rhythms. The emergence of recording companies in Malaysia accompanied the Malaysian pop music industry development.\(^1\)

At the end of the 1950s, rock music development in Western countries greatly influenced popular music development in Malaysia. The lyrics of Western songs were translated into Malay, while Malay rhythms and musical instruments were still used.

Besides the Western music genre, the ethnicity of the people also affected the pop music scene in Malaysia. The Chinese, especially those who were in secondary schools, tended to favour Singapore, Taiwan, and Hong Kong song records. For the Indians, pop culture from India had a strong influence, especially Tamil and Hindi films and song records. Meanwhile the Malays, especially the educated ones, favoured songs from Indonesia, the Middle East and Malaysia itself.

During the 1960s, there were changes in the Malaysian popular music scene, some of which were related to Singapore’s separation from the country. The changes reflected the increasing Western influence on the social life of the Malays, especially the urbanites. By the end of the decade, blue jeans and mini skirts began to be popular among teenagers, not only in Kuala Lumpur but also in several other small cities. Malay entertainment magazines and popular magazines started discussing teen fashion and to print pictures featuring tight pants, skirts with slits and other controversial outfits. Teenage culture began to emerge with the escalation of the popularity of the dance, the Twist, while joget also became more fashionable.

In the 1970s, many Malays, Chinese and Tamils copied the Beatles. This period was called the yeh yeh pop era, referring to the lyrics of one of the Beatles’ songs, “She loves you yeah-yeah yeah”. This genre quickly marginalised the combos (a Malay music genre) and big bands that had dominated dance music in the earlier years.

At the end of the 1970s, popular music development in Malaysia was influenced by the music of ABBA, Boney M, Michael Jackson, Madonna, etc. This is because big recording companies such as CBS (USA), EMI (UK), Sony (Japan), PolyGram-Philips (Germany and the Netherlands) and WEA (USA) popularised their kind of music. Furthermore, these recording companies supported the development of Malay pop music which was similar to Western music. Some Malaysian bands and singers who became popular at that time were those promoted by the big recording companies.\(^2\)

These companies did not turn Malaysian pop music completely into music with Western characteristics. Popular music at that time still had local musical characteristics. The rhythms, texts in traditional poetic
form, humorous and meaningful lyrics, still contained the old characteristics. This happened because small local recording companies kept recording songs which were not recorded by Western recording companies.

Soft rock group the Alleycats dominated the 1980s as the band with the most consistent record sales. Their music blended elements of Western folk and pop music with local asli rhythms. Increasingly, non-Malays recorded, wrote, produced and performed in the Malay language. Songwriters began consciously blending elements from various music cultures in an effort to encourage a true integration of local music cultures.

Significant songwriters from this period were M. Nasir, Manan Ngah, Zubir Ali and S. Amin Shahib. Zainal Abidin and Sheila Madjid also released their songs through a local recording company called Roslan Aziz Productions (RAP). Meanwhile, rock music developed in Malaysia too. Rock groups such as Search, Lefthanded, Bumiputera Rockers, Bloodshed, and Wings became popular in the 1990s.

RELIGION AS NATIONAL IDENTITY

The foundation of Malay culture is religion. It appears in the Rukun Negara’s list of principles. In 1971, the National Culture Congress in the University of Malaya came up with the National Culture Policy, in which one point states that Islam is an important element of national culture. However, other religions are also acknowledged as elements of national culture.

Since the 1970s, Islam as the major religion in Malaysia has played a bigger progressive role in the formation of Malaysia’s Malay identity. Islamic culture competed or had an ambiguous relationship with Malaysian nationalism and multi-ethnicity. As part of the Islamic revival in the 1970s, the da’wah movement gained support from most Malay youths who were feeling alienated (or were being alienated) by westernisation, materialism and socialism. This caused a gap between religious Malays and the secular group. 

Islamic revival did not only worry non-Malay groups but also the moderate Malays. Universities became a battlefield between the militant and the moderate Muslim students. Religious organisations such as da’wah groups and religious groups used Islam to confront other groups in the form of public discussions, such as discussions about the role of Islamic values for Malays, Islam in a plural society, demands for Islamic activities, and the dress code for women.

At the end of the 1980s, the Islamic political opposition party Parti Islam Semalaysia (PAS) issued a statement about pop music, especially that originating from the West. They claimed that the music was amoral and proscribed it. They then declared that women performing on stage disobeyed Islamic principles. Several states strongly controlled and influenced by PAS forbade the circulation of magazines and newspapers that published writing about pop music. Stage performances featuring pop singers, especially Malay female pop singers, were sometimes stopped or were protested against as moral degradation. This also occurred in universities where the militants were influential.

In 2001, the state of Negeri Sembilan, which was not controlled by PAS but had a strong Islamic culture, proscribed rock music stage performances. The prohibition was related to the bad influence rock music was supposed to have on youth. This prohibition was especially rigid when it came to black metal music.

Therefore, several Malaysian rock groups had to clarify that their group was not black metal so they could continue to exist in the music industry. Two rock groups that did so were Amuk and Samurai. Amuk declared its group was still devoutly Muslim. It did not expect people to claim it was a black metal band just because its members wore masks and had long hair. Meanwhile, Samurai denied the accusation that metal groups had negative effects on teenagers. It said that the accusation was baseless because none of the Malay metal groups asked their listeners to do things forbidden by the government. Furthermore, Samurai claimed that unjustified accusations about metal music would only disadvantage the Malaysian music industry.

Meanwhile, rock band OAG was getting more attention from its fans. When OAG was interviewed about its responsibility to its fans, a band member replied, “We want to be a good example for teenagers; I am free from drugs.”
In the Rukun Negara, the need for an appropriately polite manner is stated not only in the first point but specifically in its fifth point, “Politeness and Morality”. This point states that each citizen should be polite and decent and should act as such. A person should have a noble character, high morality and respect for others.

Preserving Malaysians’ religious values and life norms are also stated in Vision 2020, the road map outlining Malaysia’s expectation to achieve the status of a developed country by 2020. Vision 2020 was launched in February 1991, a period marked by intense development, industrialisation and urbanisation. In presenting this modernist vision in a speech entitled Malaysia: Striding Forward, then Prime Minister Mahathir Mohammad described it as follows:

Malaysia should not be developed only in the economic sense. It must be a nation that is fully developed in all dimensions: economically, politically, socially, spiritually, psychologically and culturally. We must be fully developed in terms of national unity and social cohesion, in terms of social justice, political stability, system of government, quality of life, social and spiritual values, national pride and confidence.

Compared to previous development plans, Vision 2020 is intended to provide for an all-encompassing view of modernisation. It is not confined to the economic sector but extends to the political, cultural, and spiritual dimensions. If Malaysia is to continue to enjoy prosperity, political stability, economic growth and social harmony, then it must be able to meet the nine basic challenges outlined in the Vision, one of which is to create a society with high moral and ethical values and one that is deeply religious.

As such, the Malaysian government, like a stern parent, reviews every movie, television show, book and performance; it deletes scenes and passages showing excessive violence and sex, and guards its people against perceived violations of Islamic values, like bare shoulders in the case of women or long hair on men. Television programmes are regularly censored for their language.

The government also censors certain performances, though to a far lesser extent than its censorship of television programmes, movies and books. For example, in 2002, a music video of the Australian singer Kylie Minogue was banned, apparently because the censorship committee decided the video focused too much on the star’s bottom. Meanwhile, foreign groups continue to be required to submit recordings of their performances before applying for performance licences.

As a result, singers and the music industry have become more influential in deciding music taste. Some singers try to create an image that is different from other singers. Usually this image is projected through wardrobe, stage performances, forms of songs and music. A particular singer’s fans would then follow the singer’s image and identity, not in their entirety, but certain characteristics. For example, an individual can label his or her friend’s dress style as following that of a certain singer or artist.

Realising such impression and influence, the sultans of each state, through the Ministry of Information, started stipulating dress code ethics for singers and artistes in order not to disgrace the values and cultures of Asians.

Malaysians themselves were critical in observing matters in the local entertainment world that were deemed opposite to religious values and morality. For instance, at the Anugerah ERA 2003 music awards, there was a protest from the audience about the tight costumes worn by background dancers. The same thing happened to popular Indonesian artistes Moluccas, who performed wearing costumes showing their bellies.

In responding to the matter, the Anugerah ERA 2003 committee said that they had already warned Moluccas about which costume was appropriate or inappropriate, on hiding tattoos and covering bellies. The committee had already distributed guidelines on this by the Ministry of Energy, Communications and Multimedia. Since Moluccas had ignored the guidelines, the committee probably would not invite them to perform again.

Another instance was a reader’s letter in a newspaper saying that: “It is a pity for me to see second-rate magazines and newspapers which deliberately display pictures of film stars and teenage singers wearing sexy clothes. I am certain that the artistes quite understand that wearing sexy clothes will create [a] negative image in the society.” (Metro Bintang).
THE FLOURISHING OF THE USE OF THE MALAY LANGUAGE

Long before independence from the British, Malay or Bahasa Melayu was the official language of the country. Due to political unrest among multi-ethnic Malaysians in 1969, the name of the language was later changed to Bahasa Malaysia in 1970 as one of the ways to strengthen unity and to represent all Malaysians as one nation, one people. It has since been the official language for government administration. Institutional (transferred) Document (No. 2) 1971 states that the position of the Malay language as a national and official language is not to be questioned. Nonetheless, although Malay is the primary language, other ethnic languages (for example, Mandarin and Tamil) are still used.

The use of the national language as the official language at all levels has developed at a rapid rate. In universities, Malay has become the main language used by 80 per cent of people at all educational levels since several years ago. However, in the 1990s, the government and the people started using other languages, especially English. The Deputy Prime Minister, at the end of 1998, stated that the use of Malay was to be continuously widespread, yet it was also advisable to learn English as an international language in order to face globalisation.

During the 1970s, the government began to order Chinese, Tamil and English language schools to teach Malay. In the early 1980s, more Chinese and Indian students mastered or at least started conversing in Malay. Meanwhile, their parents could not speak the language (Lockard 244).

The impact of this was that Indians and Chinese became more familiar with Malaysian pop songs because they understood the language. The possible reason why the Malaysian pop music selling rate increased was the increase in the number of non-Malay listeners. This tendency was more commonly perceived in small towns and villages, and in non-Malay areas where Malay culture was significant.

The non-Malays also began to have significant influence on the Malaysian music industry as song composers, music arrangers and artistes. Some non-Malays gained popularity as Malay song pop singers in the early 1970s, including Andre Goh, Jenifer Yen, Elaine Kang, D.J. Dave and Helen Velu, as well as the leading group, Jayhawks. At the end of the 1970s, a large number of non-Malay artistes was recording and performing in Malaysia.

The number of albums in English made by Malaysians consequently decreased. Apparently, Malaysians consider local albums in English below international standards, and they prefer imported English songs. For their part, the recording companies were afraid that the Malaysian-accented English would hamper the selling of the albums.

In the 1980s, the number of non-Malay artistes in Malaysian pop music grew to be significant. The Alleycats, for instance, a rock group consisting of Indians and Chinese, had created many hit singles in Malay. Their music, the blending of Western folk and pop music essence with local beats, had broken the limits of ethnicity and religions. Other non-Malay groups that also gained success were Sweet September, Kenny, Remy and Martin, the Flybaits, Gingerbread, the Explorers, and Streetlights. Streetlights became known for their Punjabi Rock, the blending of rock music, vocals with Indian characteristics and Malay lyrics.

The most popular group in the early 1990s was Search, consisting of Malays and Chinese. In fact, non-Malay singers such as Fran Peter, Roy Santa Maria, Chris Vadham, Edmon Prior, Linda Elizabeth, Flora Santos, and the India Cendrawasih duo became the leading artistes of Malay pop during the 1980s.

To maintain the standard of Malay, the government, through the Language Board, closely monitors the words and lyrics in a music album. If they find any impolite word, any ‘twisting’ of the Malay language, or any use of non-standard words according to the Language Board, they would suggest that the artist change the lyrics. If not, the music album would be banned.

This happened to OAG. When journalists asked the group about their song, Nowhy2, which ‘twisted’ Malay words, the group stated that they were using modern Malay. “What is wrong with us if we want to make Malay ‘cool’?” The result was that Suruhanjaya Komunikasi...
Malaysia also became a market for Indonesian artistes. The history of Indonesian artistes’ existence in Malaysia began in the 1970s. Artistes like Broery Marantika, Hetty Koes Endang, Ernie Djohan, Emelia Contessa, Bob Tutopoli, Harvey Malaiholo and Ebiet G Ade had attracted the attention of the Malaysian entertainment world.

In 1974, Indonesian artistes’ albums were widely sold, just like Malay albums. Western and Mandarin songs followed in sales numbers. During the 1970s, the market for dangdut (a popular Indonesian music genre) had developed, with superstars such as Rhoma Irama, Muchsin Alatas and Elvy Sukaesih ranking high in popularity. In Malaysia, at that time, dangdut was very popular in the countryside. At the end of the 1970s, some Malaysian singers had adopted the dangdut style. Malaysian local dangdut became popular until the 1980s, with successful singers such as Zaleha Hamid, Malek Ridzuan, Nas Atea and Herman Tino.

In the 1990s, more Indonesian artistes became popular in Malaysia, including Dewi Yull, Nicky Astria, Nike Ardilla, and Anggun. Furthermore, in 2000, Malaysians welcomed Indonesian artistes such as Gigi, Sheila on 7 and Dewa. In fact, Sheila on 7’s record sales in Malaysia surpassed Siti Nurhaliza’s, a very popular Malaysian artiste.18

Indonesian artistes’ success in the Malaysian music market caused Malaysian pop music artistes to try changing their image and follow the Indonesian music concept. For instance, many Malaysian artistes wanted to sing Melly Goeslaw’s compositions. Melly is a popular Indonesian songwriter among Malaysians. Another popular Indonesian group was Dewa and many local groups tried to create new songs with lyrics a la Dewa.

Meanwhile, other foreign records gaining market share in Malaysia were Japanese records. The selling of Japanese music increased 400 per cent from 1983 to 1986. This reflected a Malaysian government policy to “look east”. The policy resulted in an increase in Malaysians’ interest to learn Japanese. Japanese singers and musicians who were gaining popularity in Malaysia were Mayumi Itsuwa, Momoe Yamaguchi and Kitaro, as well as bands like Loudness and Shojitai (Lockard 243-44).

In short, Malaysia had become a strong potential market for foreign pop music. The opening of international cassette and CD chain Tower Records in Kuala Lumpur in 2003 can be used as a standard of the popularity of the foreign music market in this country. Tower Records is a shop for any kind of music, which meant any foreign music could now be easily obtained in Malaysia. Therefore, the competition in Malaysian pop music industry did not involve local competitors alone, but also foreign competitors.

Meanwhile, according to Jennifer Thompson of the Malaysian Music Industry Academy Association (PAIMM), the Malaysian pop music industry has lately experienced a decline. In fact, the condition is terrifying. Many albums cannot be sold, international recording companies are forced to be more careful and are reducing Malaysian pop album production, and recording studios are complaining that there are not enough albums to record.

The reduction in Malaysian pop album production by some international recording companies operating in Malaysia has greatly influenced the local music industry. Recently, local recording companies have become more successful than international recording companies in Malaysia.

This fact is mainly felt in the production of Malay albums. Local recording companies are more aggressive...
in promoting new singers. According to NAR Records director Mokhtaza Ahmad, this happens because the international recording companies are too careful and “give very few chances to local artistes”. The courage of local recording companies in taking risks has achieved quite significant results when several Malaysian singers and bands promoted by them attained places in their Malaysian fans’ hearts. Mokhtaza added that this also happens because local recording companies have no choice but produce local artistes’ albums.

The production of Malaysian pop albums also involves more bumiputra (an ethnic category coined by the Malaysian administration which includes Malays) music entrepreneurs than non-bumiputra entrepreneurs or international companies. Malay pop music recording companies have an 80 per cent involvement of local Malay groups. The rest sees involvement of non-Malay groups (Chinese and Indian).

TOWARDS AN INTERNATIONAL MARKET

Malaysia having made a way into the international market for various industrial sectors deserves to expand her ability in exporting her music industry product. To break through to the international market, Malaysian artistes should not only improve their skills in marketing techniques, their vocals and their skills in playing musical instruments, but also should arrange good trade relationships with international music industry chains. The more important thing is they have to perform a unique thing and a musical reform. It is time for us to bring Malaysian music to the international market.

This is the view of Malaysian singer Datuk Shake, who has had a career as a singer in France for a long time. He believes that Malaysian pop music has a high chance of competing with international music. So far, only a few Malaysian singers have succeeded in selling their albums at the international level, not as exports from Malaysia. Besides Datuk Shake, who is popular in France with his French songs, there is Aishah, who recorded English language songs when she studied in New Zealand.

Besides the Malaysian public and some Malaysian artistes, several organisations, such as the Bumiputera Recording Association (MABRI) and PAIMM, have also expressed the wish to make Malaysian music go international. PAIMM was established in 1994 and aims to improve the music industry in all fields, including giving guidelines to raise the standards of the individuals involved in music.

The Malaysian government’s attitude towards this goal is actually supportive. This desire by the government and Malaysians to build Malaysia as the greatest and the best nation in all fields is captured in the oft-used slogan Malaysia Boleh (Malaysia Can). It can be seen, for instance, in their efforts to score records in all fields, from building the third tallest building in the world and the longest commuter railway in the world, to making the longest satay in the world.

The success of Malaysian artistes in foreign countries surely becomes a proud achievement for Malaysia. Therefore, the government states its willingness to help Malaysian artistes in all fields, not only in music, to go international. This willingness is even stated in the Malaysian development policy, The Third Outline Perspective Plan 2001-2010:

The government will also promote the development of the creative and performing arts and nurture talents in these areas. This is in line with efforts to preserve and promote the rich Malaysian cultural heritage as well as cultivate a society that is appreciative of the arts. The development of the arts will not only provide the avenue for talented individuals to excel in their fields but also contribute to the vibrancy of the Malaysian lifestyle. Outstanding Malaysian artistes and performers will also be given the opportunity to fully develop their talents and achieve international recognition (Malaysia. Economic Planning Unit 26).

If we discuss the attempts of Malaysian singers in trying to break through to the international market, then we will see debates among Malaysians and their musicians as to whether going internationally means to record albums in English. The problem of Malay albums finding it difficult to break through to international markets has frequently been used as the reason why a singer should sing songs in English to make that breakthrough. Many Malaysian singers have produced songs in English since the 1970s, yet they did not gain international popularity.
For example, in the 1970s, singers such as Sharifah Aini, D.J. Dave, Khatijah Ibrahim and Anita Sarawak produced English albums. Then in the 1980s, it was the late Sudirman Haji Arshad and Shima. In the 1990s, KRU, Ning Baizura, Deanna Yusof and Poetic Ammo followed suit. Yet, only local fans liked their English albums. Not a single album managed to make its way to the international market. Of these artistes, Sharifah Aini has been prolific and produced 11 English albums, including three compilations, since the 1970s. Yet, those albums were only distributed in Malaysia. Of note is that most Malaysian underground bands sing in English. Therefore, they encounter difficulty in getting listeners.

Despite this, Malaysian singers have not been frustrated; instead, they have kept writing songs in English. They perceive the situation as challenging. For instance, Innuendo released their Innuendo album in June 2002. Out of the 15 songs in the album, there were only two in Malay while the rest was in English. However, the popular songs played on the radio locally were those two songs. This is typical of local artistes whose Malay albums usually sold in greater numbers then their English ones. Nonetheless, like other bands that produced albums in English, Innuendo had made theirs for export purposes. They believed that Malay songs could not be exported.

In Malaysia, sales of Malay and English language albums are actually equal, with most of the sales of English language albums coming from non-Malays. Considering that half of Malaysia's population of 22 million consists of non-Malays, Malaysian bands who write songs in English actually highly expect to attract music fans whose mother tongue is not Malay, but they do not always succeed. This could possibly be because many people think, “instead of buying English albums from Malaysian singers, it is better to buy international artistes’ albums; it is more satisfactory”. That is generally the Malaysians’ negative opinion of their local artistes’ attempts to improve their market sales by producing albums in English.

Sharifah Aini does not subscribe to the view that the requirement for making it in the international market is to produce songs in English. According to her, Malaysian singers should not imitate foreign singers to secure their place in the international market.

The success of Hindustani songs in Malaysia is determined by staying true to their identity. Therefore, Malaysian artistes should do likewise. Good quality Malay songs could attract the world’s attention because they do not exist in the West. It is difficult to compete using songs in English because Western singers also produce good quality songs. For example, Sheila Madjid has proven that foreign fans can accept her songs although they do not understand the Malay language. Sheila's albums have been sold in Japan. Nevertheless, this belief is not shared by artistes like Yusof Amir, who wrote songs in English because he thought using English would pave the way to international markets. However, according to Yusof, even though he used English, he still used Malaysian music concepts. Besides the domestic market, his album, Altered Native, was distributed to Hong Kong, Thailand, Singapore, the Philippines, Taiwan, and South Korea.

Other bands also did not stop trying to make albums in English because they believe it has a market. For instance, KRU stated that songs in English that were written by Malays are difficult to sell. Therefore, KRU commissioned a songwriter from the United States to create a song for them. With a song written by a native speaker, KRU believed that their album titled The Way We Jam would be successful in the market. KRU also intended to sell this album to a more global market. Therefore, the songs in this album were focused on that market as well as the Malaysian market.

There are cases where Malaysian singers using a Western beat gained success abroad. For example, the Too Phat duo, known for their Anak Ayam song, enshrines Malaysian identity by slipping Malaysian lyrics and traditional rhythms into some of their songs. For Too Phat, the Malaysian identity is their key to success due to their unique use of local music influence in the hip hop music that they perform. Too Phat managed to sell their album in Singapore, Indonesia, Thailand, Brunei, Korea and the Philippines. Too Phat also performed five times in Indonesia, and each show was a sell-out success.
Meanwhile, an Islamic music movement has swept over Malaysia and looks set to spread to the rest of Asia. A clean-cut singing group of young men called Raihan leads the movement. The five members of Raihan are singing their way into the hearts of their fans through traditional Islamic religious hymns called nasyid. Raihan gives these traditional tunes a modern touch.

The group’s debut album, Puji-Pujian, released in 1997, has already broken record sales in Malaysia, with 650,000 copies sold. The previous record holder sold 350,000 copies. The group’s second album has sold 150,000 copies and is still going strong. MTV Asia also regularly plays their videos and the group’s recording company, Warner Music Malaysia, reckons that Raihan will soon become a byword in Asia as it is now in Malaysia.

Chandra Muzaffar, director of the Institute for Islamic Understanding and the president of the International Movement for a Just World, says Raihan’s success in this country is due, by no small measure, to a desire of many middle class Malaysians to identify with what they see as another expression of Islam. “It is a manifestation of a search for an Islamic identity,” says Chandra Muzaffar. “One could argue that it is an attempt to move away from what you see as Western identity—similar to Muslim women giving up Western clothes for Islamic dress.”

However, social and cultural critic Amir Muhammad thought Raihan’s fresh take on traditional music should be credited for the group’s rapid rise to fame. “People were in the mood for something soothing and new,” he observes. “Rural Malays, too, were relieved to find music that is slickly produced and local without (being) too tacky.” Raihan sings mostly in Malay. In this case, language did not stop it from gaining fans from abroad.

A Raihan spokesman says, “Western pop music culture has a lot of negative things, such as sex and drugs. We are introducing the positives to [pop music], such as love of God, ideas of sharing, compassion, respecting elders and the family.” In Malaysia, Raihan’s success has been followed by the emergence of many nasyid groups, several of which have also gained success. Among them is Hijjaz, a nasyid group that frequently performs in foreign countries such as Indonesia, the UK, Jordan, Thailand and Pakistan.

The truest and the most realistic international markets expected by Malaysian artists at this moment are countries where Malay people reside, for instance, Indonesia, Singapore and Brunei. Among these countries, Indonesia is the most frequent main target for Malaysian singers to break through to foreign markets. This happens because Indonesia is a country with the most Malay speakers in the world, and shares many cultural similarities with Malaysia.

Indonesia has for long been a tempting market target for Malaysian singers. In the 1980s, Search succeeded in reaping huge benefits with their hit single, Isabela. Afterwards, more and more Malaysian singers released their records in Indonesia, including Sheila Majid and Siti Nurhaliza. Other Malaysian singers try to get public attention in Indonesia and to compete with local singers. Meanwhile, although Singapore and Brunei have fewer Malays, they are still considered potential markets.

Notes

1. The first recording company was His Master’s Voice in Singapore, followed by other recording companies such as Columbia, Pathe, Parlophone, Odoen, Bekah, Grand, Heidenburg, apple, Chap Kucing and Canary Records. It was only after the 1950s that the Malays could establish and manage a phonograph record company. The first such company established belonged to Hasmi Taher in Singapore.

2. For instance, Alleycats (Philips), Sudirman (EMI), Sharifah Aini (Emi), The Blues Gank (WEA), Search (Philips) and Asiabeat (CBS).


5 The states which are strongly controlled by PAS are Kelantan, Kedah and Trengganu.


7 Samurai is made up of Zamri Haroon a.k.a. Labib, Azwan Aironi Abdullah a.k.a. Wan, Almi Astreno Abdullah a.k.a. Ami. This group comes from Tangkak, Johor.


13 An award in the Malaysian music industry.

14 Officially, the enhancement of Malay language use and the use of English are stated in The Third Outline Perspective Plan 2001-2010 (25).


19 Ibid.


21 The Look East policy was introduced in February 1982. The main objectives of this policy were to promote the adoption of the work culture, ethics and values from Japan and Korea. It is a known fact that Japan and Korea’s work cultures have contributed significantly to their economic successes (Jayum A. Jawan 195).


24 She sits on the General Board of Malaysia’s Music Industry Academy Association (PAIMM).


26 Recording companies such as SRC Records, NAR Records, FMC Records, KRU Records, Broadway Entertainment, Luncai Emas, MSO and Nova Music saw stronger sales after the international recording companies experienced an economic setback since 1997 (Saharudin Mustafa).

27 Ibid.


31 Ibid.


39 Ibid.

40 Terrina Husein, “It’s All Good for Too Phat: Malaysian Rappers are Huge in Indonesia and Thrilled to Open for Linkin Park,” The Malay Mail 16 October 2003.


42 Ibid.

43 Ibid.

44 Hijjaz, formed on 10 January 1997, consists of Mohd. Faizal Osman, Munif Ahmad, Putra Aiman and Muhammad Arifin Ahmad Ibrahim.

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Interviews


Hafiz Askiak, Head of Department of Music, University Malaysia Sarawak. 7 February 2004.


Power, Purpose, Process, and Practice in Asia
The Work of the 2003/2004 API Fellows
INTRODUCTION
My API Fellowship took place in two countries. From July-December 2003, I was in Japan and from February-May 2004, I was in Indonesia. My research originally took the form of doing interviews with filmmakers and curators, but rather late in my Japan stay, I decided to make an independent movie in each of the countries.

The first, Tokyo Magic Hour, is an experimental romance. The second, The Year of Living Vicariously, is a socio-political documentary. It was especially interesting to me to work on two projects (each lasting about an hour) that present such a substantive contrast.

TOKYO MAGIC HOUR (60 minutes)
The inspiration for this project came through being exposed to many experimental Japanese and international films through my research at places in Tokyo like the Uplink and Image Forum distribution labels and the Yamagata International Documentary Film Festival library. There were also a few other influences that took root during my stay in Tokyo such as workshops by Jon Jost (American filmmaker) and screenings of new works by Japanese students at venues such as Waseda University.

I wanted to avoid a travelogue or musings on the outsider-in-Tokyo experience as these have been amply covered in films such as Sans Soleil (directed by Chris Marker) and Tokyo-ga (Wim Winders). As a much-photographed urban space, Tokyo can instead present itself as a blank landscape on which other thoughts and impressions can be projected. So I took it as a structural challenge to never even mention the word Tokyo, and have not a single word in Japanese in the voice-over text. One can perhaps even read here a wilful politicised inversion of the usual First/Third World relationship.

The imagery was formed through digital manipulation of Tokyo scenery. I had worked with nine individual camera-people, university students. I wanted the images to be something that the students themselves found interesting rather than have me dictate what I wanted. Then I would edit these images and manipulate them to accomplish a form of visual abstraction. At their heart was Tokyo itself, but they were combined, distorted or composited to form shapes and movements that did not easily correspond to any observed reality.

The voice-over that would accompany this imagery was something that took a lot of time and many drafts. Many approaches were attempted and then discarded. The idea that I finally set upon was to string together a love story structured along 60 Malay pantun (poems). Getting hold of these pantun itself required more research when I came back to Kuala Lumpur. These pantun, the identity of whose authors are lost in the mists of history, have a lulling or incantatory feel and, therefore, an automatically atavistic and old-fashioned aura even to people who don’t understand the language. This was then contrasted against the abstract hyper-modern visual sensation of the images.

I worked with a Malaysian composer, Hardesh Singh, who wanted to investigate the possibility of a soundscape inspired by Japanese musicians such as Ryuichi Sakamoto but with his own twist. The idea for the sounds is to then provide a challenging parallel and contrast to the imagery. Many of the sounds were also manipulated from the ones recorded live during the shoot.
Issues such as the cultural differences between Japan and Malaysia are refracted subtly or not referred to at all in the voice-over. By keeping the story to only two individuals—referred to only as “I” and “you”—the primacy of individual experience is affirmed rather than presenting a series of contrived cross-cultural statements.

*Tokyo Magic Hour* has been screened at a few international film festivals, namely the International Film Festival Rotterdam (where it made its world premiere in January 2005), the San Francisco International Film Festival, the Hong Kong International Film Festival, the Singapore International Film Festival and the Melbourne International Film Festival.

Many people who went to see a work with that title expected a Japanese film. How would a local or international audience react when they see that the movie is entirely in Malay? The project also subtly demonstrates that Tokyo, far from being a homogenous entity that an outsider will expect, is also a multi-cultural city with many pockets of difference. I prefaced the video with a quote from the Lebanese author Jalal Toufic: “All love affairs take place in foreign cities,” which adds another national identity to the mix but also acknowledges the sense-altering effect of a heightened emotion such as love coupled with the romantically disorienting effect of an urban Other.

*Tokyo Magic Hour* has already generated many reviews from international critics. Here is a sample that can be found online:

**Robert Williamson, Firecracker-Media.com (UK):**

While the rest of us get hung up on the visual purity of film, Malaysian independent filmmakers have wholeheartedly embraced DV (digital video) as the most effective way to express their artistic urges. While some of the films coming out of the country may have been more suited to film but ended up on DV for economic reasons, others actively try to exploit the characteristics and qualities of digital imagery. One such film (or should it be video?) is Amir Muhammad’s *Tokyo Magic Hour*. A sixty-minute visual and narrative experiment, Muhammad asked a group of Japanese film students to shoot images of Tokyo which he then compiled and manipulated to create a visual accompaniment to a series of traditional Malaysian poems ...

The film’s images work on several levels. Some articulate the graphic qualities of the digital format, while others attempt to reproduce familiar avant-garde iconography digitally (Stan Brakhage is a significant influence in this respect). This interplay of technologies is considered both seriously and ironically: at one point the soundtrack appears to include the sound of the flickering of a film projector, though physically this is not a film. More generally, however, the images offer an impressionistic interpretation of location: an appropriately hypnotic, dreamlike assortment of kaleidoscopic textures, underwater reflections, time-lapse silhouettes, urban pathways and metal frame structures, with neon, ink stencil and bacterial-looking textures overlaid. As the title suggests, many of the images are of glowing skies, Amir having specified that shooting take place at sunset —the time at which things fade away.

In contrast, the music of *Tokyo Magic Hour* is perhaps its most accessible feature—a collage of atmospheric soundscapes constructed from electronic beats and ambient samples which provides an often soothing counterpoint to the ‘difficult’ visuals. The music also provides a contemporary counterpoint to the other aspect of the soundtrack, the poems ...

A film like *Tokyo Magic Hour* raises questions about whether it is appropriate to think of a film made by friends of different nations without any corporate funding —without even anything resembling a crew—as having any particular nationality... If the experimental nature of the film makes it sound like a gruelling slog, this is not the case at all. Rather than taking an overly theoretical approach, when describing the process of selecting footage and mixing it with a variety of music and sounds, Amir likens himself to a DJ. The exact relationship between image and sound is not always obvious, but is rarely completely bewildering. In any case, it is probably not possible to take in all the allusions and complexities of the film in one viewing; that is not really the point.

As the film’s larger aim is to capture a sense of disorientation and unfamiliarity, a large part of the experience of watching *Tokyo Magic Hour* is a simple
sensory overload. As such, it is pointless to get too hung up on trying to attribute precise meaning to each shot or word; the film's broader themes should offer some meaningful resonance to anyone who has experienced emotional or geographical dislocation. In a perverse way, when seen in this light, what is in essence a semi-abstract, experimental film actually becomes quite accessible.

Benjamin McKay, Sensesofcinema.com (Australia):
Tokyo Magic Hour (2005), proved to be a challenge to some in the audience, but it was a challenge that I was thrilled to engage with. With a very painterly eye for the visual, in this film Amir Muhammad is unashamedly exploring new potentials for onscreen composition in what appears to be a deeply personal, but nonetheless guarded, exploration into the purging of pain. He deftly weaves the visual with the aural and by using a nicely edited selection of traditional Malay pantun poems, tells a very moving story of the love between two men that begins with the fits and starts of romance and develops into a full love affair before painfully subsiding into decay and closure.

The film was made while the director was working in Tokyo, and while it is not overtly a film about that city, Tokyo and Amir Muhammad's engagement with it resonates throughout. The images in this film move from the stark and still cityscape, through kinetic touches from architecture, through to lavish set pieces of pure abstraction, all the while held together by both the narrative of the poetry and the power of a very good original score.

Michael Sicinski, The Academic Hack (US):
Tokyo is about the deeply felt, intensely crafted language of love. Muhammad compiled footage shot by various videographers around Tokyo, subjecting it to heavy processing along the lines of early video-synthesizer works by Scott Bartlett and Ed Emshwiller. His role is both editorial, piecing the footage together in rhythmic, contrapuntal ways, and painterly, working and overworking the "surface" of the video images. Muhammad pushes many sequences to the very limit of intelligibility, resulting in colour whorls recalling Jordan Belson or the jagged stipple-scratches of Brakhage.

But Muhammad's approach is quite different from the American avant-garde, in that he allows a dense, intricate soundtrack to hold the images together. Clanging electronica and ambient sound combine with the dominant refrain, a suite of short poems detailing the spark, crescendo and collapse of a love affair between two Muslim men. This provides Tokyo Magic Hour with a narrative thrust that is typically missing from "true" experimental cinema, at least in its North American variety.

In fact, Muhammad's work has more in common with British experimental film and video work. Derek Jarman has been a frequent, apposite point of comparison, but David Larcher and Christopher Petit are touchstones as well, artists whose approach to Brakhagian "first person cinema" has been filtered through both video art and European art film, resulting in a more catholic attitude toward sound / image relationships and media hybridity.

Muhammad is a worthy heir to these artists' tendency toward grand, cosmological gestures, but what's truly remarkable about Tokyo Magic Hour is the way it harnesses both non-representational imagery and the poetic tropes of doomed forbidden love to comment on the unique erotic prohibitions and possibilities of the Islamic faith. Implicit in Muhammad's tape is an assumption of travel or exile as both the specific conditions of the men's homosexual tryst, and as an example of a global homelessness.

THE YEAR OF LIVING VICARIOUSLY
(63 minutes)
I got to know that an Indonesian feature film, Gie, would be made during and after my Fellowship period. This film is set during the politically turbulent years of the 1960s and centres on an Indonesian Chinese activist, Soe Hok Gie.

I found the timing of the making of Gie especially opportune as it took place virtually simultaneously with Indonesia's first direct presidential elections. This gave me a good opportunity to witness in some way the political process of Indonesia as compared to Malaysia.

The relationship between Malaysia and Indonesia is an ambiguous one. On the one hand, Malaysians in the 1940s and 1950s greatly looked up to Indonesia because the latter country had pioneered political independence and intellectual activities such as the writing and
translating of books. This perception changed during the Confrontation era of the 1960s when then-president Sukarno attacked the newly formed nation of Malaysia as a colonial construct.

The subsequent decades saw a shift in cultural relations between the two countries. Malaysians came to view Indonesia as a country that provides manual labour. In the 1970s, it can’t be denied that Indonesian cinema had an enormous impact on Malaysia, but there were de facto bans of films and songs from each other’s country due to some bitter experiences of market protectionism in the 1980s.

Another shift in the cultural relations between the two countries took place post-1997. It is not a coincidence that this was also a period of greater democratisation in Indonesia, once again admired by progressive Malaysians. Now, Indonesian pop music and films once again are making a huge impact on Malaysian audiences—but merely as a consumerist haven, divorced from political context.

My documentary, *The Year of Living Vicariously*, interviews the cast and crew of the film *Gie* while that film is being made. This film community is taken as a microcosm of Indonesian society. I did not add any of my own words or voice (aside from a few times when my questions are heard) but let them have their say. Among the topics discussed were: the changing nature of Indonesian politics, from dictatorship to democracy; the perception of the Chinese race; the role of demonstrations; local cinema then and now; and so on. I used an Indonesian cameraman and we ended up shooting 80 video tapes (too many!) which were edited down to 63 minutes.

The video is presented entirely in split-screen for several reasons: to visually demonstrate a sense of sensory overload that I experienced when staying in Jakarta for the first time; to show the busy nature of a film-set; and most subtly, to reinforce a sense of parallel histories and destinies that bind Malaysia and Indonesia.

The interviewees ranged from film student apprentices to veterans who have been working since the 1960s. Taken together, the project is meant as a street-level view of the evolution of Indonesian society. This is the first time that a long-form documentary is made as collaboration involving a Malaysian director on an Indonesian subject. As such, the results will be interesting, I think, to audiences in both countries.

As a result of talks that I gave at Jakarta venues such as Teater Utan Kayu and Institut Kesenian Jakarta, it became obvious that although there is some curiosity about what each other’s country is doing, there has been very little concrete exchange. I am very happy that my API Fellowship has given me a chance to take a small step in rectifying this. The bulk of my documentary was actually shot after my Fellowship period, thanks to the continuing sponsorship of the feature-film company Miles Productions.

I have also screened this documentary in many Malaysian college venues. The response from young Malaysians is interesting as they found their Indonesian counterparts to be “very eloquent”. This ostensibly patronising observation is also an indication of how little actual exchange there has been between the two countries of late. What George Bernard Shaw once said of England and America can apply to Malaysia and Indonesia too: namely, they are two continents divided by a common language.

The *Year of Living Vicariously* had its world premiere as part of a double-bill with *Tokyo Magic Hour* at the International Film Festival Rotterdam in January 2005. After that, it screened in other festivals including San Francisco and Singapore (as part of the same double-bill) and Vancouver (by itself). It has generated several reviews from the international media, a selection of which is presented here:

**Michael Sicinski, The Academic Hack (US):**
Ostensibly less radical than *Tokyo Magic Hour*, *The Year of Living Vicariously* is more directly engaged in the immediate demands of the social world. If TMH could be seen as a partial extension of certain tendencies in Chris Marker’s work, such as the “Zone” segment of *Sans Soleil*, *The Year* combines elements of Marker’s behind-the-scenes looks at filmmaking, such as *A. K.*, with leftist documents like *A Grin Without a Cat*. A one hour documentary presented in split-screen, *The Year
examines, on the one hand, the production process of Riri Riza’s film Gie, a dramatisation of the life and death of Soe Hok Gie, a radical student activist and anti-corruption crusader in Indonesia.

Although we see brief clips from the film, mostly the filmmaking is kept as a kind of background, against which Muhammad interviews various Indonesian citizens associated with the production of Gie. Muhammad’s half-and-half method, although it lacks the formal interplay of Tokyo, dramatizes a paradox. While the Indonesian film industry is pooling relatively huge resources to fund a film lionizing a radical dissident (and Gie is Indonesia’s official submission for the 2005 Foreign Language Oscar), many of those people who are involved with making the film express ambivalence about the transition between Sukarno’s authoritarian leftist and Suharto’s right-wing dictatorship. In fact, those who don’t shrug politics off altogether tend to concede that Suharto was tough to live under, but got things done. While most interviewees stop short of outright nostalgia for the Suharto regime, it’s hard not to think of Fassbinder’s conversations with his mother in his segment of Germany in Autumn, in which she expresses longing for a kindly fascist despot.

Muhammad tends to stay out of things, his voice audible on the soundtrack only once. But as a Malaysian observer, he clearly conveys a sense of wry detachment, trying to decipher Indonesia’s troubled political history as it played out on the ground. Although The Year is too open-form to draw firm conclusions, Muhammad implies that like his split-screen technique, authoritarianism works because when you try to look at your own situation, you are always implicitly forced to look at something else. Muhammad lives vicariously through the Indonesians, working out a sociological and creative problem by considering their lived history. Likewise the Indonesians he interviews appear to experience their own political past as vicarious experience, whether or not they are involved in the making of Gie. Whether Riza’s film will serve as a bulwark against amnesia, or amnesia’s official manifestation, remains to be seen, but Muhammad is staking out a more direct strategy against forgetting.

Brian Darr, Sensesofcinema.com (Australia):
The Year of Living Vicariously (2005) is at once a document of the activity behind the scenes of the production of the most expensive Indonesian film to date, Gie (Riri Riza, 2005), and an attempt by a Malaysian filmmaker (Amir) to advance his understanding of the enormous country cradling Malaysia on the East, West and South. Using a split screen to simultaneously show images shot at two different times and/or places, Amir not only gives us twice as deep of a peek inside the making of Riza’s politically-oriented epic, but also sets up many humorous juxtapositions and visual assonances.

Tony Rayns, Vancouver International Film Festival (Canada):
This is Amir Muhammad’s highly personal investigation into the current state of Indonesian culture and politics ...Let’s be clear: this is not “The Making of Gie.” It features members of the crew and cast, but Amir’s questions here are not about Gie, more about their memories of the Soeharto years, their feelings about the upcoming elections and their hopes for the future of Indonesia. There are plenty of discursive asides (the sequence devoted to the legend of the crawling nurse somehow sticks in the mind), and Amir presents most of it in split-screen images, so there’s always plenty to look at. The result is impressionistic rather than journalistic, but it reveals plenty about Indonesia today. And it confirms that Amir is cinema’s most interesting essayist since the heyday of Chris Marker.

Gertjan Zuilhof, International Film Festival Rotterdam (The Netherlands):
Muhammad loosely intertwines two documentary genres: that of the ‘making of’ and that of the political reportage. The film was largely shot on the set of the latest epic film by Riri Riza about political machinations in the 1960s in Indonesia. Muhammad collects beautiful material (to which justice is done thanks to the use of two adjacent images), but only appears to show an indirect interest in the film-to-be. The shots are set in the time when Indonesians were first able to elect a president directly, and it is the politics of today’s Indonesia that really gets people talking. The result is a clever, striking and entertaining political documentary. One of the best of its kind.

In contrast to Tokyo Magic Hour, which was met with some bafflement by local audiences and even critics, The Year of Living Vicariously has, due to its more approachable
subject matter, generated several positive notices particularly in the Malay-language media including the informal realm of blogs. Some of these blogs are http://tontonfilem.blog-city.com and http://rebiu.blogspot.com/

CONCLUSION
By opting to create independent films in the two countries instead of the initially formulated research-based approach, I have gained greater practical experience. Speaking to people then became part of the process of creation rather than ‘interviews’ to find out how they think and work.

I chose Japan and Indonesia for the contrast: Japanese cinema is very established while the Indonesian one is only recently coming out of a prolonged slump. Ironically, my Japanese experience had me working with a very minimal crew of students and volunteers, while in Indonesia I was embedded in the making of a relatively expensive film with an enormous crew!

There are many other ironies and parallels attached to the two projects. Needless to say, many valuable contacts were made in both countries and these are being followed up on in the form of further collaborative projects and correspondence.

Together with this paper, Amir had presented video extracts of his projects, ‘Tokyo Magic Hour’ and ‘The Year of Living Vicariously’, at the Third API Workshop in Fukuoka, Japan.
FLEXIBILITY, PATRONAGE AND CLASS: OPPORTUNITIES FOR WOMEN DIRECTORS IN SOUTHEAST ASIA
ANCHALEE CHAIWORAPORN
Independent Film Critic, Thailand

INTRODUCTION
Opportunities for the participation of women in film-making in Southeast Asia, referring here to Indonesia, Malaysia and the Philippines, have many unique characteristics that are rarely found in film industries elsewhere. While those in other regions enter the industry solely by their ability or educational background, other factors are at play for Southeast Asian women directors. Furthermore, despite the fact that the countries in this region are geographically close to each other, the participation of women in film-making has been influenced by the diversities of their cultural backgrounds, social thoughts and Asian values, and the characteristics inherent in their countries’ respective film industries.

Across all these, women are generally able to get directing opportunities if these three major factors are in place: the flexibility of film industries, the availability of social patronage and the privileges accorded by social class. While the film industries in these three countries are at completely different levels of development, it can be argued that the more developed and rigid the mainstream film industry is, the more difficult it is for women to get opportunities to become directors.

To understand the status of women directors in the film industries of Southeast Asia, it would be useful to know how cinema is categorised in most film industries. In general, films can be divided into two groups known as mainstream and alternative cinema, which are defined by their investment, distribution and screening.

Mainstream cinema refers to productions that have received investments from studios¹ or production companies, are systematically distributed by the same organisations or specialised agents, and are released in commercial theatres. Alternative cinema, on the other hand, has a wide range of definitions. It be funded by film-makers themselves or by some other funding organisations, but not by the studios. Most importantly, it is shown in alternative venues like cultural centres or at film festivals.

THE FILM INDUSTRIES AND WOMEN’S PLACE IN THEM
Of the three countries, the Philippines’ mainstream film industry is the most developed, and the country has an outstanding movie culture. There are three major film studios—Viva Entertainment, Star Cinema and Regal Films—and more than 50 production companies, some of which are affiliated with these studios. Production went up to an annual total of 200 movies at its peak in the decade leading up to the year 2000, before going down to 60 titles in recent years.

Film is a powerful medium that can reach all classes of people, and stars become important public figures in this country. Due to their fame and lots of publicity, these stars usually win any elections in which they enter their candidacy. Many of these famous stars become politicians, governors and even president (for example, Joseph Estrada).

Due to the popularity of movies and film stars, the Philippines is also the country that has the most women directors among the three countries. In its 85-year cinematic history, since the first feature was made in 1919,² there have been 13 women directors in the mainstream film circle, five of whom are still working.
today. Each of these women directors has made more than a dozen films except the few who emerged in the pioneering era.

The first woman director emerged in 1933 and made only one movie. Between the 1930s and the 1980s, there were two to three women directors in each decade. It was only in the 1990s that the number of women directors rose to five. The five are a mix of both old and new generation film-makers. Laurice Guillen and Marilou Diaz-Abaya have been recognised together with their male counterparts as the Philippines’ new wave of film-makers of the 1980s. Olivia Lamasan, Rory Quintos and Joyce Bernal came in the 1990s. All of them are famous and highly recognised, either commercially or artistically in the Philippine film industry.

In the alternative circle, however, it is unclear how many women directors there are. According to filmmaker-cum-scholar Nick De Ocampo, there are not so many women alternative film-makers because most of them, after finishing their courses with the Mowelfund Film Institute, for example, usually go into other related fields, especially television series and commercials. 3

In contrast to the Philippines’ developed mainstream film industry, Indonesian film-making is in the transitional realm of amateur and home-made movie production after the whole film industry collapsed between the late 1980s and the mid-1990s. The collapse was due to the monopoly of film imports and screenings. 4 This situation made most directors move to television. Only Garin Nugroho and Slamet Sdajarho continued making films. It was not until 1998 that the first omnibus film, Kul-de-sac, was made without any funding assistance. Produced by a group of new and young film-makers, it sparked others to follow along the same lines, and began revitalising the industry.

However, there is still no clear system of professionalism in the industry in all aspects of producing, filmmaking, distributing and screening. All film-makers are independents, what I define here as the ‘young and wandering generation’. Some of them have set up their own companies which are engaged in a range of business, from television programmes to commercials and music videos, while others work on an individual basis.

Funding comes from diverse sources including private investment, from relatives or friends and pre-sales rights. Half of the film-makers use digital format to make movies. Film-makers produce and distribute their works themselves. They have to directly contact the only screening group in the country, known as Group 21, which owns class-A theatres. If any work is not accepted by the Group 21 theatres, producers have to release their works on their own, whereby they would rent a projector and a small theatre, and sell tickets. Release dates range from three to five days at the shortest, and more than three months at the longest.

Women play a significant role in revitalising the dormant Indonesian film industry. Before the recent emergence of women film-makers, there were only four female directors, each of whom was related as a wife or sister to prominent male producers, directors or film experts.

Today, however, most of the leading producers, directors or scriptwriters are women. In fact, the recent revival of Indonesian cinema was brought on by Mira Lesmana, who produced and directed the turning-point film, Kul-de-sac, in 1998.

Following the collapse of Indonesian cinema nothing in the past was left for the new generation to use as tools to start the industry anew. Everyone had an equal chance to develop film-making again. This situation gave women the opportunity leading to their dominance of the industry in the post collapse era.

In the wake of the emergence of new cinema, producing has become an important part because it is the first resource of the film-making process. This has simultaneously promoted the participation of women in national cinema. In a weak film industry such as Indonesia’s, producers are required to handle all kinds of responsibilities, from funding acquisition and movie planning to distribution and promotion—skills that women in film industries in Southeast Asia have long been acknowledged as having.

Although there is no clear proof that women can do better in managing or in producing, they have long been involved in these jobs. Many of the great directors
in Thailand, for instance Prince Chatreechalam Yukol and Cherd Songsri, gained achievements in their careers due to the support of their wives or female partners who were their producers. Similarly, the recent emergence of women directors in the South Korean film industry is also due to the success of many women producers, who started to emerge in the early 1990s.\(^5\)

In the Indonesian film industry today, there are three women who direct features. Nan Achnas has three productions (Kul-de-sac, Whispering Sands and The Flag), Nia Dinata has two (Ca-bau-kan and Arisan) and Upi Avanti, one (Hari Mencari Cinta). Besides them, there are other important women producers around, including Christine Hakim, one of the three from the old generation film industry who are still active to the present day; Mira Lesmana, who, after Kul-de-sac, made several other successful films, including Sherinah and Ada Apa Dengan Cinta, that brought audiences back to watch domestic cinema; and Shanty Harmayn who is producing and running the Jakarta International Film Festival and organising several activities, including the support of documentaries.

Since there is no clear, systematic industry in Indonesia, all of the film-makers started from the same level, as independents. All of them can be called alternative film-makers as well since mainstream films in Indonesia are made up of imported films. However, if the format of productions can be considered an important requirement in the consideration of film-making, there is another group of film-makers that can be called alternative: those who make short films. There are a lot of short film makers, but the most promising and consistent one is Tin Tin. She has made six short films, some of which have also been bought by overseas buyers.

Compared to the Indonesian film industry, the Malaysian film industry is in far better condition in the development of professionalism overall. The industry is in a state that I call 'the transitional professional industry'. It is also the most complicated industry.

Malaysia is a multiracial country with a mixed population of Malays, Chinese and Indians. The industry suffers from this cultural diversity,\(^6\) especially due to government policy. Each race has a strong attachment to its own traditions and values, and chooses to go to films that reflect their culture.

The country’s film imports are very diverse in order to serve the wide range of interests. The Chinese Malaysians watch films from Hong Kong and Taiwan while Indians prefer those from India, specifically Tamil and Hindi films. Only Malay audiences do not have specific film imports that are closely attached to their cultural background, and this makes them the only target group for domestic productions. In other words, Malaysian cinema is defined only by its Malay audience. The market is, therefore, very small. In 2003, there were only 2,011,200 Malay cinema film goers (17 per cent of the population),\(^7\) most of whom were urbanites.

These complexities are further affected by the wide use of English as a second language which is reflective of social class. In Malaysia, Malay films and newspapers are considered of low status. Only the low- and working-class Malays are the main targets of Malay films. From time to time, many directors have attempted to capture all groups of audiences through the use of English-language dialogues, but they have never succeeded.\(^8\)

In the Malaysian mainstream film industry, there are three studios: Indian-owned Tayangan Unggul, Malay-owned Grand Brilliance and Chinese-owned Metrowealth. There are two producing strategies: through direct contact of a producer or a director from one of the three studios, or by seeking personal investment or financial help from directors or producers. In the first group, directors pitch their projects or are called in by one of the studios.

Half of the annual productions are made by the three companies mentioned. The rest are produced by independent companies, which have several ways to seek financial support. They could take a loan from the government body, the National Film Development Corporation (Finas), or the Development Bank. Other self-financed producers use their own incomes, which are taken from their companies’ related jobs, such as producing television programmes or series. Producers usually do their own distribution. Screenings are mostly done in the two chains of multiplex operators, Tanjung Golden Village (TGV) and Golden Screen.
Cinemas (GSC), which have to give local movies at least seven days’ screen time, according to government requirements.

Alternative film-makers in Malaysia, as in many other countries, face difficulties in making their own movies. They spend their own money, asking it from friends or seeking sponsors. The budget is very low, and digital cameras are mostly used in film-making to save costs. Screening is usually arranged in private venues or at international film festivals. In fact, the recent emergence of Malaysia’s new wave of alternative filmmakers started from this group, whose productions have been regularly invited to screen overseas. Interestingly, the audiences for these films are a mix of all kinds of races but they share one thing in common: they love to watch films and are open to all kinds of films.

One of the common characteristics, both in the mainstream and in alternative film-making in Malaysia, is the difficulty in developing professionalism. This is attributed to the condition of having to keep movie making small due to the limited and segregated market. Almost all film-makers, including actors and even directors, do not have full-time film careers. Usually, they cross over between film-making and other permanent careers, especially television productions such as television commercials, dramas and programmes. They use different kinds of media, including Betacam, 16-mm and 35-mm celluloid and digital. Film-making itself covers a wide use of film-making formats. In fact, film-makers do not rely only on celluloid to tell their stories.

There have been seven women directors in the history of the mainstream film industry in Malaysia. Of these only three, however, can really be called directors. They are Rosnani Jamil (who started in 1987 and has five pieces of work), Shuhaimi Baba (started in 1992 and is recognised as one of the two important new wave directors) and Erma Fatima (who begun in 1995 and has three pieces of work).

In the alternative circle, there are three women who have produced more than one piece of work each. Yasmin Ahmad started in 2003 and has two pieces, Rabun (2003) and Sepet (2004). Low Ngai Yuen has made one award winning short film, Your World My World, and one section of the omnibus film, Visits: Hungry Ghost Anthology (2004). Tan Chui Mui is a well-known director of many short films.

**CLASS AND PATRONAGE**

In general, three influential factors affect women’s opportunities in gaining entry to lead positions in the film industry: the nature of the film industry in each country, their class level, and professional networking. It can be argued that the more developed a mainstream film industry is, the more difficult it is for women to get a chance to become directors. This is evident in the case of the Philippine film industry. Although the five active women directors have been widely recognised in their country either commercially or artistically, their directing opportunities were given to them only after a long working experience in the industry, or a period long enough for them to build connections or trust.

Laurice Guillen was known as a promising actress in theatre and had scored a decade-long acting career in films before making her directorial debut with a rather new company, Agrix Film. Olivia Lamasan and Rory Quintos had spent years in television before crossing over to their first films, which were also funded by a new affiliate of the television channel operator they had worked for. Joyce Bernal had edited 30 films before she was given title credits, and it took her another eight years before she directed her first feature. Only Marilou Diaz-Abaya started everything on her own right away as a director because she formed the company with her husband, who is a cinematographer.

Furthermore, the popularity of melodrama in Philippine cinema promotes women’s entry into the film industry. In the Philippines, melodrama, comedy and action are always popular with local audiences, especially the lower- or working-class people. Women are known to be good as melodrama storytellers, especially the directors of the 1990s like Olivia Lamasan and Rory Quintos, who crossed over from directing television melodrama into film. Similarly, Joyce Bernal with her fast edits has recently become famous in the comedic genre—another popular genre.

According to film academic and critic Dr. Nicanor Tiongson, Dean of the Mass Communications Faculty of the University of the Philippines, apart from many
other factors, having connections is the most important part of securing directing opportunities, whether for men or women. “She [Marilou Diaz-Abaya] never really got into the industry; in that sense I mean she was known but she did not get into the industry the way, for example, that most other directors got in today. It’s a different case,” said Dr. Tiongson.

In the Malaysian film industry, having connections is also one of the factors leading to women directors entering mainstream cinema. This is distinctively seen in the case of actress-cum-director Erma Fatima, especially when she made her third feature Embun. She had long been recognised as an outstanding actress in Malaysia before being given a chance to direct her first feature Jimi Asmara. She was also chosen to direct one of the two movies that were funded by the Ministry of Information.11

Apart from long experience and the support of patrons, many other women construct their own directing opportunities by putting in their own investments. This is quite clear in the case of Malaysia and Indonesia, whose film industries lag behind the Philippines in terms of professional development.

In the case of Malaysia, despite the existence of three studios, there are also many independent companies which make and distribute movies on their own. This provides opportunities for many Malaysian directors to embark on their directorial debuts.

Rosnani Jamil and Shuhaimi Baba are two prominent women directors who started this way. Both of them have their own production companies and acquire funding resources on their own; part of their success in this is due to their long achievements in the industry. Shuhaimi is one of the few of the new wave film-makers of the 1990s while Rosnani Jamil has long been working in the industry, in fact since the era of the Chinese studios in Singapore in the 1950s, starting as an actress, becoming a dubbing actress, then a television director and so on.

The relationship between opportunities for women and the flexibility of the film industry is clear in Indonesian cinema. Women became key persons in the recent reconstruction of national cinema because the industry was already dead after being abandoned by the older generation. Thus, it was a world that was not dominated by any specific groups. In other words, anybody could come in to bring it to life, no matter their gender or generation. Women came to be in the present power group because they were the first who come into the industry to revive it.

However, it is also undeniable that not all women start on an equal footing to bring life to the film industry again. One common characteristic among these women who have succeeded is the hierarchy of their social class. Most of them come from families that are well off, they have good education, often from overseas, or they have an established position in Indonesian society. This is evident in the case of the women in power in the Indonesian film industry in recent years.

Like the birth of cinema in Southeast Asian countries, the socially privileged group—royalty, noblemen, foreigners—becomes the first group to initiate innovations. It comprises the upper- or high-class people. Some might come from middle class families, but due to their work, they socialise with the upper middle-class people.

However, within a changing world where communication flows throughout and beyond boundaries, social classes are not fixed but reconstructible. Economic development and government investment in health, education and welfare have brought significant transformations to Indonesia, including continuing rapid urbanisation. A privileged status in a changing and modern Indonesia is no longer limited to those from better families and financial backgrounds, but extends to those with access to education, funding and business deals.

Similarly, in Malaysia where the industry is a mix between studios and independent set-ups, or mainstream and alternative, some women directors have succeeded in cinema due to their privileged positions in society. Shuhaimi Baba, who is the first of the new wave women directors, developed her interest in the arts and cinema due to her grandfather’s interest in photography. She comes from a well-off family—all of her siblings...
were educated abroad—which enabled her to acquire expensive equipment like cameras.

In terms of Asian standards, film is an expensive and high-tech medium compared to other communication arts like print and broadcast media, for example. People who can gain access to this medium usually need a lot of support. In most Asian countries the film industry still faces difficulty in getting government support because film-making is a mix between entertainment and the arts. Furthermore, film-making is still considered less important by Asian governments compared to other kinds of national development. Thus, women directors who come from affluent backgrounds are usually the first to enter the film industries.

While in many other countries, for example South Korea, education plays an important part in providing women with opportunities in the film industry, in Southeast Asia, connections and class are more crucial. Nonetheless, education will play a bigger role in the future, especially since it will reconstruct and raise the class levels of women.

Currently, a good background enables women to build their fame and be well recognised in their societies. In Malaysia, Yasmin Ahmad was an established television commercial director before she made her directorial debut. Tan Chui Mui was a multimedia lecturer in a university at the time she was making her short films. Likewise, two Indonesian filmmakers—Tin Tin and Mira Lesmana—followed similar paths. Tin Tin finished her studies both within and outside her own country on scholarships. The pioneer of recent cinema, Mira Lesmana, also spent life abroad with financial help from her brother. Compared to their counterparts, their families might be grouped into the middle class. However, through education and the flexibility of their film industries, they got opportunities in film directing.

My earlier statement on the film-making opportunities available to South Korean women directors does not seem to be reflected here in Southeast Asian cinema.12 In South Korea, women can enter the mainstream industry because of their education and the government’s promotion of the industry. However, it still took Korean women almost a decade before they got the opportunity to enter the mainstream industry. Even today, the majority of them still work in independent/alternative film-making circles.

In Southeast Asia, the influence of old Asian values still holds sway, namely those of patronage and class, partly because the film industries are not developed as in the West and do not get government support. Education indirectly helps raise the class levels of women, which gives them recognition in their societies, lets them gain financial support and finally, get directing opportunities. In Indonesia and Malaysia, the lack of development in the mainstream industry has enabled women to move into key positions instead of working only on the sidelines, like those in South Korea.

CHARACTERISTICS OF PRODUCTIONS
The productions of these Southeast Asian women directors are characterised by variety and quality. However, one common characteristic emerges among them: the majority employ genre film.13 This is unlike South Korean women directors whose films have alternative storylines and film-making styles, right from the earlier years of contemporary Korean cinema before shifting into the construction of classic Hollywood patterns in recent years.

The productions of Southeast Asian women directors are mostly confined to teen stories, romance, comedy, drama, melodrama.14 These choices can be explained by the fact that most of them work in the mainstream film circle. In order to do productions that can be accessible to all groups of audiences, like most of the mainstream pieces they use a straightforward narrative style of film-making. The popularity of genre film in their specific film circles also influences their choice of film-making styles and methods.

Family melodrama and comedy are the recent popular genres and they have become the characteristics of the later group of Filipino women directors who emerged in the 1990s. Their seniors (Laurice Guillen and Marilou Diaz-Abaya), on the other hand, come up with more varieties of genres and use more experimentally anti-classic Hollywood formulae. In Indonesia, too, Upi Avianto fell back on exploiting the recent hit of teen
romance in her directorial debut. Like the general picture of film-making, a few women prefer to choose arthouse or experimental work styles.

Of the 50 available titles by 14 directors, only several works are intentionally aimed at raising women's issues. These include two earlier works of Filipina Marilou Diaz-Abaya in the 1980s—Brutal (1980) and Moral (1982); and Indonesian Nan Achnas's directorial debut, Whispering Sands.

Brutal is an investigative story of a writer who tries to find the truth behind the mystery of a young wife who becomes unconscious after killing her husband and his friends. Moral is a story about four young girls, some of whom choose to spend their lives in their own way while others still follow social norms. Whispering Sands is the story of a devoted mother who tries in every way to protect her daughter, even in killing her husband who offers his daughter to be abused by his friend.

Most of the female characters in these women's productions show strength, either good or bad, while male characters turn into the opposite. In fact, male characters are a bit more flat: brutal or cruel and, on many occasions, weak.

Both Brutal and Whispering Sands share in common the paradigm of two opposite female protagonists: a victim who is later helped by another stronger woman. Moral has a mix of both strong and weak female protagonists who become friends and help one another. The characters of these female protagonists are well-rounded. They are constructed with more active images of women: a kind stepmother, and a tolerant and devoted mother who takes on a double role as a breadwinner of the family.

Although some of the films might not clearly manifest a strong feminist ideology or highlight women's rights, they have hidden questions of women's status under other themes. This is clear in the latest work of Malaysian director Shuhaimi Baba, whose film, Pontianak, is a horror tale based on a Malay folktale about a woman who dies at childbirth. Pontianak in general is caught up with the chase-and-run theme between ghost and human, as well as revenge between the female ghost and her enemy. However, the director also wanted to raise the question as to why most of the Asian ghosts are women and why they are always demonised in Asian culture.

Laurey Mulvey, in her feminist counter-cinema theory, argued that feminist cinema was an avant-garde film practice which would “free the look of the camera into its materiality in time and space and the look of the audience into dialects and passionate detachment”. For Mulvey, the narrative conventions, iconographic traditions and identifying structures of mainstream film were shaped by their development in a patriarchal society and, therefore, it would be hard for the portrayal of women to be changed.

However, Mulvey's theory cannot be applied to the productions of women directors in Southeast Asia. Feminism or women's issues have often been raised in the mainstream works either openly or subtly, due to the women directors’ privileged status in the society. Because of the flexibility of the film industries and the powerful position of these women directors, they can choose to project non-stereotypical images of female characters. At the same time, women directors also make films in the popular genres like some of their male counterparts. It all depends on how much each director is aware of the issues.

Notes

1 In the film industry, “studio” usually refers to a major company that acquires all of the production equipment and distribution system. Within the scope of production, it has all of the equipment and property, including the sets, crew and even film stars. It has a professional distribution system. Many studios even own theatres for screenings.

2 The first Filipino-made feature was called Dalagang Bukid (Country Maiden), a movie in the style of a spectacular Spanish-influenced musical.

3 During my research period in the Philippines, women directors in alternative film-making circles were just coming up.
The causes of the collapse of Indonesian cinema include the popularity of imported films, the bankruptcy of other theatre networks, censorship, lack of government support, shortage of human resources, technological regression, and the poor quality of local films.

Anchalee Chaiworaporn, “From the Peripheral into the Center: the Negotiated Identity of Women Directors in South Korea.” 4th Asia Fellow Program Conference. Montien Riverside Hotel, Bangkok. 1 August 2004.

Ethnic sensibilities are elaborated not only in the film world itself but also in the government consciousness on Malay identity and culture, especially since the Malaysian film industry has long been influenced by Chinese investors and Indian directors. The first local movie was made by an Indian producer and director before the industry was fully developed into a studio system by Chinese investors Shaw Brothers and Cathay-Keris from the 1940s to the 1960s. While Malays were the target audience, most productions were also influenced by other cultures as they were directed by Indian directors in the beginning. At that time, Malay directors had to prove themselves first by being assistant directors before being given opportunities to be directors. The first truly independent Malay production happened only in 1975, after the closure of the two studios and an enormous decline in domestic production, from 20 titles to less than 10 titles per year. The government started to be actively involved in the film industry since then, especially after the New Economic Policy was initiated in the early 1970s, ensuring that at least 30 per cent of the business must be in bumiputra (Malay) hands. Four years later (in 1979), the National Film Development Corporation, better known as Finas, was established and started operations on 1 October 1980.


Shuhaimi Baba's comedy Mimpi Moon was made to attract a wider cross-section of the diverse Malaysian society through the use of English. It was obviously aimed at the educated higher-income group. However, this segment of society has long shunned locally made films, opting instead only for the imported ones. Teck Tan's Spinning Gasing was also aimed at wider audiences through the use of street language and portrayal of the lives of urban youths from various ethnic backgrounds. Investors spent US$650,000 on the film but could collect only US$127,000 in earnings. For many local insiders, it was also not considered a Malaysian film.

The list of women directors in Malaysia is complicated and not officially recorded. I extracted this list by checking for female directors page by page in the Filem Malaysia 1975-1999, a directory of Malaysian cinema published by Finas. It includes Saadiah (1979), Zalina Mohd. Som (1981), Sarimah Ahmad (1982), Rosnani Jamil (1987), Julie Dahlant (1995), Shuhaimi Baba (1992), and Erma Fatima (1995). However, only three of them are considered real directors with more than three productions each. Others had only one piece and their names were used as directors but they did not really do the work. Saadiah’s work was done by a Japanese director; Salina Mat Som disappeared after one production; Sarimah Ahmad was used as co-director with Indonesian director S. Sudramaji, as was Julie Dahlant.

One example of the popularity of the genres is supported by the popularity of those stars who are the masters of these genres. For example, former president Joseph Estrada and former presidential candidate Fernando Poe Junior were all-time famous action stars while former mayor Vilma Santos is the queen of melodrama.

It is unofficially known that Erma Fatima was chosen to direct this movie due to political reasons. After she was announced as the director of this movie, she joined the women’s association of the ruling Malay party. She did not agree to my request for an interview, always giving unclear reasons.

I conducted this research on Asian women directors in South Korea in 2002.

“Genre” is the technical term used in cinema studies, referring to the categorisation of movie stories or themes, for example drama, comedy and action. It is the Hollywood method to classify each movie story in order to serve each particular audience group.
My South Korean research found that the emergence of women directors started in the early 1990s but it took them almost a decade to get full opportunities in the mainstream circle. Their productions clearly demonstrate the alternative approach, either by style or subject. In cinema, the Hollywood classic formula—the narrative method with a clear beginning, story development and ending—is considered popular and widely used, while European arthouse characteristics involve less direct storytelling.

There are in total more than 100 pieces of work done by these women directors. However, due to the lack of materials and copies, only half of them still exist.

IDENTITY AND TRADITIONAL MUSIC
Every person participates in multiple socio-cultural contexts, and various cultural backgrounds influence an individual’s identity formation. Culture and the psyche are “mutually constitutive”: culture provides a set of meanings and practices which serve as a common language for people to function in an interpersonal environment. By participating in such an environment, people incorporate these cultural models into their psyche, which, in turn, “constrain, reproduce, and transform the cultural system” (Fiske et al. 915-6). Thus, people’s ideas of the self and their identities are realised through their social participation in cultural practices.

This system of identity development and its manifestation through an individual’s interactions with others is a dynamic collective process. As such, a person’s identities and senses of the self “are always grounded in the complex of consensual understandings and customary behavioral routines relevant to being a self in a given socio-cultural and historical contexts” (Markus et al. 13).

These socio-cultural and historical contexts include groups, categories and periods according to such aspects and frameworks as society, generation, ethnicity, nationality, gender, class and religion, as well as an individual’s various life experiences. Now, due to the forces of modernisation, industrialisation and global capitalism, many of these factors are very rapidly changing for the people of Asia, especially as the world becomes increasingly flooded with information and technology and many countries accelerate their development. Concurrent with this change is an inevitable transformation of the Asian people’s collective and individual identities.

In the face of such changes, how is the traditional or indigenous music in several Asian countries perceived, practiced and transferred (or, as the case may be, not transferred)? As people’s understanding of ‘who they are’ become altered and transformed, what kinds of values, functions and roles can traditional music offer? What is the place of traditional music in the context of contemporary Asian societies which are subject to ceaseless waves of globalisation?

In conducting an informal and non-academic survey in Thailand and Indonesia during my API Fellowship period, these were some of the questions I contemplated and attempted to answer. My ultimate goal was to share some of my findings from these observations in forms of musical expression and creative activities in collaboration with local artists and organisations of various disciplines. Through this study, I wish to reflect on my own role as an artist and contemporary music composer in actively engaging with society at this troubled time.

Throughout the history of Asia, the performing arts have always served the needs of various social institutions and organisations, such as village communities, religious groups, royal courts, national and local governments and, today, the commercial entertainment and tourism industries. In some cases, the art is nurtured by the members of a community, while in some other cases its function is exploited by those with power. The
performing arts are integrations of music, dance and drama. As one of the traditions of such arts, music is closely related to people's lives.

Historically, performances of music by traditional Asian communities often incorporated the wisdom accumulated by their ancestors, reflected their historical backgrounds and conveyed to the next generation the values and customs established in their communities. By studying music, young community members not only mastered the art of such music from their teachers but also learned how to be in a society. Through the practice and performance of music, people learned how to socialise with each other and ensured a strong sense of community.

The distinct mixture of influences in each culture's traditional music reflects a unique history of each people. As such, different forms of traditional music themselves represent the peoples' collective identities and are sources of pride for communities.

Therefore, traditional music is an important factor in identity construction for the people in Asia. It functions as a form of transmission, communicating the culturally prescribed ways of being in a society—the models, meanings and practices of a culture—to the members of a community. Observations on the status of traditional music in the contemporary societies of Thailand and Indonesia can offer some insights on the processes of the recent changes in identities.

OBSERVED TENDENCIES IN THE CURRENT STATE OF TRADITIONAL MUSIC

The effects of globalisation, difficult simply to judge good or bad, can be observed through changes to various cultural frameworks and thus, in people's identities. As technology is developed at a remarkable speed and ubiquitously applied in all areas of people's lives, daily life involving physical labour and communal cooperation as well as its physical environment are drastically changed. As a competitive market economy is introduced to all corners of the world and everything is commercialised, common understanding about work and values in life are transformed. As a society modernises, foreign ethics enter the society and new standards are created, while accustomed modes of behaviour become obsolete.

The removal of artificial barriers through the advancement of technology may allow people to travel much more freely and to communicate with others from wide arrays of backgrounds, thus producing new options in identity construction. Yet this globalising trend can also lead to a loss of local identities and a decline in a sense of community. Unequal distribution of wealth and power as a result of globalisation can induce further marginalisation of minority communities, increasing the gap between the lives of advantaged and disadvantaged (or dominant and suppressed) people.

As the ever-accelerating forces of globalisation transform the cultural paradigms of the people of Asia and thus transform their individual and collective identities, their traditional values and customs are also severely affected. Rapid changes in people's lifestyles following globalisation cause their musical traditions to change as well.

Through my personal observations in Indonesia and Thailand, several tendencies have become apparent in regard to the current state of traditional music in Asia. Many performance forms of traditional music are under threat of extinction due to various social changes. Even if traditional music has not completely disappeared, its functions and meanings have been modified and reconstructed significantly as its contexts have been transformed. I observed many cases where various forms of traditional music were deprived of their original meanings and contexts and turned into commodities for consumption.

Numerous community festivals and rituals in small villages, which naturally hold spiritual importance for the members of the local communities, are being replaced by government sponsored commercial festivals with flashy entertainment to attract tourists. These government-sponsored festivals are planned according to manuals with fixed schedules, contributing to a gradual decline in the spirit of spontaneity and creativity among the people in these villages. Aspects of local culture and ethnicity in various performing art traditions are converted into exotic objects and materials for trade in the age of global commercialisation.

Moreover, traditional music is integral to the top-down processes of national identity politics. Both in Indonesia
and Thailand, certain forms of traditional music are being institutionally selected to represent national identity. National identity is a product of many forces. As much as it may be based on some of the collective memories shared by the members of a constructed nation, it is also forcefully fabricated from the top of a hierarchy in order to legitimise a nation state, which is then reinforced in media and commoditised in popular culture. Music is a significant part of this identity construction and reaffirmation process.

In the case of Indonesia, the traditional music of Javanese palaces was intensively patronised during Suharto’s New Order regime through his Javanisation policy. In the case of Thailand, the classical music from the royal court of central Thailand has been systematically promoted throughout the country in its governmental policies together with strong support from the royal family. These few selected forms of traditional music are being utilised and manipulated by those who seek to validate their power base. Meanwhile, numerous musical cultures in the periphery are ignored or less advocated, in order to arouse nationalism, strengthen national unification, and centralise the imagined national communities constructed on the foundations of diversity.

Ultimately, such centralising top-down processes of national identity politics result in marginalisation of ethnic minorities and annihilation and extinction of local cultures and traditions. Bottom-up strategies, such as decentralisation policies and regional autonomy programmes, which are brought about by Thai and Indonesian governments are, after all, part of the big picture of the top-down systems. In my observations, these strategies seemed to often fail in addressing the diverse issues of specific localities and representing the actual needs of the people.

While I had witnessed many cases where the use of traditional music in the top-down processes of national identity politics had left negative influences on local identities, I was also fortunate enough to encounter many encouraging situations where traditional music was being used positively to construct and reaffirm local identities through bottom-up processes arising from, and which were being carried out by, the local communities themselves. I saw that people in different communities came together and worked actively in order to strengthen their local identities through effective use of traditional music.

In some parts of Indonesia and Thailand, local music traditions are being invigorated by bottom-up forces, where people from local music communities consciously and creatively develop their musical art in adjustment to the times, and continually and critically re-examine its place in a society. Under the influence of the perceived need to continually construct and reconstruct both local and global identities, existing traditions are transformed into new traditions by local people. As much as governmental politics and cultural development shape what kind of new traditions come into being, new traditions can also emerge from bottom-up creativity.

Therefore, traditional music is constantly being shaped and utilised by both extremes of top-down and bottom-up identity construction. While many of the pre-existing traditional musical forms are disappearing or losing their original functions in societal contexts through the processes of being marginalised or commercialised, ‘new’ traditional music is constantly being created and shaped in order to serve people or groups with diverse and sometimes conflicting interests. These changes reflect the transformations in peoples’ collective and individual identities following globalisation.

WHAT CAN AND SHALL WE DO ABOUT TRADITIONAL MUSIC NOW?
I argue that these changes in the states and the roles of traditional music in various societal contexts are natural phenomena in the scope of cultural processes. Culture is defined in relation to, and through contacts with, other cultures, and the dynamic process of identity formation through participation in cultural contexts is also relational. Culture evolves through mutual stimulation and honest exchanges of artistic experiences between peoples from different cultural backgrounds. It is through exposure to others that the communities are able to develop profound understanding of their own cultural constructions. Culture as a mechanism of identity formation is, therefore, continuously being re-evaluated and reshaped by its participants.
In this sense, it is inevitable that musical traditions of different communities also influence each other and constantly change. Almost all traditions of musical cultures in Asia reflect countless elements of mutual influences as a result of constant trade and war between neighbouring states. This makes it difficult to define which music is, in fact, indigenous or original.

What, then, is special about varying forms of traditional music is that, in the process of being cultivated and nurtured by generations of people, absorbing the distinctive energy of particular lands on this Earth, they themselves become the manifestations of peoples’ personal and collective identities and the embodiment of their histories. Traditional music is a wealth of wisdom that is strongly connected to the lives of people in specific lands. This wealth of wisdom can help us in shaping the course of our future development.

A re-examination of the capitalistic system, which predominantly underlies and governs the recent globalisation phenomenon, is more than critical for truly sustainable development that has equal participation. In the second half of the last century, Asian countries have tried to develop their societies as rapidly as possible to catch up with the capitalist superpowers in the global competition of market economies. This rapid development has resulted in noticeable economic growth throughout Asia, which still continues despite world-shaking economic crises. However, this accelerated economic expansion has left many people in these countries culturally confused, especially the younger generations.

As the social environment changed with economic development, many of the old values and customs were negated and obliterated. However, no comprehensive system of new values which can replace the old ones has been clearly presented to the young people. This deficiency may be because cultural development in each society has not been able to catch up with, and adjust to, the speed of economic development, and there is no longer a single socially prescribed way to be anymore.

Due to the flux of information and values in the current Asian societies, culturally coded models of identity formation are now rather ambiguous. At least in Japan, the recent upsurge in various crimes committed by young people seems to precisely reflect this cultural confusion. In these troubled times, it is crucial for Asian societies to look back and find our roots and to reconstruct the cultural foundation for any further development. Solid and strong roots are essential for healthy growth. The cultural wisdom contained in the traditional music of Asia can provide us with ample resources which can guide us in such a quest.

Hence, what is much more important than blind preservation of traditional music, in spite of its changing natural contexts, is for us to learn from the contexts and the essences of such musical traditions. For example, if the traditional music of a rice harvesting ceremony in a small village is to be preserved today, the village community’s traditional ways of living in harmony with the environment and respecting natural resources should be cherished in addition to the conservation of the musical contents.

Many forms of traditional performing arts in Asia originated as ways to communicate with the spirits and the gods of the land and to honour ancestral spirits in the contexts of rituals and festivals. The primitive energy contained in such arts can help free the minds of people from, and present some alternatives to, the current paradigm of global capitalism and bureaucratic governance. In revaluing the past, we may create our future.

For this process in creating our future together towards sustainable global development, collaboration between top-down and bottom-up processes is essential. This collaboration can be facilitated by independent sectors which can work as the link between the extremes of the top and the bottom, or the centre and the peripheries.

These sectors include various non-governmental organisations (NGOs) and non-profit organisations (NPOs), such as alternative art spaces which are emerging everywhere in the world. I came across many independent artist organisations which offered innovative approaches to various problems relevant in the societies of Indonesia and Thailand. These alternative spaces in contemporary societies are being formed in response to the needs shared by the young generation to re-examine the issues of local and global identities. Such independent sectors can fight against
the marginalisation of minorities in the processes of decentralising the centre and acknowledging the peripheries, thus connecting the centre and the peripheries.

What is most essential for the process of nation building in the contemporary societies of Asia is proactive cooperation between top-down and bottom-up forces, with the help of neutral actors in the middle. Here, all the involved parties can work together for mutually agreeable and sustainable cultural development, honouring and building a foundation upon the incredible diversity of traditions represented by various groups of people in these societies. It is exactly in such a process that the rich arts of traditional music have a role in our future.

**THOUGHTS ON MY ROLE AS A CONTEMPORARY MUSIC COMPOSER**

Changes caused by globalisation offer us opportunities to re-evaluate our identity and our past, and to shape our future. What I should strive for as a contemporary music composer in the current societal context, then, is to take part in connecting the past and the future and creating a sense of home in my art. There are many contemporary pieces of creative works which play on traditional materials in constructing a new identity on older ones.

However, the act of recycling or transforming traditional materials alone does not necessarily make the piece of art speak to people. By bowing to the foundation built by our ancestors and connecting to the essences of our cultures, a piece of art which contains a sense of home can create a space in which one can feel or experience the presence of, and connection to, the source of life.

The creation of such space is one of the highest endeavours of an artist. Through my creative activities, I want to develop a space which provides a nurturing environment for honest and mutual exchanges and stimulation among people from different backgrounds, so as to encourage reflective and responsible processes in identity formation and social growth.

Various spirits live in different places of this Earth, and it was an extraordinary experience for me to be able to enjoy the distinctive energy of each place as I travelled in Thailand and Indonesia. What was most moving, however, was the blessing of being able to feel the overflowing love given to all lives on this Earth.

Unique cultures, traditions, languages, customs and music, which were fostered as part of the lives of people on different pieces of land, have disappeared and will keep disappearing as people move from one land to another on an increasingly large scale, and their lifestyles continually change. Some people will also always try desperately to stop such changes and preserve these cultures. The disappearance and conservation of these cultures, due to the absence and the presence of such efforts, are all a natural part of the flow of the universe.

However, if we are indeed a natural part of this universal flow, perhaps it is also possible for us to direct this flow so that natural changes will lead to a lifestyle where music is naturally born and nurtured as part of our lives. Moreover, it will be possible for us to discover some of the knowledge, the wisdom and the wealth which have been fostered in the long history of our ancestors living together within Nature, and make the most of these gifts for the future of the human race. It is my ultimate goal to contribute to this endeavour through the artistic expression of the love which embraces the whole Earth.

**EXAMPLES OF CREATIVE WORKS EXECUTED DURING THE FELLOWSHIP PERIOD**

I came up with several ideas for creative projects while in Thailand, including a new composition for Korphai, an outstanding and progressive phi phat ensemble group based in Bangkok, and collaboration with an experimental shadow theatre troupe called The Wandering Moon Performing Group and Endless Journey, which is based in Chiang Mai. However, I was unable to realise these project ideas before leaving Thailand, since I was too involved with field research and not focused enough on creating. I wish to follow up on these projects and implement them in the near future when opportunities arise.

Upon arriving in Indonesia in mid-April 2004, I decided to shift my priorities to creative activities first. Through this creative process, I conducted incidental observations and informal surveys for the research.
This approach worked very well and I was much more successful in creating and sharing my work in Indonesia than in Thailand. My creative activities in Indonesia included three main projects which are fleshed out below.

**Tanabata Festival in Bandung**

First of all, I collaborated with several NPOs in Bandung, which were the Bandung Centre for New Media Arts (an alternative art organisation), Jendela Ide (a private non-profit cultural institution promoting progressive forms of education for children, including children with disabilities) and Toko Buku Kecil (an independent bookstore promoting local literacy). I collaborated with these organisations and a Japanese visual and performance artist residing in Bandung, Mizuho Matsunaga, to create a community-based arts festival named *Tanabata Festival* on from 3 to 10 July 2004.

The *Tanabata* is a traditional summer festival in Japan where people write down their wishes on paper decorations called *tanzaku* and hang them on bamboo trees. People hope that their wishes be granted by the eternal star lovers in the sky, Hikoboshi and Orihime, who are able to meet each other just one day each year.

The idea for this project in Bandung was conceived when Matsunaga found a replica of an old Japanese picture scroll (*emakimonos*) about the story of the *Tanabata* in the library of Common Room. Common Room is an alternative art space home to three parent bodies: the Bandung Centre for New Media Arts; Toko Buku Kecil; and Reina & Partners (an art management organisation).

*Emakimonos* is one of the traditional styles of painting in Japan and is seen as a primitive form of picture storytelling prior to contemporary comic books and animation. Interestingly, there is something similar to *emakimonos* in Indonesia called *wayang beber*. *Wayang beber*, which is now very rare, is an early form of *wayang* in which a masked *dalang* (storyteller) tells a story through dance and song in front of a picture scroll. Thus, both Japan and Indonesia have traditions in storytelling involving picture scrolls.

Drawing from this similarity and connection between Japan and Indonesia, we organised for the public an experimental art project involving cross-cultural workshops in addition to an exhibition of the beautiful *emakimonos*. The main idea for this project was to recognise that the members of the general public are artistic creators and the artists are the facilitators. Through collaboration with several community-based organisations and the general public, and by promoting organic and comprehensive communication among these different sectors, we intended to search for a new form of art in the contemporary societal context.

For this festival, we worked with the children from Jendela Ide, which is located in the same neighbourhood as Common Room. The project included several workshops on the topics of origami, *emakimonos* and music. In the origami workshop, children explored the Japanese traditional art of paper folding and created their own art pieces, which were hung on bamboo trees and displayed at the end of the workshop.

In the *emakimo* workshop, children formed small groups and created their own storyboards. They painted these stories in the form of picture scrolls and did dramatic presentations of them in front of an audience. Thus the *emakimo* workshop reflected the elements of both Japanese and Indonesian traditions in picture scrolls.

I also led a three-day music workshop in collaboration with the local art groups, which saw participation by 10 children (ages 8 to 12) from the city of Bandung, which ended with a public performance. Through the workshops and the performance, I wanted to create a space of hope and encourage the children to get to know and understand the communities in their neighbourhood.

Thus, on the first day of this three-day workshop, I brought these children on a field trip around the neighbourhood. We walked on many streets and explored different spaces, some of which were quiet and peaceful while some others were loud and busy. Throughout the field trip, we looked for and listened to various sounds which constantly filled and sculpted their environment. From these streets and spaces, we
picked up an assortment of natural materials, artificial objects and all sorts of garbage. On the second day, we made a variety of musical instruments from these collected materials. On the third day, we experimented with these newly constructed instruments and created music together.

At the end of this festival, the children performed my composition *Lagu Tanabata Tetanggaku* (My Neighbourhood’s *Tanabata Song*) in front of an audience which consisted of the children’s parents and people in the neighbourhood. The music was performed with the instruments made by the children during the workshop. In this performance, I encouraged the children to listen to and communicate with each other within the group, by improvising on different rhythmic and melodic motifs played by different members. To end the music presentation, they played an arrangement of a *Tanabata* folk song from Japan. Since *Tanabata* is a festival of hope, I asked all the children to think about what their hopes were and to sing their wishes as part of the music performance.

Being so close to the mega city of Jakarta, the city of Bandung is becoming modernised and developed at a very fast pace. As such, Bandung is facing an imminent challenge in cultural identity as its residents attempt to figure out how to accommodate and adapt to these rapid changes. Moreover, the generation gap is widening. The younger generation avidly incorporates new trends and values in their way of life while the older generation tries to cling on to their traditional ways.

As the city grows, the ethnic and cultural diversity of the city also increases. To prevent hostility and intolerance due to misunderstanding among people from different backgrounds, a conscious effort in encouraging numerous cross-cultural and cross-generational discourses is critical at this time. The *Tanabata Festival* in Bandung was a part of such effort, initiated by the network of artist communities in the city.

**Yogyakarta Contemporary Music Festival**

My second project was to participate in the first Yogyakarta Contemporary Music Festival entitled ‘Between Noise and Silence’, which took place on 4 and 5 September 2004 at the Indonesian Art Institute (ISI), Yogyakarta. This festival was largely organised by the student organisation from the music department at ISI, together with the support of several Yogyakarta-based music composers and the local media.

As home to two active *kratons* (royal palaces), Yogyakarta prides itself as one of the centres of Javanese traditional culture. It was hoped that this festival would help start a movement to increase awareness of new music among the general public, and invigorate the local culture through conscious and effective collaboration between traditional and contemporary music communities.

During this two-day festival, works were presented by a total of 15 composers from various backgrounds. They included 12 local composers, half of whom was professional while the other half comprised students. The other three composers were foreigners. The presented works represented a variety of forms, from styles leaning towards the western classical music tradition to styles reflecting folk and traditional music from different parts of Indonesia. All works embodied some sense of an experimental spirit. Western and non-western instruments (including many traditional Javanese instruments), acoustic and amplified equipments, voices and newly constructed instruments, as well as computers were employed for the performances.

I rearranged and recomposed one of my old compositions for this festival, and ‘The Dance of a Tree God II: in Indonesia!’ was performed at the Music Auditorium on 5 September. I performed the work together with several students and alumni from the Western Music Department of ISI, Yogyakarta.

In this composition, I used both western classical instruments (piano, cello, and soprano voice) and a Javanese traditional instrument (*bonang panerus*) in a contemporary manner. The music has a pervasively meditative quality in its performance. This was one of my attempts at exploring the potential of Javanese traditional instruments in a contemporary composition and to take an active role in connecting the elements of old and new, or of the past, present, and future.
Upacara Bayu Ruci at Candi Sukuh

My third project in Indonesia was “Upacara Bayu Ruci: Making Love with the Winds of Solo”, which took place at Candi Sukuh in Karanganyar, Central Java, on 24 September 2004. *Upacara Bayu Ruci* is an interactive music performance, celebrating human connection with the spirits of the winds and the power of nature. The name *Bayu Ruci* refers to the story of *Dewa Ruci* from the Javanese shadow theatre of wayang kulit, where a prince called *Bima* learns the truths of life through unity with *Dewa Ruci* (the inner god) during his journey in search of the water of life. *Bayu* is one of the Javanese names for the winds, and *upacara* means celebration, so *Upacara Bayu Ruci* is a celebration of the wind spirits.

When I first came to Solo (or Surakarta) in Central Java, Indonesia, I was immediately struck by the prominent presence of the spirits in the winds. I had never before encountered such winds which talked in such a lively way and sensually engaged with me. There seemed to be something in the air, whose presence felt very close to my skin. It was as if this ‘something’, this ‘presence’, entered the bodies of people with each of our breaths, thus infusing and almost infecting the whole of our beings with their magic, without us even noticing. As I immersed myself in the poetic flow of time where the air as a whole felt like music, I was inspired to create some new music with the Javanese gamelan instruments in honour of the wind spirits of Solo.

*Upacara Bayu Ruci* was site-specific art, which emphasised an intimate relationship among all the participants of the event and the community and the land. The performance idea and music for *Upacara Bayu Ruci* were inspired largely by the special energy and atmosphere of Candi Sukuh, a unique pre-Islamic Javanese temple from the 15th century. It is situated on the Lawu Mountain in the Karanganyar district near the city of Solo.

Candi Sukuh, as a symbol and celebration of fertility, seems to represent a delicate balance between different elements of all the worlds, and there is a strong presence of the winds around the temple. There are many reliefs and sculptures of the wind gods (such as Garuda and Bayu) inside the temple. Behind the temple, deeper inside the mountain forest, is the *Susuh Angin* (nest of the winds), where the winds are born continually out of an opening in the land.

To create *Upacara Bayu Ruci*, I collaborated with the Tourism Department of the Karanganyar District Government and the local communities in the villages surrounding Candi Sukuh, as well as a British visual artist, Darryl Wilson, and a Japanese dance choreographer, Kaori Okado, both of whom currently live in Solo.

I composed new music for a Javanese traditional ensemble of *gadon* (small gamelan ensemble), which was performed by ten students and alumni from the Indonesian College of the Arts (STSI), Surakarta. Wilson created a spatial visual installation on the site of Candi Sukuh and designed the costumes, while Okado choreographed the dance movements for four dancers. I also created an acoustic sound installation by placing wind bells throughout the site.

A spiritual leader and movement artist based in Solo, Pak Suprapto Suryodarmo, was my close and very supportive consultant in realising this performance ritual. Before composing the music for this event, I studied the basics of the gamelan music with Pak A.L. Suwardi, a traditional music master as well as a great contemporary music composer based in Solo. His wife, Ibu Th. Sri Kurniati, who is a respected traditional dance teacher, also worked with me and Okado in creating the dance.

*Upacara Bayu Ruci* was an audience participatory music performance, and all the members of the audience were invited to be active participants and creators of the experience. Utilising all five senses, the audience was encouraged to go through a journey together in order to experience a sense of unity with the essence of the *Bayu Ruci* within us. At the start of the performance, each audience member was asked to give a name to the winds and write it down on a piece of paper which was later installed at the performance site. This was to initiate a personal relationship with the winds.

People from the villages surrounding Candi Sukuh were also an integral part of the performance, as they led the procession of the audience into the site of Candi Sukuh.
Sukuh after the name writing ritual. Even though the dancers’ movements were choreographed, I prompted the audience members to move around as freely as they wanted while singing the wind names that they had written down. The audience became a part of the music and the performance as they danced, clapped hands and sang the names of the winds together.

Aided by the visual and sound installation to see and hear the winds, they were able to smell and touch the land and the air, feeling their places between the Earth and the sky, through the performance. This celebration ended with the audience tasting special jamu (local herbal medicine) drinks provided by the village residents. This symbolised an act of healing from masuk angin (literally meaning ‘entering of the winds’, indicating the common cold or flu in Indonesian, which is traditionally believed to be caused by having too much wind inside one’s body).

There are many references to both Japanese and Javanese folk traditions in Upacara Bayu Ruci. During the Bon days of summer time Japan, there are ceremonies to welcome the ancestral spirits to this world and then send them back to the other world. Bon odori (Bon dance) festivals have some of their origins in such ceremonies, where everyone dances together throughout the nights of Bon. Here, there is no separation and distinction between the performers and the audience, but all the people involved are an integral part of the festival experience, which is shared by everybody. The dance idea for Upacara Bayu Ruci comes from this tradition of Bon festivals in Japan.

Intriguingly, there are traditions similar to Japanese Bon in Indonesia as well. In fertility rites called Tayub in Central Java or Seblang in East Java, the audience members dance together and become active participants. Moreover, the visual installation of Upacara Bayu Ruci employs batik techniques and some traditional motifs from Java, and reflects the shapes of the umbul-umbul flags found everywhere in Indonesia. Meanwhile, the sound installation is inspired by the wind bells of summer time Japan.

In my music composition for Upacara Bayu Ruci, the gamelan ensemble uses both new and traditional techniques applied in a contemporary manner. Several folk songs from Japan and central Java, which are related on the common theme of the winds, are used in the composition.

Through my experiences in Indonesia and Thailand, I was struck by prevalent commonalities among cultures. I could strongly feel that we were all really connected with each other in many ways as a big family on this Earth. For example, just as Indonesia has masuk angin, the common cold in Japan is called kaze, which literally means ‘evil winds’. Japan and Indonesia have a striking amount in common regarding ideas and attitudes concerning the winds and the natural world. Folktales and festivals similar to Tanabata and Bon are found everywhere in Asia (but with distinctive local colours of course), illuminating our universal spiritual essences.

By working together with people from various social and cultural backgrounds and representing such a diversity in this performance, I hoped to contribute to forming a bridge between the unique and yet similar cultures of Japanese and Javanese traditions. Such performances may promote deeper understanding and further communication among the diverse cultures of this world.

Notes

1 An ensemble of classical Thai instruments, consisting of melodic and rhythmic percussion instruments and the pi, a woodwind instrument similar to an oboe.

2 Various forms of the gamelan orchestra exist all over Southeast Asia. It is based on an ensemble of metallic percussion such as tuned bronze gongs, gong-chimes and metallophones, with wind instruments and drums. A Javanese full gamelan also features bowed and plucked string instruments and voices. In Javanese traditional thinking, the gamelan is sacred and is believed to have supernatural power.
REFERENCES


Walking around Southeast Asia
In Indonesia and Thailand, the street folk that I met—cab drivers, watchmen, internet operators, cleaning ladies—all had a familiar reaction about the place where I came from. “Cory Aquino!” they would say, gushing sometimes or breaking into a smile. The more I heard this, the more I came to think that the name of our former president and premiere icon of People Power history has come to be the gentle bearer of lasting impressions and ideas that people have about the Philippines.

Let me guess simply that what these friends know about the Philippines are things that they probably heard from the radio or glimpsed from brief footages transmitted on television. The Philippines is a place that these folk would never visit in this lifetime. However, for the world outside, Cory’s name now stands for ideas that they care to remember about the Philippines. It is a familiar string of syllables, a symbol even, that clinches certain impressions about our political history, popular movements and social struggle.

It seems that this is how we all make sense of things foreign. We connect territories or nations with things that work as a historical shorthand for our impressions and what we care to know about such places.

Through this writing project, I wanted to pick out a set of symbols that is the region’s curious representation of the movie in my mind. As such, they are a personal set of symbols. I picked them out because each stands for a facet of life that interests me. As I piece them together, the big picture that forms also stands for my personal view of Southeast Asia, gathered from icons and popular stories. And since this is a personal set, I know that it will never be complete and definitive. As time goes by, I do hope that my curiosity will broaden some more so I can look at other facets of Southeast Asia and add to these symbols. For the moment, though, this is Southeast Asia for me and this is how symbols form a construct of our neighbouring countries in my mind.

Nationalism in symbols
All the symbols in my notebook relate to the nation. They are foundational symbols, because as emblems and stories, they work as figural representations of territorial identity and the defining moments that result in the articulation of a pronounced collective character. These symbols also work as guardians of memory. They direct the popular imagination by inscribing a collective ideology—a persistent sense of community, the desire to exist as an unbroken throng, even as in this lifetime there is a great number of compatriots who shall never meet each other, and even as postmodern progress attacks the forces of tradition.

My line of concern is iconography—the representation through myths and symbols of national allegories, social struggles and historical identities. These symbols came from popular sources such as rituals, the oral lore preserved in popular memory, paintings, sculpture, architecture, textile arts, the market and food culture, cinema, billboard art and many other sources. These are the ontological spaces of everyday life—sites of knowledge—where the archetypes inspiring national consciousness exist and effectively influence the present social history of Indonesia and Thailand.

Symbols possess a material shape.
Symbols are things around us that suggest big, profound ideas. The ideas that they hold appeal to communities,
clans, countries—usually a sizeable number of people. These ideas affect the way people think and feel, often suggesting how they should act or spend the day. A symbol works like a shorthand sign where articulate ideas have been encrypted.

First, though, symbols are things that we can see, hear, taste, touch and smell. They are “touchable facts” that we use every day. They must be so handy that we are willing to treat them as shorthand signs for long, elaborate processes. In the daily tug and grind, the mind finds a quick moment to reflect, picking out its metonymies—parts of everyday things that suggest a whole, leading us beyond the close-range shots to the big picture. But the part is what charms us, to begin with. As in a game, it is our toughest link, working to suggest bigger schemes because it is the one that pops out readily when we think: to see it is to let our memory hook up with something else.

Symbols need not be elevated and far removed. They dwell in everyday space.

Some people think that only the philosophers and hardcore academics armed with master’s degrees and doctorates have the ability to read symbols. They consider education a requirement to interpreting signs and summoning stories with fanciful contents. They make the study of symbols truly boring by saying that it has to do with huge, faraway monuments (those that are too pricey to visit) or with the giants of history (those whom you do not know because you did not read enough books). Symbols, they boast, are always so big and profound that, for sure, you will not find any lying anywhere near.

Think again, because symbols are as close to us as possible in everyday life. They are so familiar and so practical that we often fail to see how evocative they are of bigger schemes and intimate values. Symbols are, first of all, useful things around. It is the sum of their various functions that, listed with careful attention, constitutes a thing’s symbolic value. The object at hand works in not just one but many ways, does not have just one but several wonders. One need only to synthesise a symbol’s worth by listing a broad range of uses and related ideas.

Certain symbols establish a people’s territorial identity by reflecting the particulars of natural history.

The world that we know—the latitudes that we enjoy of time and space—yields many curious treasures. Science calls this the natural environment: what the weather is like, what minerals enrich the soil, where the sky meets the sea, the natural upheavals that people wake up to—geography and all—these things have the final say in what bounties we can enjoy. As we explore this natural environment, we begin to gain the know-how from which to start a life, from where to foster a culture, from which hard habits form. It is things drawn from this green world that could best represent complex ideas, drawn-out processes and practical experiences.

We pick out these things to illustrate our insights, to be the figures or quaint metaphors for discursive ideas and elaborate explanations. With witty choices and symbols that draw close to popular experience, the act of representation becomes enticing. The symbols that succeed are those whose values and functions people have come to discover, to put to full use and to appreciate in everyday things.

For instance, whether in the Indonesian kota or kampung, birds stand for such natural symbols. Their thriving bird markets beckon the traveller to a little alley hung with ornamental cages, full of the twitter, warble, cackle, and amazing speech of birds. Cockatoos, lories, macaws, mynas, parakeets, parrots, starlings and warblers all lure well-deserved attraction with their iridescent plumage, their sweet melodies and, at times, their eerie capacity for speech.

An embarrassment of vivid plumage Indonesia enjoys, because its strew of islands, a good 17,000 cast between lakes and seas, has quietly encouraged such prodigal life, unhampered by predators and obscured by the lushness of rainforests.

The archipelago boasts of birds that are coveted and valued everywhere but are caught in Indonesia alone. In mainland Java, a zebra dove, or perkutut, is regarded as one of five treasures that a man could hope to gain in this lifetime. So admired is it that a drum at the Yogyakarta kraton has been named after one perkutut

ARTS AND IDENTITIES Part V ... 279

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whose call gives of the same delicate, percussive nuance. For armchair naturalists, mall-sold compact discs and audio-tapes now bring the perkutut's songs to staid living rooms in hi-fi resolution.

The tapestry of Indonesian folk life presents legends and tales about the many, overwhelming uses of birds. An enigmatic Aceh fable features the parakeet king instructing his lime-washed subjects to play dead once their devious trapper returns to collect them. As the greedy youth flings them on the ground, one by one, in utter disappointment, the birds count to ninety-nine, waiting to take flight once they reach the hundredth cipher, when the poacher would toss away the last bird, their parakeet king. However, at the appointed time, the young man's kris slips away and the birds go, stunned to discover that they have left behind their king.

The bird king pleads with the enterpriser, promising untold riches if its life is spared. Brought to town, the parakeet breaks into song with full-throated ease, its sonorous voice pleasing the sultan. The sultan puts forth a staggering sum in order to take home the plumed singer. The parakeet goads the greedy hunter to sell him. But because its true wish is to fly free, it fills the palace with song after majestic song, then falls down in a pretence of death some days after. In the midst of a royal burial prepared for it, the parakeets stirs and flies away, stunning the grieving royals, fulfilling its dream to soar always.

Some symbols reflect the interest in appropriating what is foreign.

Symbols do not only mean the things sprung from the natural environment. Some things speak of an alien background, suggesting the voyage of tradesmen who pull out of their sacks curious things, fascinating trends, and useful gadgets that fair-goers will not part with and take home with curiosity and apprehension. What about such grafted symbols? What of things that come in from the cold—uprooted, transplanted, and struggling in time to take root in acrimonious territory? Some symbols are transplanted things that throw the doors open to enterprising cultures. To list them is to remember how they once confounded, frightened and drove people to react with alarm, while, at the same time, managing to earn their place in the scheme of things.

Imported influence includes not only things and services that simplify life or weigh it down with more trappings. It also means ways of seeing that overtake the old and shake our sensibilities to adopt a new attitude. Government, the daily commerce, our sexual outlook, lifestyle, and spiritual disposition—these are some of the broad realms where foreign symbols could work provocatively and swing us to new attitudes.

With the things we seize from the cold, we first weigh if they could be of some use to us. We readily toss away what we don't need, leaving it to rust at the bottom of the garden. Those that are possibly useful we take in, but not without seeing first that they agree with the things already gathered inside. To invoke an important rule from the cookbooks: we must “suit it to taste”. This effort at suiting something to taste is called appropriation.

The dangdut, that famous foster child of Melayu music, comes as a handy example here. Authentic Indonesian it trumpets its gene pool to be, sounding out the grace notes of the Melayu orchestra in folk instruments like the kendang drum and the seruling bamboo flute.

Those who dig deep into cultural studies say that dangdut reflects strongly what most Indonesians feel and go for today. The urban folk are extremely hot for it. But the soulful ooze alone is not enough to make it sell. Market taste is something to consider, so commercial constraints are serious pieces that lyricists and composers try to fit into the puzzle. One hears obvious strains from the West in the way dangdut is composed, harmonised and played on various instruments. However, its ultimate mood and flavour are Indonesian because its idiom, performance and musical flourishes all draw from popular experience.

The man who did so much to transform dangdut is Rhoma Irama, dubbed everywhere as the King of Dangdut. Soneta became his launching pad, a band that he put together in 1973. Rhapsodising much, he put in elements ranging from rock n' roll to sugary love songs.

On stage, Rhoma gave dangdut a new turn so that, as it became a certified hit, he could do nothing to shoo away the back-up dancers in skimpy attire drilling
with mattress movements and driving the men crazy during village fairs. Moonlight numbers would turn the men instantly and wildly on—to hop onto the stage and grind it out with the dancers. Through Rhoma, the *dangdut* made its prompt rise and journeyed from kampong concerts to city stages, television and the grand hotels.

Fame inspired Rhoma to promote a kind of *dangdut* that was both high-minded and entertaining. He used it to spread the Islamic message, belting out quick hits that also preached practical insights about the faith. Muslims everywhere warm up to his “Sounds of Islam,” although his fans come from all walks of life.

*Dangdut* is a smash not only in Indonesia. Singers like Ikke Nurjanah are world famous now, having inked a deal with Sony Music. Media watch groups claim that 15 per cent of Indonesian weekly TV time goes to *dangdut* shows and hotcake albums take 35 per cent of the music share. Against Rhoma’s rantings, the Golkar party seems poised to let the sultry, unbeatable Inul get the popular nod during the forthcoming polls.

Symbols are not things alone but, more so, the people who create them.

After a while, we become quick at identifying things that have a symbolic value. But sometimes, we must go a step beyond and get to know the imagination that shapes a certain symbol. Here, the maker himself or herself becomes the symbol as much as the thing that he or she creates. This is because his or her creative vision and knack for setting up a clever scheme now go down in history as benchmark expressions of the human interest in design.

We regard this maker as the archetype—the quintessential figure speaking for every single-known person devoted to the trade in symbols. As a living symbol, this maker represents the refinement of consciousness: he or she achieves for us a useful superstructure that prods the inspired production of things.

Because symbols come in material shapes, we must pay some attention to the cluttered workshop where the maker conjures a design, deals with his or her raw materials, and brings them to undergo dramatic alchemies with his or her hands. If symbols become richer in meaning, the resonances owe not only to the material shapes themselves. The maker adds a great deal and, thus, our interest in his or her character.

Recognising the producer's figure is crucial to understanding the process of generating symbols. The range of icons that one finds in a certain territory says a lot about the maker's labour. His or her labour finds appreciation where the community accords his or her creations with profound symbolic values. Symbolic value is affected—we find it either expanding or constricting—once we look at the circumstances, the conditions in the workplace that makers face each day. With steady support and benevolent dispensations, the maker's trade soars and we are quick to acknowledge an age of beauty, a belle époque pushed forward by a solid vision, prodding producers to create the finest symbols.

However, where oppression and tyranny whip the makers to make way for icons and monuments, then Walter Benjamin stands right in his reckoning, “there is no document of civilisation which is not at the same time a document of barbarism”.

In this category, the Indonesian *pandai*—the ancient ironsmith—advances to the fore. In many of the archipelago's volcanic sites, his first challenge was beating large cobblestones into shape. The first displays, then, of the smith's ingenuity are the axes, adzes, and various chopping tools fashioned from stones and bones. It was the rise of metalwork that gave the smith his fame and social prominence. This is when he began to present iron and bronze as the stuff of the invincible.

In time, the blacksmith who kept his furnace ablaze, melting his metals all day long, succeeded in piecing together bigger and tougher tools. This would allow the ancient architects to reckon with megaliths and rocks, hence building Indonesia's awesome shrines and sacred monuments of stone.

Some symbols inscribe economic transactions.

A reliable pin of economic transactions is the law of supply and demand. To examine production also means knowing the raw materials, listing the building blocks, accounting for the material and living agents that such manufacture of goods and services involve. It means meeting the producers, those who shell out money and
set up a business, specialising in a single product. It also means listening to the side of the sweaty workforce: those who are employed to spin the goods, deliver them promptly and stay on to earn some money so that they can put rice on the table. And while we trace how goods are made, we are sure to come across the lucky who make a killing and those who go broke.

This whole math of where the money goes and who moves up is another important source of meaning that symbols project. A symbol also draws from the material transactions that hold it up. It extends its meaning to accommodate issues like how the money flowed and who became richer or poorer along the way.

This way, the survey of symbols gives way to a materialist analysis. Through a process of radical historicisation, we succeed in locating bids for survival and well-being as symbols echo such important social pulses. We can tell how comfortable a society is, how encouraging its material pursuits are, simply by looking at the figural expressions of the real material cravings and those on-the-spot exchanges that it permits from day to day.

The age-old klong of Bangkok illustrate this transactional aspect of symbols. These were the canals teeming with turtles and fish long before they became sois and freeways. Roads have since overtaken them but some are indomitable, like Ratchaburi’s Klong Damnoen Saduak, southwest of Bangkok.

Here, monks in saffron robes paddle in the sunshine, holding out their alms bowls from door to door; sleepy kids beat the school bell in rattling motor boats; and the floating market lives on in the sundry, colourful trade of vendors. The stuff they hawk in the market is various: curry, shrimp paste, sweets, folded silk, or bowls of steaming noodles. Close to the banks stand houses on stilts along with Buddhist temples ornamented with mosaic tiles glittering in the sun. Many shops, aptly built with boat landings, also do business here.

In days of old, houses sprouted along the klong banks, complete even with orchards and perfume gardens. For everyday things, one did not go to market; the market came by—in vendor boats piled high with chillies, fruits, and hotpots sitting on charcoal braziers. For energetic kids, rowing the sampan brought recreation and first jobs as they coasted along mile after mile.

Long before the salty nightlife beckoned from Patpong, the klongs heaved with amorous, steamy joy rides. William Warren quips, “When darkness fell, the klong took on another aspect. Even at its low-water oiliest, it was intensely romantic under a full moon, rippling with golden streaks, and the effect was given a more literal dimension when the water babies emerged. These were ladies of the night, each concealed in a canoped sampan propelled by a shadowy figure who stood discretely at the rear. Customers usually waited beneath one of the several bridges that spanned the klong and slipped nimbly through the curtains for a ride of a kilometer or so.”

Symbols also establish social placements. Earnings and losses are not the only things that a symbol yields. Neither is the pursuit limited to the cock-eyed discourse of sellers and buyers. We see an even bigger picture where symbols locate the social classes.

Some groups have big voices, enjoying so much power and authority that, literally, their representations in public space loom large and project stunning qualities. Then, we also find the voiceless legions, those whose share of the power pie boils to a crumb, so that the ones who call the shots ignore them or accord them lip service merely when times call for democratic exercises.

Social status but also the collective power that groups enjoy—symbols project all these, as we read them. Our pursuit of symbols becomes all the more relevant when we discover that icons are evocative of actual power as well. What are the powers that one group enjoys so it can manage social problems? How far does that power take the group to dig up reliable solutions? These are some of the meanings that symbols negotiate. Why do certain voices continue to be ignored? What happens when a powerless bloc is side stepped? Can it strike back at all?

Symbols answer such tough questions. In a sense, icons are able to probe political conditions, if by politics we broadly mean the way power is arrogated and contested in the social realm.
In the way they treasure amulets, many Thais disclose their bid for power and where exactly they stand on the social ladder. These personal amulets protect, help a person to secure his or her daily bowl of rice and lotuses, or simply allow him or her to enjoy a startling measure of good fortune in the work that he or she does.

Natural objects are the first source of this attraction to power—the curious trifles that are believed to dazzle with the power of the forest creatures. These include lizards and the teeth of boars and tigers. Whoever clasps them in the palm of his or her hand draws strength from such beasts, revered icons of fertility and vigour from the natural world.

Coming off the copper moulds and thriving in the shape of icons, stamps and medals, amulets are peddled aplenty. Jeff Greenwald calls them bite-sized Buddhas, inscribed at the back with powerful sutras. Medals carry the likeness of monks, healers and admired figures such as the royal patrons. A person respected everywhere and commanding great affection is said to be bristling with power. With some knack for fortune, monks in charge of a wat will often strike medals bearing the image of such a powerful patron. These are then promoted as a confirmed source of favours and miracles.

Many amulet collectors go for Phra Kruang or the Buddha’s image. This amulet continues the tradition of the ancient votive charts that prescribed ways of well-being and dodging harm. These Buddhas are cast in metal, moulded in clay, or shaped from shredded vegetables. The things used to make them are as important as the amulets themselves, for they add magic to the finished shapes. Always, a monk must stand close by, ready to bless the peddled icons. Those who have the utmost tolerance for pain also dare to carry tattooed images of the Buddha on top of their head, for guaranteed prosperity and fulfilment.

Amulets are intimate possessions that one must never lose and must guard with all of his heart. Some put on their amulets to the accompaniment of solemn gestures, turning to Buddha for protection. It is plain mindlessness to put down an amulet where others might step on it—a sure way for the magic to fade. In guarding an amulet, one must also think against desecration as he bathes or relieves himself. And fear those skirts, the men are warned, for once the perfumed undergarments brush the amulets, the power is instantly gone, swept away by the overpowering rush of feminine moon flow.

Some symbols work as fictions of the collective aspiration. There are times when symbols help to memorialise defining moments in collective life. Now and then, a society finds itself defending its collective concerns: How can it keep itself from breaking apart? When the threat is great, what resistance can it put up in order to prevail? What hints of weakness make it prone to attack? Who is the enemy? Where does a country locate its strength?

Through big and small events in history, a society marches up to moments when it must act and speak out not as separate voices but as a collective. At such times, a community draws its collective authority from accepted images and fictions that bolster a strong sense of group identity. By imagining itself as a community, without fail, and through continuous fictions and icons, a society succeeds in keeping its collective values intact.

Societies are wise in memorialising such gains: those historical junctures are the most articulate ever, an eloquent expression of the desire to unify. Those junctures are binding moments when a fictive sense of nationhood reaches its most imaginative expression. While it is but a moment—for at other times, individuals will fall or voluntarily break away, out of despair, loss of spirit, or the plain sense of being ignored—the symbol makers are wise to seize the moment and spin their necessary fictions.

An architectural fiction signifying such collective desire is the ancient Thai capital of Ayutthaya. India, the European explorers marked it on their maps, their calligraphic strokes done in sepia. Thirty kings ruled it for four centuries. Explorers, merchants, missionaries and thrill seekers were all intrigued by it. To speak of Ayutthaya is to look back and link the treasures, heritage and outlook of Thailand to this capital of culture. The king of Siam once sought a water-bound city and, like a lotus blossom, it sprang from that cusp where three rivers met—the Chao Phraya, the Lop Buri and the Pasak.
The Portuguese admired its waterworks, rowing past its gate during the 16th century. Golden boats sailed its canals and banks. The “Venice of the East”, many travellers dubbed it. As early as 1516, pepper, nutmeg and cardamoms lured the Portuguese to engage it in a trading treaty. They happened to have a cache of firearms to exchange. And military strategies they were willing to share. The Ayutthayans welcomed this, a perfect way to ward off the marauding Burmese. The Portuguese told them to build lookout posts over the Chao Phraya.

When the French Jesuits got in, they charmed its ruler, King Narai, to become fond of astronomy. Though they sang praises to a different lord, the Jesuits knew the sky and could tell nights when the moon would be gone, even days when the sun would be half eaten by the sea serpent. From them, the King learned the science of solar and lunar eclipses. In return, he built them an observatory and gave them land to put up churches and schools.

The chronicles record Ayutthaya’s splendour: 1,700 temples, a priesthood that was 30,000 strong, and some 4,000 Buddhas in gold, bronze and stone.

When the Burmese broke through and attacked the city, they killed both royalty and the humble folk. The unbending they dragged to live away from home, turning them into slaves. Then they set the golden city on flame.

Some symbols propose fictional resolutions to actual conflicts about imagined communities on the brink of dissolution.

Certain myths and stories, received as extended symbolic narratives, show us how various forces in history contest power in society. As these power structures come to blows, the confrontations they wage generate conflicts that result in domination, resistance, submission and compromised victories.

Societies deal with conflict all the time even as marginal groups press on with their grievances, to the extent of representing them in symbols. The icons and stories that such a symbolic act generates gives face to the enemy. Through pointed figural constructs, they give us an idea about the nature of the struggle at hand and its psychological shelf life.

In a symbolic way, such stories tell us how the collective psyche confronts the stressful complexities of a crisis situation. These stories and myths tell us how societies put up a brave front, how they display a common mettle in subduing barriers, how the collective consciousness extends the possibilities in resolving a crisis by imaginatively listing its options and by engaging in a self-reflexive pursuit of its strengths and weaknesses.

However, we must consider right away that the resolutions that stories offer are symbolic closures. In one sense, a symbolic closure is a fiction: it is something made up, fanciful even, and because it resonates only in the imagination, materialists are likely to dismiss it as far removed and irrelevant to the real problems.

Nonetheless, fictions, as they go, spell not only fanciful ways by which to solve actual problems. In many cases, these fictions convey the figural constructs of an outlook,
an attitude, a society's complex reaction to actual problems. The symbolic resolution in stories and myths offer us an ideology: a way of coming to terms which, at first, may be on the plane of the superstructure, yet something that could materialise in a suit of concrete actions. It may be ideal, visionary, and sit completely in the realm of possibilities. However, when readers act to interpret symbols, they are enjoined to translate fanciful resolutions into practical attitudes and reactions.

We find an illustration of iconography's resolutinal function in the popular Minangkabau legend about the tensive relations between Java and Sumatra. West of Sumatra stand century-old houses whose roofs look like buffalo horns. Minangkabau, its people call this quiet homeland of the horn-shaped houses. In their own language they speak fondly of "the buffalo that won". However, who is that buffalo and what shining victory did it gain? To answer the question, the villagers have spun the legend of the Minangkabau.

Centuries ago, Java's envoy went to Sumatra. He decreed that his king now ruled all the paddies and forests of the Spice Islands. Sumatra, too, was his and if the people didn't want to lose their heads, they must bow down and bring him many gifts. Quickly, the local leaders came to sort this out. Their ideas were many and great. Of such possibilities, one shone and sounded quite right. The two kingdoms would not deploy their warriors, draw out their krises, and slug it out in a bloodbath. Instead they would bring their mightiest buffaloes to the battlefield and let the goring beasts decide.

Java's sultan sent his men to look for a mighty buffalo. Soon enough, they caught one. When it came to shore, the island people rushed to see it and their heart fell away. Not even the teak forests of Sumatra had a buffalo that was as huge, as mad, as fierce as the Javanese buffalo.

The elders came together once again. "How can we fight now?" one asked. None of their ideas seemed smart enough, when a humble villager spoke. He has a newborn calf that he had stolen from its mother. They made this baby buffalo wear a bonnet full of deadly spikes. When the hot sun rose the next day, the proud Javanese walked to the dusty battlefield leading their buffalo. The Sumatrans came after, bringing with them a baby calf. "What a silly thing!" the Javanese warriors roared and laughed. The Sumatrans walked on, refusing to give in to the loud insults and jests. They stood at their own corner of the field and then everything fell to a hush. "Let the battle begin," the voice of the field master roared.

Fiercely, Java's beast rushed on. The Sumatrans untied their baby calf and pushed it to go on. In the middle of the field, the two creatures came charging, then broke to an abrupt halt. Then, the newborn calf began to run. It wanted milk because it had not seen its mother for three days. Now the calf began to run, closer to the huge beast that could give it milk. It pressed its nose to smell the beast's belly, looking for its milk bags. And doing so, its spiky bonnet grazed the belly of the big one and pierced it with poisoned spikes. The buffalo from Java roared in pain and broke across the field.

The Javanese beast slipped once again and finally fell. As the little calf drew near, the people broke out in a great, victorious shout: "Minangkabau, our buffalo wins! Minangkabau, freedom is gained!" The sultan from Java and his soldiers could not say a word. Quietly, they left the battlefield, returned to their boats and sailed on, never to be seen again.

Symbols also mean synthesising skills. One quality of allegories is that their narratives present us characters who display the ability to engage in unifying acts. When we elevate actual persons or characters to the level of symbols, a strong reason for doing so is because they have achieved something by way of a gesture or an act that unifies people. Such living symbols or historical figures show amazing skills in bringing people together, binding them into commitment and disposition, for all to realise the collective vision. The project of nationhood is one such ideology that finds fulfilment when the gestures of particular people are regarded as symbolic and inspiring public participation.

As advocates of a superstructure, these actors have succeeded in showing the particulars of an ideology—through their actions, their responses and the reactions that they are able to generate in apprehending a particular social issue. The free particulars that their acts establish become the semaphore, the cognitive model that everyone follows in bringing a certain
struggle to its helm. Social acts—whether studied or spontaneously rendered—become our imaginative participation in the struggle. Those who press on draw their strength from icons who offer an inspiring programme of action that involves all fields of life and all realms of consciousness.

In a long line of heroes across Southeast Asia, Indonesia's Dipanegara exemplifies these synthetic functions. Indonesia looks up to Dipanegara as its first national hero. Right across Java, he inspired a fierce resistance to Dutch colonial rule during the 19th century. As the Dutch forces attempted to re-establish their political and economic hold years after the disastrous fall of the Dutch East Indies Company, Dipanegara carried the torch and tended fiercely to the refiner's fire during the five-year Java War (1825-1830).

He was born in 1875, the first child of Yogyakarta's third sultan. 'A light to his country,’ this was what his name meant in Sanskrit. He grew up among the village people and the santri—theology students who heeded the wanderlust. This way, he came to meet Kyai Maja, who charmed his young mind with religious parables. Years later, this same teacher would take up arms with him.

In 1807, Napoleon put Marshal Daendels in Java to keep the British from rushing in. To strengthen his guard, Daendels began building forts and roads. Soon, however, the Javanese grew bitter, for Daendels was good at herding people to work but he refused to pay them. For all his tactics, Daendels also failed to hold the English at bay. They came in August 1811, routed the leadership and packed off the Yogyakarta regents to live in exile.

The Dutch staged a comeback in 1816, determined to mine the colony to fill up the hollow coffers. They drew stiff taxes from markets, opium dens and tollways, sending Chinese tax collectors on their behalf everywhere. The nobility also lost some of its traditional income since Daendels forbade nobles from collecting lease money from the farmers.

Dipanegara saw all these, and the fierce reckonings that those hard days brought drove him to action. He went to listen to village heads and local religious leaders. One morning, while meditating, he saw himself being hailed as the Ratu Adil. The voice rose clear and forthright, asking him to build a huge army and to lead his men in trumping the Dutch. The Loro Kidul, the ancient goddess betrothed to the sultans, had risen from her South Sea chamber to touch his forehead and anoint him as future king.

The Dutch seemed ready to mock because in 1885 they tried building a road that would cut through Dipanegara's estate. The royal house slammed the project for it was unthinkable breaking into an ancient tomb that lay in the way of those tracks. The Prince stormed out of Yogyakarta to set up the standard of revolt. His retainers went to deliver an open letter to the people. Everywhere in central and east Java, religious leaders obeyed his word.

In places where he had kicked out the Dutch, Dipanegara handed out liberation which meant an end to taxes and forced labour. Merdeka, as the first freed people savoured the word, meant tax-exempt estates and the freed slaves, through Dipanegara's gallant march.

Conclusion
People forge collective alliances not only through grand political strategies but also through everyday things.

While being political means supporting official exercises like trade, offensives, charter drafting, state elections, legal protests, debates and political critique, the space of everyday life and everyday things prod us to be political, transacting the many layers of politics—in its range of subtle and even unconscious modes of expression.

Among its diverse people, Southeast Asia has forged collective consciousness not only through celebrated acts such as the rise of charismatic leaders, the documentation of democratic blueprints, and the widespread interest in launching nationalist movements. The yearning has permeated social life deeply, so that, in a symbolic way, even the repertoire of everyday existence performs the consolidation of national consciousness.

The social history of Indonesia and Thailand present an array of everyday things that project figural functions
and pointed sentiments. These symbols project natural knowledge, material realities, political struggles, the subjectivity of the iconographers themselves and the fictive aspirations that have been nurtured by these Southeast Asian societies all along.

Symbols possess the power to consolidate collective sentiments. Yet the same study risks that emergent symbols may corrode, even erode personal and institutional strategies geared at consolidating collective feeling. Both enigmatic and menacing, the figures of daily life transact the political realm, raising radical opportunities for awareness, commitment and change.
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Rhythm provokes an expectation, arouses a yearning. If it is interrupted we feel a shock. Something has been broken. If it continues, we expect something that we cannot identify precisely. It puts us in an attitude of waiting.

- Octavio Paz, The Bow and the Lyre

INTRODUCTION

My project started by looking at the development of and current climate for non-commercial contemporary dance in Japan. I met with a wide range of dance artists, producers, critics, administrators and teachers to discuss their views on contemporary dance in Japan. I also watched numerous performances in venues ranging from the National Theatre to plan B, an avant-garde venue known for butoh performances, which only seats 40 people.

Coming from Southeast Asia, where there is strong interest among contemporary dance exponents in looking at our traditional art forms, I was interested in looking at this correlation in Japan. Early on, it became evident that traditional dance and contemporary dance in Japan are very separate forms. I focused primarily on contemporary dance and tried to understand what Japanese contemporary dance is, as well as its different trends. Some of the trends are ‘Tokyo style’, butoh and Europe-influenced dance. However, as my eyes were trained by watching Western contemporary dance, I found that I still had a difficult time appreciating Japanese contemporary dance. I focused primarily on contemporary dance and tried to understand what Japanese contemporary dance is, as well as its different trends. Some of the trends are ‘Tokyo style’, butoh and Europe-influenced dance. However, as my eyes were trained by watching Western contemporary dance, I found that I still had a difficult time appreciating Japanese contemporary dance. I kept looking for the meaning behind the dance, for irony and the intellectual stimulation that are so prized in western art forms.

Surprisingly, it was traditional Japanese art forms that became invaluable in helping me to understand the current aesthetic in Japanese contemporary performing arts. While western theatre tries to reach the audience’s emotions through the intellect, Japanese traditional theatre uses the senses (visual, aural, kinaesthetic) to reach the emotions. This is also true for contemporary dance. Over the months, I found myself changing in what I look at and look for when I watch performances, and, in doing so, I found a new appreciation for contemporary dance forms in Japan.

Meanwhile, my appetite for traditional art forms grew, and I started to watch more performances and take classes in Noh and Nihon Buyo. In doing so, I found ideas and inspiration from the principles of these traditional forms for creating new work.

The following is an excerpt of what I wrote after I saw a Kabuki performance at Kabuki-za in Tokyo:

“All I can think about right now is this amazing Kabuki performance I saw tonight. One act was a dance, or rather a series of dances by an onnagata—a man performing as woman. There is a quality in the movement—both the range and style of movement but also the performative quality of the movement that I do not see in contemporary dance. I feel I have only seen it in traditional forms, and I think it has to do with pauses/accents/stops—understanding the phrasing and rhythm so you know when to, and also how to stop/pause so completely in your body that it feels like all the air around you stands still as well. And then in the next second you are fully moving again. It is all about being able to stop completely and being able to restart completely in the next fraction; it is about how you stop, and the rhythm within that that creates such a thrill, satisfaction and excited expectation within me as a viewer.”
This idea is similar to what I experienced in traditional Indonesian dance as well as in the principles of Noh in which many aspects of the form, from the stance (kammai) and the rhythm (jo-ha-kyu) to the music, are about creating this sense of tension and expectation. I decided that my creative project would be based not on the outward movements of traditional forms, but in looking at the principles that helped to create them.

In the following section, I will describe some of the principles I experimented with, and then discuss my creative process in creating this new work.

**PRINCIPLES**

In Japanese artistic practice in the performing arts, form generally precedes meaning. Once the form is correct, appropriate content appears. Seen from this standpoint, the ‘meaning’ is a sort of by-product of accomplished form—a goal of which is yugen. Yugen has been described as beauty not merely of appearance but of the spirit. It is the inner beauty manifesting itself outward; the beauty of hidden truth.

Most of the principles and focus of Noh are on creating a sensation of the unexpected in the hearts of the audience. It begins with the basic stance or kammai, and is encompassed in the movements, where the energy is focused. In an attitude of waiting, I focused on using form, specifically rhythmic form, to create a sense of expectation and tension. The following are some of the principles with which I experimented:

- **Jo-ha-kyu.** Jo-ha-kyu is the overlying rhythmic principle of Noh and it governs all aspects of the performance, from a dance phrase, to the structure of a dance or play and even the order of an evening of plays. While jo-ha-kyu has sometimes been simply translated as introduction-development-climax or even more simply as slow-fast-faster, it is the cyclical nature of jo-ha-kyu that illuminates its mesmerising nature and the difficulty of its execution.

- **Ma.** Unlike Western performance styles that only focus on the visual and aural stimuli, ma is the silence within a flow of sounds, the emptiness within a flow of visual stimuli. It is the expectant stillness of a movement preceding a change.

- **Moment of Preparation.** The idea is that each movement is preceded by a movement in the opposite direction. Movements of preparation result in a moment of pause as they prepare in one direction to move to another. This sequence of preparation and pause causes the audience to concentrate on the movement and to see it as larger than it actually is.

- **Novelty.** Bringing something unexpected into the dance continually surprises the audience. Examples are when one moves in a powerful way, stamps gently or strongly, and holds the upper part of the body still.

- **Centre.** The centre is key in holding a movement and in focusing the energy and connectedness to the earth. Unlike western dance that fights gravity and is focused on lifting up and pushing down onto the earth to jump up, Japanese dance retains a sense of connectedness to, and gliding on the earth. This is achieved because of a lowered centre of gravity and the focus of holding the movement in the centre.

**PROCESS**

The process of creating an attitude of waiting began by experimenting on myself and creating a solo piece that I performed at a work-in-progress showing at the Die Pratze Theatre in Tokyo. At this initial stage, I was more interested in creating new movements and worked on initiating movement from my centre.

From the feedback I gathered, I started to work with a Japanese dancer, Jou. We still worked on initiating movement from the centre, but started to focus more on the form as the central component of the dance. In other words, the timing and rhythm of the dance would create a framework in which the audience would experience a sense of expectation. So we investigated different ways of stopping, for example, suddenly stopping while trying to ‘freeze’ the air around us when we stopped moving; or slowing down gradually to come to a stop; or using the continuous rhythm of jo-ha-kyu-jo-ha-kyu.

I looked at different rhythms and timings from my observations and studies of Noh dance and music in trying to create rhythms that would cause a sense...
of tension. I also drew rhythmic ideas from principles of Tai Ji Quan, which comes from my own traditional background. We worked on trying to find the best way to piece together these rhythms to create a sense of anticipation in the audience.

Next, I went to Matsuyama where I taught a workshop to over 20 dancers. From the workshop, I selected three dancers (Miyoshi Emi, Akamatsu Michiy and Takahashi Saori) to work with intensively for two weeks on similar principles and movements I had discussed earlier. It was interesting to see how different bodies responded to the same ideas. At the end of the two weeks, I had created three solos, one for each of the dancers and a trio which combined all three solos. The movements became more layered and detailed, perhaps so much so that the initial ideas might have been lost. However, at the same time it was starting to move away from just being a study and taking the shape of a dance.

In effect, this dance was not limited to a front view for the audience. It could be viewed from four angles to get a very different experience from each angle. I decided that the best way to show all these perspectives of the dance would be to make a videodance. Videodance is a genre that experiments with movement and the moving image. It is a film or video in which movement is the main criteria, for example choreography that is specially created for the camera, or that uses camera and editing techniques to emphasise movement. I could also use video editing techniques to fine-tune the stops and starts and rhythms of the piece.

In the first stage of editing, I took the whole sequence of the dance and tweaked it, making certain sections longer, shorter, faster or slower. In any performance, a dancer is rarely able to achieve a ‘perfect’ dance with which she is completely pleased. By using video editing, I was able to fine-tune the rhythms of the piece, but I limited myself so that the effect did not look unrealistic. I did not use extremes of fast or slow, as this would be too distracting for the viewer.

Surprisingly, the editing was also informative to me as a choreographer. I had to look at clips and decide at what point in a movement sequence a dancer could physically slow down or move faster. I would often get up from my desk and try the movement myself to see where and when in my body the movement is initiated, to be able to clarify that in the video.

Close-up shots are usually used to create intimacy or for the viewer to get ‘inside’ the dance. However, as my focus was primarily on the rhythm of the dance, I decided not to use close-ups at all. All editing would be primarily to enhance the rhythm of the dance. But I found that this was sometimes at odds with the rhythm of the video. How a video is edited—the cuts and transitions—creates a flow and rhythm of its own.

Furthermore, in this age of technology, we have certain expectations when viewing video. In terms of rhythm, the speed does tend to be faster than in real life. Also when very active movement is slowed down, it makes the movement feel faster and more dramatic than if viewed in real time. I had to take all this into account, and at some point I had to sacrifice some of the rhythms of the original dance so that I could create a videodance with its own rhythms and integrity, making it a complete creative work in itself.

CONCLUSION/PROGRAMME NOTES
The creation of an attitude of waiting has been an interesting and very enriching process in my artistic life. I now have a better understanding of the contemporary and traditional dance forms of Japan through artists, performances, readings and classes. I was also able to experiment on how to use the principles of Japanese aesthetics in creating new work. My collaborations with Japanese dancers were always informative in these investigations. The final video shooting and editing process further clarified for me the impact of rhythm in dance and video.

There are many ways to view a dance performance or videodance. As the focus in an attitude of waiting is on rhythm, I would ask the viewer to look at the rhythm...
we live with every day—our breath. Breathing is basic, but it is also rhythm that can take us deeper into a dance. Fast passages of movement make me hold my breath in excitement and anticipation, and stillness in a dance releases me to take a breath.

APPENDIX:
Works on DVD
(Please refer to the videos in the enclosed CD)

an attitude of waiting (videodance)
Direction/Choreography: Joyce Lim Suan Li
Dancer: Jou
Sound: Guy Yarden
Editor: Joyce Lim
Camerawork: Abe Noriko, Kobayashi Yasutaka, Joyce Lim Suan Li
Length: 6 minutes 33 seconds
Description: This videodance experiments with rhythmic principles from the traditional performing arts of Japan to produce a sense of tension and expectation within the viewer.

an attitude of waiting (version 1)
Direction/Choreography: Joyce Lim Suan Li
Dancer: Jou
Camerawork: Abe Noriko, Kobayashi Yasutaka, Joyce Lim Suan Li
Length: 6 minutes 10 seconds
Description: This version is the original dance, before it was edited to form the videodance version, or expanded into the performance below.

an attitude of waiting (Indonesia)
Direction/Choreography: Joyce Lim Suan Li
Dancer: Susi Mariah
Sound: Guy Yarden
Set and Costume: Joyce Lim Suan Li
Length: 19 minutes
Description: After completing my API Fellowship, I continued to work on the series of dances that I created in Japan. This solo dance performance premiered in Solo Sans Frontier/Sendiri Tanpa Batas at Teater Studio Taman Ismail Marzuki, Jakarta, Indonesia on 3 September 2004.
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The papers in these proceedings reflect on power in the sense that they deal with the problems and challenges posed by authority, government, control, dominance, influence, effectiveness and capacity to act—in other words, the distribution and effects of power. In many instances, they point to the tensions and conflicts that arise from the inequalities of power that marginalise or exploit huge numbers of people and countries, and govern the world order.

They also examine from many angles the different purposes (or sometimes cross-purposes) that inform ways of thinking, doing or acting, and the ways in which these purposes are shaped by ideologies as well as material contexts. They point to complex practices developed and deployed on local, national, regional and global levels by many different actors—whether individuals or groups, states or non-governmental organisations (NGOs), corporations or transnational networks—that all come into play in formulating, implementing or else resisting policies, programmes and courses of action.

Finally, they bear out the necessity of looking at processes rather than focusing only on the products or results of the different political, economic, social, cultural and intellectual interventions that have been made in the region.

The Asian Public Intellectuals (API) Fellowship Program interventions take root against the backdrop of the region’s history and particular milieu. To an important extent, our thinking and feeling and doing in the region must contend with the difficult double legacies of the historic projects of decolonisation and nation-building and the grand narratives of development and the state that they upheld.

During the period of decolonisation, especially from the 1940s to the 1970s, the newly independent nation-state was held up as the agent of sustainable development, social change, redistributive justice and cultural self-preservation. Anti-colonial struggle in Asia focused on securing the self-determination of nations based on collective political rights to sovereignty and on opportunities for self-improvement in the name of national development (Wallerstein 13).

Leninist Marxism may have differed from the Wilsonian project of national self-determination on the question of who controls the political process, but it nevertheless shared in the common discourse of sovereignty, and political, social and economic change, and the strong belief in the power and capacity of the state to bring about social change.

Indeed, for countries in Asia, national agendas after the declaration of independence had been dominated by modernisation and development. National development meant catching up with developed nations through state policies aimed at expanding the means and levels of production, educating and training people, upgrading technology, modernising infrastructure, and increasing wealth and raising standards of living. This global project of national development presupposed and required the existence of states, preferably strong ones.

The tendency to think of nation building in terms of a modular plan that needs to be put into effect or implemented, is starkly evident in much of the scholarship on nation building in the ‘Third World’ (not to mention pronouncements of leaders of those countries), most of which tended to view nation building as a matter of ‘importing’ or ‘applying’ western...
norms and models to post-colonial realities, though they also refurbished or modified these models to suit their specific needs.

However, the checkered success of nation building projects—often mired in the corruption of the leaders and the continued impoverishment, exploitation, oppression and disempowerment of the population—in many of the former colonies in Asia and Africa continually breaks down the relationship between state and society and loosens the hyphen between nation and state, and has since necessitated a rethinking of basic assumptions about the state, and about national belonging and attachment. We can no longer pin our blind hopes on the nation-state as the sole unit of analysis and agent for our security, protection, prosperity and welfare.

Moreover, globalisation has created new sets of constraints on the state at the same time that it transforms society, culture and economy. The state, whose resources were limited to begin with, saw further erosion of its capacities and resources. The loosening hyphen between nation and state, together with the pressures of globalisation, led to mounting popular demand for participation in the political process.

It is against this historical backdrop that papers discussed in the Third Workshop of the API can be usefully read and located. There are papers that highlight the challenges of implementing and enforcing policies and laws especially in the face of limited resources, human power, and capacities (see Addinul, Agus and Wimonrart in these proceedings). Others show that the nation-state in actuality creates new forms of social stratification in which people are accorded formal equality (i.e., were equal under the law) in the face of existing social and economic inequalities (Elias 274-79).

National integration of socio-cultural or ethnic differences (which were partly fabricated by the state itself) in the service of modernisation and development has also proven to be violent and exclusionary to many people in everyday life while perpetuating the power and institutional entrenchment of a select few. The very governments that were supposed to protect Southeast Asian cultures were responsible for destroying the lifeworlds of indigenous peoples and of the rural population, all in the name of development (see Nilubol, Rajeswari, and Yayan).

Power relations on the international level also play key roles in national and domestic affairs. Through a combination of force and consent, through economic inducements backed by a combination of military force and ideologies of the ‘free market’ and ‘democracy’, the US has been fashioning a new world order based on global capitalism.

This capitalism, while inseparable from and unable to do without the state, reaches beyond the borders of the nation-states, and the word ‘globalisation’ has come to be applied to the combined forces on the economic level of deregulated capital flows, on the technological level of rapid advances in communications, information and transportation, and on the ideological level of neo-liberalism and trade liberalisation, deregulation, decentralisation, privatisation and democratisation (Desai 299).

The development of global capitalism necessitated the restructuring of the nation-state to accommodate global and regional production and finance. The 1980s and 1990s were basically characterised by the intensification of globalised capitalist processes, often imposed on national states at a time of crisis in the name of International Monetary Fund (IMF) conditionality (see Agus and Kawaura), which normally included devaluation, fiscal tightening, privatisation, removal of import controls and food subsidies, enforced cost-recovery in health and education, downsizing of the public sector and other structural adjustment measures (Davis 18).

Yet globalisation proved to be uneven. While IMF conditionality was seen to promote institutional reform, macroeconomic stability and good governance, it was also said to result in economic stagnation, unemployment, poverty, environmental destruction and the growing gap between the rich and the poor.

Far from heralding the end of the nation-state in favour of a post-national global order, globalisation thus highlights the continuing but problematic efficacy of the state and nation as historic projects. What is
happening is not the passing of the nation-state, but the forcible ‘retreat of the state’ which has resulted in the weakening of state capacity to provide welfare services, enforce laws, clamp down on crime, neutralise class, ethnic, and religious tensions, eliminate corruption, and control the flow of money, jobs, production facilities, people, drugs and pollution.

Devolution of government services (that is, the handing over of state functions from the central to the local government) and decentralisation (the transfer of state powers over selected functions from the central to the local governments) are closely associated with this imposed retreat of the state. Devolution and decentralisation are no doubt associated with reform movements demanding more competitive politics, greater population participation and fairer local share of the bounty of natural resources.

However, devolution and decentralisation also represent new modes of governance meant to accommodate the new economic regimes that have been put in place in Asia. Liberalisation of trade and investment regulations, privatisation and market reforms require a different mode of governance, which puts into question the capacity of central governments to handle adequately the demands placed on them while often limiting citizen participation or relegating it to the role of stop-gap low-cost service provider (Siamwalla 83-86; see Tan).

However, we cannot deny that the decentralising and devolving moves reflect both growing demand for popular participation in governance in economic and political affairs as well as the demands of international donors which, instead of dealing with central governments, now prefer supporting better governance, greater local participation and autonomy (see Panelo, Tai, and Tan). Devolution and decentralisation are held to strengthen the overall responsiveness of the government, and are credited with providing better government services, better matching of services to local needs, and better support for and utilisation of local economy. They are held to bring governments closer to people through transparency, accountability and capable governance.

However, if improperly managed, they can also mean loss of control by the central government over the macro economy, the exacerbation of regional disparities leading to economic and social tension, capture of local government by particular local, vested predatory interests (including politicians), and the undermining of state power and accountability (Siamwalla 85-86).

Decentralisation places emphasis on the empowerment of local communities, and is a somewhat belated acknowledgement of the fact that development can only be advanced by tapping local resources, skills and knowledge (see Muktasam). However, local knowledge brings to the forefront the thorny issue of intellectual property rights which, modeled on first-world experiences and concepts of private property, fail to encompass the complex nature of knowledge production and sharing in Third World countries and often penalise the very people whose rights they were supposed to protect (see Rajeswari).

The devolution of state powers to local government has also been partly spurred by the global ideological turn toward neoclassical economics, which argues for lesser reliance on governmental intervention and more on the workings of the ‘free’ market. Media coverage of the acceleration of global capitalism has couched this phenomenon in the language of triumphal ‘democratisation’ following the break-up of the Soviet Union into independent nation-states across Eastern Europe and the end of the developmental states in East Asia.

The 1980s marked a shift in US policy from coddling dictatorships to the promotion of ‘democracy’. The US government under Ronald Reagan began sponsoring a ‘Democracy Project’ which defined democracy in procedural terms as free and open competition among elites. This hegemonic project represented the American counter-offensive against national democratic movements both in countries where the movements posed a serious threat to pro-US regimes, and in countries where national democratic movements (such as the Sandinistas in Nicaragua) are already in power (Robinson).

To be sure, democratisation in the Philippines and in South Korea, Taiwan, Thailand, and Indonesia derived its impetus from the specific domestic politics of each country, but it is also true that external, US intervention also mattered.
Developmental states had actively promoted national economic development and industrialisation through policies that utilised all the available resources within their bounded territories in the name of ‘national interest’. However, authoritarian governments characteristically subordinated civil and political rights to the right to development. This kind of state-led coordination of the national economy and collaboration with banks and firms—a capitalist project imbued with nationalist aspirations or, viewed from another perspective, a nationalist project driven by capitalist impulses (Khoo 214)—was sheltered beneath the umbrella of the Cold War regime in which the US attempted to contain the spread of Communism in the Asian region by promoting Japan as a model of non-communist development.

In fact, the Asian economic miracle refutes the Reaganomics of the shrinking role of government in the economy and the strengthening of civil society and democracy—democracy occurs with market competition in the face of government intervention.

However, by the post-Cold War 1990s, Asian global competitiveness drove the US through the ‘Clinton Doctrine’ to seize the Asian Currency Crisis to dismantle the developmental states by relying on the multilateral economism of the IMF to force open the national economies of East Asia to US goods and services and multinational investment and ownership.

IMF policies during the Asian monetary crisis were seen to favour foreign banks and investors, and provoked both elite and populist outcries. People who bore the brunt of the social crisis engendered by structural adjustment turned to nationalism and various other forms of activism to articulate their demand for social justice. Regional initiatives aimed at cushioning the negative impact of global financial flows were also formulated (see Agus).

However, while the ballot box has been considered the coffin of revolutionaries (Dawley 70), scholars also point to the fact that the rhetoric of ‘democracy’ and ‘freedom’—both desirable and necessary ideals—in practice is often manipulated to increase social inequalities, disempower the majority and pacify without eliminating social conflict. It may prove ineffective in pushing for reform, and end up defusing people’s energies through electoral participation or backroom dealings among traditional politicians and parties. Elections are not always the same thing as democracy (Foran 138).

It is useful to recall in this context that our time is marked not only by global capitalism, democratisation and the forced retreat of the state (as well as the serious questioning of the nation-state in Islamist perspective) but also by the crisis of Marxism, which had long provided the most far-reaching critique of, and (in its advocacy of international solidarity in labour, national liberation struggles, and other issues) alternative to, capitalism.

The breakdown of ‘socialist’ statist regimes in Russia and Eastern Europe, the revisionist path taken by China under Deng Xiaoping’s “socialism with Chinese characteristics” (with slogans such as “to get rich is good” and “it doesn’t matter whether the cat is black or white, as long as it can catch mice”), along with the forced retreat of the state in many parts of the world, all appear to question the theoretical and practical tenets of socialism, particularly its belief in an activist state that shields its citizens against the negative effects of capitalist economics through the provision of public goods like education and health.

While the nation-state is undergoing revision and interrogation, efforts at creating a global world also come up against structural limitations. Universal norms such as the discourse of human rights, posited and deployed as an alternative if not challenge to state-based and territory-based notions of sovereignty and citizenship, are important ideological resources which can be used to pressure states into ameliorating the working and living conditions of workers. However, their political effectiveness has often been crippled by the fact that not only do they sometimes generalise from specific contexts that may not be applicable or applied uniformly elsewhere, there also exists as yet no international organisation with real executory force and enforcement capability.

Transnational networks, whether companies or progressive movements or the United Nations itself, lack the mass base and full institutional political backing to place themselves beyond the reach of the
nation-states; instead, they are forced to work with the state, negotiating (sometimes with some popular support) to influence or modify the formulation and implementation of its policies (Colás 533). There is as yet no worldwide or even regional federation capable of commanding loyalty and allegiance on a scale that would supersede the efficacy of the nation-state in implementing economic and political, let alone environmental and social, policies.

Thus far, the ideal of an international civil society organised around the communicative space opened up by advances in information technology and international mass media has only been realisable for, and accessible to, a privileged, mobile minority of the economic, political and intellectual elite. The kind of global identity engendered in this domain remains on the whole concerned with networking, opportunities and goals.

Far more crucially, the transnationalisation of production has resulted in the decontextualisation of labour, its removal from the centre stage of capitalist imagination in favour of the alluring magic of a seemingly “autonomous” market-driven, speculative, finance capital (Comaroff and Comaroff 300, 303). If consumption has now become the “privileged site for the fabrication of self and society, of culture and identity” (299) and wealth can now be generated from the “thin air” of investments and management and cyberspace (315), this aspect of global capitalism—while liberating in some respects—masks the real, concrete conditions of exploitation, subsistence and marginalisation of entire populations elsewhere in the world, where the production processes have migrated.

The one-billion strong global informal working class (see Yuzon) constitutes around two-fifths of the economically active population of the developing world (Davis 24), and its survival and subsistence activities—massively “feminised” as a result of women’s labour participation in the informal sector—account for 33 to 40 per cent of urban employment in Asia (25). Mass pauperisation assumes its most visible form in the proliferation of slums surrounding the heavily-guarded ghettos of the rich in various mega-cities such as Manila and Jakarta.

Far more telling is the trend of worldwide movement of labour. International migration is an essential component of the global economy, but while global capitalism has encouraged the unrestricted circulation of capital across borders, labour flows continue to be subject to regulation by nation-states. Indeed, there remains a big discrepancy between the transnationalism of capital and the transnationalism of labour (see Pastores): “Migration is the last bastion of protectionism” (Battistella 15). To complicate matters, not all people can move around or across borders; many more do not have the option of migration.

In the absence of a global governance structure and global labour movement, people have no other option than to turn to ‘their’ state for protecting themselves against the depredations of transnational capitalism and securing social justice and equality.

Pressures have also been exerted by transnational movements such as Amnesty International which invoke the discourse of universal human rights to criticise state repression and exploitation, and by local or regional and grass-roots movements and progressive NGOs which oppose global capitalism and seek to ameliorate its negative effects (see Fujita, Hui, and Tan). Feminist, ecological, local defense, religious and other social movements have also mobilised segments of the population in the service of specific objectives.

While proponents of so-called neo-liberalism argue against state intervention and in favour of deregulation and the private sector, many NGO and grass-roots movements call for greater empowerment and self-governance of local communities. What is noteworthy about these seemingly opposite camps is their shared distrust of the inefficient state.

However, this does not mean that the state or even the nation is out of the picture. Multinational corporations work through nation-states and retain their “nominal nationalities” (Reich). Corporations are still shaped by the national ideologies and institutional contexts in which they started operations. They continue to have national bases and it has even been argued that their power is in fact underpinned by US supremacy rather than by the liberal international economic order (Gilpin). Above all, corporations still need to cope...
with specific national sets of institutional constraints and opportunities, and specific corporate histories and cultures, and local resistance (Katzenstein).

Similarly, worldwide and local movements against corporate-driven globalisation rely on critical engagement with the state or parts of the state in a complex process of accommodation, negotiation or opposition, and coordination of mass mobilisation for the most part takes place within nation-states to push for the creation of institutions capable of addressing issues of social inequality, justice and change.

This fact underscores the need for developing forms of activist struggle that engage the state, given that ‘escape’ from the oppressive capitalist system cannot be made without bringing about socio-economic and political transformations both within and across national boundaries and actually changing the state itself (see Nakamura). Social movements often have highly varying degrees of leverage vis-a-vis the state and do not have much impact on shaping interstate relations.

Even as the nation-state cooperates and colludes with transnational capital—and for this reason is often viewed as an external, if not foreign, entity whose incursions into everyday life are invariably invasive if not out rightly extractive or exploitative—its incursion into everyday life does not simply incite popular collective action in the form of resistance to the state.

Popular collective action may also take the form of claims that people can make on the state, claims that force the state to bargain with its people and change some of the terms or conditions under which the state itself can exercise its controlling or extractive functions. This can be seen, for example, in public appeals for government intervention on the level of interstate negotiations (see Pastores). Popular criticism of the ineffective state, by ruing the failure of the state to protect its citizens, continues to affirm the idea of the state as a guardian of the people, and the desire for a state that can fulfill its part of the bargain (see Acosta, Dumalagan, Mangestuti, and Phua).

At the same time, the API papers affirm the need for decision making to encompass, at all levels and all sectors, the multiple stakeholders who operate and speak in different political, social, cultural, and economic registers (see Agus, Fujita, Muktasam, Nakamura, Rajeswari, and Yuzon), even as they point to the fact that different social forces have pursued different projects of making community and defining or identifying themselves as individuals and groups that may not necessarily be centred on the idea of nation, let alone that espoused by the state.

It is all the more imperative for public intellectuals to make sense of the complexities briefly mapped out above. Providing analysis of such complexities is part of and crucial to social action, even as it is often deeply informed by social action. Faced with the failure of the grand narratives of state-led development and universal progress and upliftment, multiple groups and actors now occupy the arenas on local, national, regional and global levels, seeking to achieve various objectives.

In spite of the vitality of these movements, there exists no clear, long-term programme for constructing an alternative social order. Globalisation has offered its own grand narratives of triumphant capitalism, democratisation and free choice, but these narratives clearly hide more than they reveal the far more difficult, fraught and contentious realities they supposedly depict (see Ubonrat). The API papers suggest that the issue may not be one of replacing one grand narrative with another, but of orchestrating a plurality of stories and drawing on accumulated experiences of everyday struggles to craft new strategies, create new knowledge, and embark on new forms of action that can be shared with other people, other regions and the world.

Fortunately, we have had the benefit of the years of learning and struggle, which have yielded both practical and conceptual knowledge, by many individuals and social movements. What remains to be seen is how the creative potential of thinking and doing can be tapped and developed to generate knowledge, strategies and tactics which, in turn, can be disseminated so that they can be shared with different people from different regions. One part of this involves critically interrogating the categories, concepts and norms by which we understand and interpret and organise everyday life, and the other part involves maximising new ways of thinking and doing.
The challenge of deepening democracy, promoting social justice and welfare, protecting individual liberty while nurturing community, solidarity and cultures, and ensuring the security and well being of people remains an imperative. Asia has shown itself to be a vital, dynamic region that is the source of new theories, new knowledge, new forms of expression and new forms of activism and practices.

To an important extent, analytical and symbolic resources already exist and artists such as scholars and activists are making their contributions while artists, writers, film-makers, musicians and students of popular culture are already working with media, imagery and techniques that test the limits of conventional ways of looking at and experiencing the world (see Amir, Anchalee, Lim, Momiyama, Muhammad, Nareerat, and Reyes).

How to link the diverse struggles and learn from them is a major task, and one that public intellectuals can play a crucial role in promoting. There is much dialogue and learning that can be fostered across different zones of learning and struggle. Public intellectuals can play an important role in influencing or shaping public opinion, and perhaps reinventing dreams, hopes and aspirations. Not only must they assume the task of making sense of the complexities of political, economic, social, cultural and environmental issues that now haunt us, they must also develop new languages and ways of expression that can foster dialogues aimed at spreading and sharing knowledge and strategies created by different struggles across countries and regions.

Public intellectuals also need to be sensitive to their own position as scholars or activists in relation to the people they work with or speak to, given that personal relations are shaped by inequalities of class, educational, religious and gender backgrounds. Public intellectuals open themselves to the possibility that what they learn in the course of their research and activism will unsettle if not dismantle all the precepts they hold dear. Intellectual humility—acknowledging one’s own intellectual and political limits—is always a virtue, and does not detract from one’s responsibility to learn; it is actually the precondition of learning.

Finally, the papers included in this volume bear traces of the API Fellows’ respective journeys and itineraries, and reveal the manifold ways in which scholars and activists, who seek in big ways and small to change the world, are also changed by the world. Telling stories of how these changes leave their marks on us and our world may well be one of the primary tasks of public intellectuals.
REFERENCES


Appendix 1

WORKSHOP SCHEDULE
Third Workshop of Asian Public Intellectuals
Fukuoka, Japan, 30 November–4 December 2004

Day 1, Tuesday, 30 November 2004

0900 – 1700  Registration
1700 – 1730  Free Time
1730 – 1800  Group Photograph
1800 – 2000  OPENING SESSION
   Introduction by Master of Ceremonies, Professor, CSEAS, Dr. Takashi Shiraishi
   Address by Director, IKMAS, Dr. Ragayah Haji Mat Zin
   Address by Governor of Fukuoka Prefecture, Mr. Wataru Aso
   Keynote Speech by Chairperson of The Nippon Foundation, Ms. Ayako Sono
   Dinner

Day 2, Wednesday, 1 December 2004

0830 – 0845  Orders of the Day – by Secretariat
0845 – 0930  Introductions – by each Fellow
0930 – 1000  SESSION 1: Framework for the Conference
   Presenter: Dr. Caroline S. Hau
1000 – 1030  Coffee Break
1030 – 1230  SESSION 2: Panel 1 - Policies and Practices
1230 – 1400  Lunch
1400 – 1530  SESSION 3: Panel 2 - Participation and Negotiation
1530 – 1600  Coffee Break
1600 – 1700  SESSION 3: Panel 2 (cont’d)
1700 – 1800  Plenary Session
1800 – 1900  Free Time
1900 – 2000  Dinner
Day 3, Thursday, 2 December 2004

0830 – 0845 Orders of the Day – Secretariat
0845 – 1015 SESSION 4: Panel 3 - Safeguarding Rights
1015 – 1030 Coffee Break
1030 – 1115 SESSION 4: Panel 3 (cont’d)
1115 – 1230 SESSION 5: Panel 4 - Human Security
1230 – 1400 Lunch
1400 – 1530 SESSION 5: Panel 4 (cont’d)
1530 – 1600 Coffee Break
1600 – 1700 Plenary Session
1700 – 1900 Free Time
1900 – 2000 Dinner

Day 4, Friday, 3 December 2004

0830 – 0845 Orders of the Day - Secretariat
0845 – 1045 SESSION 6: Panel 5 - Arts and Identities
1045 – 1100 Coffee Break
1100 – 1210 SESSION 6: Panel 5 (cont’d)
1210 – 1300 Plenary Session
1300 – 1400 Lunch
1400 – 1530 Plenary Session (cont’d) – Future Issues / Evaluation
1530 – 1600 Coffee Break
1600 – 1700 CONCLUDING SESSION
   Summation and Concluding Remarks — Dr. Caroline S. Hau
1700 – 1800 Free Time
1800 – 2100 Cultural Night / Dinner

Day 5, Saturday, 4 December 2004

0900 – 1700 Excursion / Tour
1800 – 2000 Farewell Dinner / Thanks
Appendix 2
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ADDINUL YAKIN
*Implementation and Enforcement of Environmental Policies in Promoting Sustainable Development in Asia: Learning from Malaysia and Japan*

In response to the need to promote sustainable development and better environmental governance, Japan and Malaysia have developed a large array of environmental laws and environmental institutions. However, compliance and the effectiveness of enforcement efforts are still questionable. This study found that environmental policies in both countries have been largely using the command control approach. Nonetheless, there is some exercising of economic instruments in limited areas. Malaysia has introduced the Polluter Pays Principle especially in the palm oil industry with some success. In Japan, some economic instruments have been applied, such as in garbage collection, and the government is going to apply more economic instruments such as environmental taxes and emission trading, to reduce industrial greenhouse gas production. To date, both countries have laid down sound legal foundations for employing more economic instruments in the future. However, important issues still need resolving for better environmental governance: (1) greater political will by governments for better environmental governance; (2) encouraging voluntary actions by industrial companies; (3) encouraging a more constructive role by local governments; (4) exploring and employing more economic instruments; and (5) facilitating and encouraging more pressure from non-governmental organisations (NGOs) and civil society.

AGUS EKO NUGROHO
*Perspectives on East Asian Monetary Cooperation*

Following the Asian currency crisis of 1997, Japan came up with the idea to form the Asian Monetary Fund (AMF). The AMF proposal failed in the face of strong opposition from the United States and the International Monetary Fund. However, reflecting a mutual feeling among the diverse countries in East Asia to come up with new approaches to protect the region against the more volatile world financial market today, efforts continue to grow. In 2000, the establishment of the Association of Southeast Asian Nations’ ASEAN+3 grouping resulted in the Chiang Mai Initiative to create regional financial facilities to meet crises that are likely to recur in the future. This paper explores the recent progress of East Asian monetary cooperation from the perspectives of two countries affected by the Asian crisis, Thailand and Malaysia. Although ongoing efforts are desirable, their effectiveness in securing the region against the recurrence of other crises remains in question.

AKIHIKO KAWAURA
*Globalisation and Local Banking Institutions: The Case of Thailand*

This paper discusses the consequence of forced globalisation in the context of the 1997 currency crisis in Thailand. Before the crisis, the Thai government used to solicit the assistance of local commercial banks in establishing institutions serving as financial intermediaries in poor provinces, which was possible as the government protected local commercial banks from competition. When the International Monetary Fund offered financial assistance at the time of the crisis, it imposed international banking regulatory standards on the Thai government and demanded that foreigners be given the right to gain full ownership of Thai banks. These measures, however, severely limited the scope of bank assistance in the government’s financial development effort. As a result, the government is now
directly engaged in credit allocation through its own financial institutions. This enlarged state presence in the banking sector may have negative long-term development consequences, as it does not nurture the culture of financial intermediary based on commercial viability in poor provinces. This experience highlights the danger of imposing a form of globalisation that is not compatible with local development priorities.

AMIR BIN MUHAMMAD
*Independent Film in Japan and Indonesia*

The creation of two substantially different independent films in two very different countries, Japan and Indonesia, provided tremendous practical experience, where speaking to film-makers and curators became part of the creative process rather than 'interviews' to find out how they thought and worked. The first film, *Tokyo Magic Hour*, is an experimental romance where impressionistic digitally manipulated Tokyo scenery is paired with traditional Malay love pantun (poetry). The second, *The Year of Living Vicariously*, is a socio-political documentary of the making of an Indonesian feature film set in the politically turbulent years of the 1960s. The two countries were chosen as research sites for the contrast: Japanese cinema is very established while the Indonesian one is only recently coming out of a prolonged slump. Of the many ironies and parallels arising out of the experience, the Japanese undertaking actually involved a minimal crew of students and volunteers; while the Indonesia production ended up a relatively expensive film with an enormous crew.

ANCHALEE CHAIWORAPORN
*Flexibility, Patronage and Class: Opportunities for Women Directors in Southeast Asia*

This report focuses on women film directors in Southeast Asia, who are seen as active agents of film-making formed by the Southeast Asian way of life. Their opportunities to make films are shaped by three main factors: the flexibility of film industries, social patronage and class. If the mainstream industry is not as developed and rigid but allows for flexible conditions where alternative or independent film-making is accessible, it is easier for women to penetrate these industries. Social class also affects these women's chances to get into film-making, because film in Southeast Asia is still considered an expensive medium, and the majority of women filmmakers come from the upper class. However, the construction of social class in today's changing world is not fixed but reconstructible. Education will play an important part in the reconstruction of the social class system for women.

CARLO IRWIN A. PANEOLO
*A Tri-Country Assessment of Health Reform*

Japan, the Philippines and Thailand are in a process of health system reform to attain greater equity, efficiency, effectiveness and sustainability in providing health services. The health systems of Thailand and the Philippines are challenged by a double disease burden and the need to provide adequate health coverage to the poor. Japan is struggling to meet the needs of its rapidly ageing population and its cost implications. Thailand has achieved universal coverage through a model patterned after the British National Health Service. On the other hand, the Philippines is implementing a five-point reform strategy anchored on social health insurance. Japan has a hybrid of tax-based and social insurance systems. The objective of this paper is to describe the rationale, processes and outcomes of the health reform experience in each of the three countries. The paper also provides synthesis as well as policy recommendations in terms of public health, health facilities, governance, regulation and health financing. Recognising that no two countries are alike, this report seeks to describe a complex process of change and to identify common strands that countries may build on for better health for its citizens.
change. These symbols come from such popular sources as rituals, the oral lore preserved in memory, paintings, sculpture, architecture, textile arts, the market and food culture, cinema, billboard art, and many other sources. These are the ontological spaces of everyday life—sites of knowledge where the archetypes inspiring national consciousness exist and inspire present social history.

DORAM T. DUMALAGAN  
**Economic Globalisation and Its Impact on Consumer Rights in the Philippines, Thailand and Indonesia**  
What is the future of consumers in developing countries? Economic globalisation may benefit the consumers due to the expanding circulation of goods and services, thus enhancing their right of choice based on needs and purchasing power. On the other hand, it may create serious uncertainty about their safety. Today’s “global consumers” expect the State to protect them. My study therefore focused on comparative research and analysis of the relevant consumer protection laws and programmes in the Philippines, Thailand and Indonesia. Also included are brief discussions about economic globalisation, the “global consumers” and their consumer rights, the United Nations efforts for consumer protection, and how the Consumer Protection Acts evolved in these countries. My findings show that laws, regulations and programmes in the three countries provide a wide array of protection to consumers. Whether these adequately respond to economic globalisation, will depend on how the governments pursue their policies, enforce their laws, and consistently implement their programmes on consumer protection, in the true sense of justice and equity.

HUI SENG KIN (SAM)  
**Dam Opposition Networks and Trends in Thailand and Japan**  
This write-up briefly reports on selected cases/areas where dam opposition happened in Thailand and Japan. In Thailand, the highlight of this opposition is that the protest movement has evolved into a community-based research movement called the Tai Baan research. This is due to the simple fact that protests just cannot last forever. In Japan, networking among local groups, NGO activists, academics, writers, like-minded politicians and many other people from all walks of life is important to push for a national shift in the business of dam-building. The human rights approach is consistently used to stop or prevent dam building.

ISAGANI ANTONIO F. YUZON  
**Social Protection of the Informal Sector in Southeast Asia**  
This paper tackles the issue of social protection of the informal sector in four countries, namely, Thailand, Malaysia, Indonesia and the Philippines. It cites the initiatives of the government, civil society and religious organisations. It is claimed that despite the recognition of the informal sector’s significant role in the economy, there is still no official definition of informal sector, thus it is officially and legally non-existent. Therefore, government laws and programmes are focused primarily on the formal sector. There is an existing ambivalence on what to do with the informal sector—whether to recognise it or to integrate it with the formal sector or to treat it as a separate entity. The author contends that non-government and religious organisations are more involved than the government in providing basic services to the informal sector, while the business sector also helps through community-based programmes. However, the government should assume the lead and most important role in providing social protection to this neglected sector.

JOYCE LIM SUAN LI  
**an attitude of waiting: A Videodance Inspired by the Aesthetic Principles of Japanese Performing Arts**  
an attitude of waiting is a videodance that experiments with rhythmic principles from the traditional performing arts of Japan to produce a sense of tension and expectation within the viewer. While the project began by studying contemporary dance in Japan, it was by observing the traditional performing arts that contemporary aesthetics became clearer. Further study of Noh and Nihon Buyo revealed principles in Japanese aesthetics that inspired this new videodance. The creative process involved working in different stages with dancers from Tokyo and Matsuyama, shooting the video in multiple locations in Tokyo, and using digital editing techniques to finetune the rhythmic timings.
MAMI NAKAMURA
The Role of Development Workers in the Process of Community Development: Learning from the Experiences of CODI in Thailand
Reconsidering the meaning of ‘development’ helps us to think about how we want our society to be. There are various discourses on the concept of ‘development’; however, the discourse and the reality—how development projects are implemented—do not necessarily come together. I wanted to understand what is happening in community development sites at the grass-roots level in Thailand. I therefore studied a Thai public organisation—the Community Organizations Development Institute (CODI)—which supports poor people’s informal process of development while building civil society. In this report, I take a brief look at the situation of the urban poor in Thailand, and introduce the organisation and its recent programmes as well as describe it as a case study.

MANGESTUTI AGIL
Prospects of Traditional Medicines of the Philippines and Indonesia for Complementary and Alternative Therapy in the Era of Globalisation
This research studies the prospect of the traditional medicines of the Philippines and Indonesia for complementary and alternative therapy in the era of globalisation. Results show that the traditional medicines of the Philippines do not have a specific philosophy behind their medical system. Communities know about the healing power of traditional medicines, but do not use the medicines regularly. However, ethnomedical documentation of the traditional medicines of ethnic groups has been conducted as has intensive integrated research on herbal medicines. Likewise, the traditional medicines of Indonesia have no specific philosophy behind their medical system. Nevertheless, Indonesians believe that traditional medicine can help them in curing and preventing diseases and in general health. Therefore, while research on herbal medicines has been conducted extensively, it has not been integrated yet. Nonetheless, Indonesia and the Philippines have good prospects in developing their traditional medicines for complementary and alternative therapy in the era of globalisation. Recommendations for development include the encouragement of ethnomedical studies to explore natural resources for drugs, the participation of religious leaders in disseminating knowledge of natural-based medicines, and enhancing the role of pharmacists in educating the community about medicines.

MUKTASAM
A Study of Rural Development in Two Asian Countries: A Benchmarking Process for Best Practices
In the long history and experience of rural development in Asian countries such as Indonesia, Malaysia and Thailand, some programmes have failed to promote effective social changes. This study was carried out to investigate best practices in rural development in Malaysia and Thailand. Three best practices in Malaysian rural development identified in this study are the strategic role played by the Amanah Ikhtiar Malaysia (AIM) as a microfinance institution in addressing poverty issues; an innovative approach to accelerating rural development in the form of a competition of innovativeness in villages called Pertandingan Ilham Desa; and the strategic role played by a rural institution called the Jawatankuasa Kemajuan dan Keselamatan Kampung (JKKK). Two best practices in rural development in Thailand that have been identified are innovative approaches to agricultural development, and social participation in forest management. These best practices could be considered a “learning resource” for Indonesia to promote better performance in rural development towards more effective and sustainable development.

NAREERAT LEELAWAT
Decoding Manga: The Study of Identity (Re) Construction in Popular Culture
We are now living in an overwhelmingly media saturated landscape, where the active consumption of products enormously affects one’s sense of self. In certain cases, the way identity changes and is constructed are affected by the strong influence of the media, as it has given ways to individuals to explore and experiment with the self through the representation of various aspects embedded in, for example, a character in a film and the lifestyle of celebrities. The so-called ideology of consumerism has suggested that the meaning of our lives is to be found in what we consume rather than what we produce. Manga, anime and video games, known as mass media in popular culture, are going to play an important role in identity construction. This paper examines the process of identity construction and reconstruction through these media. The media is considered not only in terms
of products for leisure but also how they determine the patterns of the shared culture where public identity has been located. My analysis also explores the “fan culture”—the relationship between objects as cultural material and individuals. What is the meaning behind their consumption? Does manga characterise an individual?

NILUBOL CHAI-ITTHIPORNWONG
Iriai-ken Court Cases in Japan: Lessons for ‘Traditional Local Community Rights’ Court Cases in Thailand
The purpose of this research was to examine the rulings of the Thai Court on ‘traditional local community rights’ cases since the new Constitution of 1997 came into force. Reference is also made to the rulings of Japanese courts concerning their Iriai-ken (the rights of commons), although the Japanese Iriai-ken is in its Civil Code, and not in the constitution as in Thailand. In my research I was guided by the question: What can we learn from Iriai-ken court cases in Japan? My hypothesis for this research was that Thai judges lack ‘precedents’ in applying a new law such as Section 46 of the Constitution. Therefore, Japan’s Iriai-ken court trial procedures would be a great reference for Thai judges. The finding of this research is that the written report by the research team (anthropologists and lawyers) proves that the communities’ customs are significant for the communities to claim or defend their rights of commons in the court.

PERSIDA V. RUEDA-ACOSTA
A Comparative Study of the Free Legal Aid Systems of Japan, Thailand and the Philippines
This research paper brings forth the experiences and insights of the legal aid providers of each country relative to legal assistance and human rights protection. With each country learning from each other, more success for their respective legal aid programmes may not be far behind. “Legal aid is one of the major tools for human rights protection,” advocates believe. Just a cliché or a reality? Its applicability and veracity has been tested in Japan, Thailand and the Philippines. It is recommended that a solid and adoptive free legal aid system be established by every state to ensure that the human rights of every individual in a jurisdiction, whether a citizen or foreigner, can be protected and promoted. The services provided by this system must be implemented by a specific government agency, with a budget that is not dependent on the economic and political climate of the state. This way, the aid recipients will be guaranteed with continuous and quality services. As the three countries work towards the establishment of such an agency, their allies in public service like the media and NGOs could make the work lighter and the waiting shorter.

PHUA KAI LIT
The Organisation and Financing of Social Security, Health and Other Social Services for the Elderly in Japan: Lessons for Malaysia
This paper discusses population ageing and its impact on social security, health and other social services for the elderly in Japan. It also discusses possible lessons which we can learn from the Japanese experience. These lessons include: the need to avoid fragmentation and complexity in public programmes; the need to anticipate the possibility of escalating costs; dealing with non-compliance in mandatory schemes; avoiding unnecessary financial pressure on firms and individuals; and anticipating possible shortages of facilities and staff because of demand generated by new public programmes.

R. MUHAMMAD MULYADI
Malay Pop Music: Between Market and National Identity
Pioneered by royal musicians in the 1930s, the truest form of Malaysian popular music is a fusion of elements from various musical cultures in the country. In the 1940s, P. Ramlee was instrumental in doing that, creating a uniquely Malaysian style based on Malay folk music. Then, by the end of the 1950s, Malaysian music became greatly influenced by the rock music of western countries. The development of the pop music industry was aided by the emergence of recording companies. However, the Islamic revival in the 1970s and the National Culture Policy, of which Islam is an important element, started putting faith- and moral-based restrictions on pop music performances and music. The regulations on the supposedly bad influence of rock music on youth were especially rigid when it came to black metal music. Meanwhile, Indonesian artistes started becoming extremely popular and have remained influential locally. In the 1980s, non-Malays began to significantly influence the music industry as
song composers, music arrangers and artists. Malaysian music remains largely confined to local markets as the global market continues to prove elusive.

RACHEL F. PASTORES
The Impact of Globalisation on Migrant Workers in Malaysia and Japan in the Areas of Labour Standards and Employment Rights
This paper aims to present and examine the migration policy issues now facing the governments of Malaysia and Japan in the era of globalisation; and how the migration policies and strategies affect wages, job security, and labour standard rights of migrant workers in both countries. For Malaysia and Japan, the essential focus of immigration policy has been on limiting the extent of illegal migration and combating employment of illegal foreign workers. Low wages, maltreatment and hazardous working conditions, language barriers, discrimination and restrictions on geographical movement are the most serious problems reported by migrant workers. The lack of a comprehensive, well-coordinated policy on foreign workers in labour employment and immigration matters also add to the complexities of the problems. Policy and programme intervention should promote social integration in the context of reviving Asian economies. Both governments should balance economic growth with protecting the rights of migrant workers. More efforts should be made to providing accurate information to potential migrants so that they are fully aware of all the costs and benefits of migration. Regional cooperation among countries of origin and destination is also necessary.

RAJESWARI KANNAIH
Farmers’ Rights to Seeds in Indonesia, the Philippines and Thailand
The adoption of intellectual property rights on plant varieties through plant variety protection (PVP) laws is a recent phenomenon in much of Asia. Asia’s developing countries only began drafting PVP laws after the Trade-related Aspects of Intellectual Property Rights Agreement (TRIPS) in 1994. Many have based their PVP laws on the sui generis model developed by the International Union for the Protection of New Plant Varieties (UPOV) though very few have ratified the UPOV international conventions. This paper focuses on Indonesia, the Philippines and Thailand, where intense debate has taken place between and amongst policymakers and civil society on PVP. Central to their discussions has been how to balance the rights of formal breeders and the traditional rights of farmers and indigenous communities to save, use, sow, resow, exchange and sell seeds. This paper presents an introduction to the concept of farmers’ rights, an overview of the global rights regime on plant varieties, plant variety legislation, and farmers’ rights in the PVP laws in the three countries studied. It ends by proposing areas for reform.

TAI LEE MING
A Review of the Asian Development Bank’s Involuntary Resettlement Policy and Resettlement Case Studies
Development projects which induce involuntary resettlement may cause affected persons (APs) severe long-term hardship, impoverishment and environmental damage, unless appropriate measures are carefully planned and implemented. This paper provides the basis for understanding the Asian Development Bank’s (ADB) Policy on Involuntary Resettlement and highlights some constraints in its implementation by reviewing the Policy and past involuntary resettlement cases. Among findings are that land and assets are often undervalued as a result of no legislation or official mechanism for valuing assets in most of the developing countries. There are also gaps between the Policy and developing countries’ existing policies. Therefore, the ADB should assist developing countries institute new legislation or guidelines regarding the eligibility and entitlements of the APs in developing projects with adequate compensation. The capacity of developing countries to effectively plan and implement involuntary resettlement activities in line with the ADB’s Policy should be built upon and strengthened by ADB technical assistance. The replacement cost of lost assets payable to the APs should be finalised before loan approval. An experienced NGO should be mobilised to act as an intermediary between the APs and the project executing agencies.

TAN PEK LENG
Decentralisation versus Democracy: A Study of Thailand and Indonesia
The promulgation of decentralisation laws in 1999 held out hopes of greater democratic space for the citizenry of Thailand and Indonesia. Five years hence, the
achievements are none too commendable and there are even threats of certain reversals. What is undeniable, however, is that civil society has made use of whatever space available to them to push their democratic agenda. Dominant modes of citizen participation like multi-stakeholder forums, non-governmental organisations, and community-based organisations have been employed in different circumstances and to different degrees of effectiveness. However, it would require a more thorough reform of the political and economic superstructure for true decentralisation to operate and to enable genuine democracy to take place.

TOMOKO MOMIYAMA
Perception and Practice of Indigenous Musical Traditions in the Face of Changing Cultural Identities
Modern day Asia is experiencing rapid societal changes due to the waves of globalisation. Correspondingly, changes in the collective and individual identities of the people of Asia are reflected by the current state of their various forms of traditional music. My informal observations in Indonesia and Thailand reveal that through commercialisation, many of these musical traditions are disappearing or losing their original societal functions. Traditional music is constantly being shaped and utilised by both extremes of top-down and bottom-up identity construction. Through this process, new forms of traditional music are continually being created. Such transformation of traditional music is a natural part of a cultural mechanism. However, as we shape our future by re-examining our past and learning from the wealth of knowledge imbued in traditions, collaboration between the top-down and bottom-up forces is essential for sustainable social development with global participation. The second half of this paper elaborates how some of these findings are related to my creative activities conducted throughout the Fellowship.

UBONRAT SIRIYUVASAK
Peoples’ Media and Communication Rights in Indonesia and the Philippines
This study investigates the emerging phenomena of people’s media and communication rights in the Philippines and Indonesia, two important ASEAN nations whose varying degrees of media freedom and political transformation in recent years provide for a dynamic comparative perspective. In both countries, the new generation of alternative or people’s media is challenging the very structure of media institutions, demonstrating a non-market oriented model of democratic media. The emergence of clandestine media during the Marcos era and Suharto’s New Order had the genuine media spirit of disseminating the truth and hence, started the unravelling of these dictatorial regimes. In the Philippines, the combination of multimedia technologies and mainstream media speeded up the People’s Revolt. Today, media activism focusing on empowerment through information and knowledge conscientises the public. In Indonesia, media activism in the form of community radio and radio news networks demonstrates the significance of communication rights which include the right to own and access media channels. This restructuring of the political economy of communications infrastructure and cultural environment enriches active citizenship, hopefully leading to long-term progress in education, cultural autonomy and participatory democracy.

WATARU FUJITA
Creating Community Forests: A Comparative Analysis of Socio-Political Structure in Thailand and Indonesia
Two recent cases introducing community-based forest management, or community forestry, are examined in a comparative way: one case is in the West Kutai district in East Kalimantan, Indonesia, and the other is the national-level movement towards community forestry in Thailand. This paper covers community forestry policy as well as the socio-political background that enables such policies to be in place and highlights the differences between the two cases. In both cases, the role of the middle class is important. However, in Thailand, while decentralisation gives opportunities for the district government to make its own policy, centralised administration is still maintained. Therefore, community forest movements there began from the bottom, the local people, and now, must be raised to the attention of national level authorities. In contrast, West Kutai’s community forestry policy is top-down: advocacies, policies and institutions are well organised but they lack local people’s understanding. Considering the two cases as being complementary to each other, this paper stresses the need to balance advocacy and practices, to bridge the middle class and local people, and to construct interactive systems.
WIMONRART ISSARATHUMNOON
The Machizukuri Bottom-up Approach to Conservation of Historic Communities: Lessons for Thailand
This is a study of machizukuri, the bottom-up approach to urban conservation in Japan, as an alternative approach to conservation for the Rattanakosin area in Bangkok. Rattanakosin is an old historic district where conservation is governed by a master plan. While the government is paying more attention to public participation in conservation, adjustments are needed to generate long-term results. Many lessons can be drawn from the machizukuri. Defined as processes involving partnerships among local residents, investment sectors and government, machizukuri comprises “hardware activities” (construction and urban planning) and “software activities” (regeneration of historic centres and the creation of networks). Machizukuri can be applied in Rattanakosin in several ways. The government section in charge of conservation in Rattanakosin should collaborate with other local government sectors and promote conservation plans to local groups. Public participation in conservation processes should be increased. Local communities should be sustained, with the Machizukuri centre serving as a model for a common space for citizens’ groups. Finally, regenerating the economy in the historic centre should be done through small projects that are appropriate to local needs and investments.

YAYAN INDRIATMOKO
Orang Asli, Land Security and Response to the Dominant Society: A Case Study of the Tanjung Rambai Temuan
Based on a case study of the Orang Temuan at Tanjung Rambai, Hulu Langat district, Selangor, this paper describes the current condition of the Orang Asli people in Malaysia, with focus on their response to current developments as well as to the dominant society and the uncertainty with regard to their traditional lands. The case study shows that the marginal community has maintained its own identity in its everyday life as a response to state policy and pressures from the dominant community. Insecurity in land tenure due to formal government policy and the massive encroachment of the neighbouring dominant community on their lands are two factors that have contributed to their uncertain condition. This condition has also created a dislike toward the dominant community while being highly dependent on external functions, the government and the wider community, to survive. The Temuan see the government in two contrasting ways. While the government is seen as a ‘protector’ to whom they can ask for help and charity, they dislike the government’s perspectives and policies on the Orang Asli, especially on issues of land and integration.
INDEX

A

Abdullah Ahmad Badawi
Aboriginal People's Ordinance, No.3/1954. See also
Orang Asli
See also Orang Asli
Aboriginal Tribes Enactment 1939. See also Orang Asli
ADB. See Asian Development Bank
Addinul Yakin
Affected Persons: and involuntary resettlement;
compensation for; impoverishment of; AFTA. See ASEAN
Free Trade Area
Agenda 21. See United Nations Agenda 21
Agreements for Environmental Pollution Control
(Japan); and local governments. See also Environmental
governance
Agribusiness: in Thailand
Agus Eko Nugroho
AIM. See Amanah Ikhtiar Malaysia
Air Pollution Control Law (Law No. 97 of 1968)
(Japan); 1996 amendment
Air pollution; hazardous pollutants; nitrogen oxides;
suspended particulate matters
AJI News. See also Underground publications,
Indonesia
AJI. See Aliansi Jurnalis Independen
Akihiko Kawaura
Aliansi Jurnalis Independen
Alliance of Independent Journalists. See Aliansi Jurnalis
Independen
Alternative media. See Media
Amanah Ikhtiar Malaysia; and poverty alleviation; and
rural development; characteristics; financial services;
operational model; source of funds; success of; working
principles. See also Rural development
AMF. See Asian Monetary Fund
Amir bin Muhammad
Angkatan Bersenjata. See also Indonesia: newspapers
Angkiringan Newsletter
Angkiringan Radio. See also Radio stations, community
Apakabar (newsgroup). See also Internet
APs. See Affected Persons
Area-wide Total Pollutant Load Standards (Japan)
Article 19
ASEAN + 3. See Association of Southeast Asian
Nations
ASEAN Free Trade Area. See also Association of
Southeast Asian Nations
ASEAN Task Force on the ASEAN Currency and
Exchange Rate Mechanism
ASEAN. See Association of Southeast Asian Nations
Asian currency crisis; cause
Asian Development Bank: ‘Guidelines for Incorporation
of Social Dimensions in Bank Operations’; ‘Guidelines
for Social Analysis of Development Projects’;
Management Review Meeting; Regional and Sustainable
Development Department; resettlement policies;
Safeguards Policy Department; social development
specialists; ‘Staff Instructions on Certain Policy/
Administrative Issues—Involuntary Resettlement’. See
also Policy on Involuntary Resettlement
Asian Development Bank: Institute
Asian Monetary Fund: and Japan; failure of; funding;
opposition to; purpose
Asian Policy Forum
Asian Public Intellectuals Fellowship
Association of Southeast Asian Nations; and China;
and Japan; and South Korea; ASEAN + 3; monetary
cooperation in. See also ASEAN Free Trade Area

B

Bakun dam. See also Dam construction
Balai Budaya Minomartani (Encounter Radio): role of.
See also Radio stations, community
Bandung
Bangkok: economic activities. See also Thailand
Bank of Thailand: agriculture credit system; and IMF;
and commercial banks; exchange rate system
Banks, Thai: Bangkok Metropolitan Bank; Bank Thai;
branch expansion; branch networks; commercial banks;
competition; currency crisis; Government Housing
Bank; government-owned; Government Savings Bank;
Krung Thai Bank; loans; ownership restrictions; Siam
City Bank. See also Bank of Thailand; International
Monetary Fund; Thai government
Barisan Nasional (National Front).
Barisan Nasional. See also United Malay National Organisation
Basic Environmental Law 1993 (Japan): major goals; role of Japanese local governments
Basic Law for Environmental Pollution Control (Japan?)
Benchmarking: in rural development
Berita Yudha. See also Indonesia: newspapers
Biochemical Oxygen Demand. See also Water pollution
BOD. See Biochemical Oxygen Demand
Bond markets; Asian;
BOT. See Bank of Thailand
Broadcasting Law: effect of Bumiputra. See also Malays
Butoh. See also Performing arts

C

Capital: capital flows; short-term
Centre for Global Environmental Research. See National Institute for Environmental Studies (Japan)
Charoen Pokaphand. See also Agribusiness: in Thailand
Chemical Oxygen Demand. See also Water pollution
Chemical pollution. See also Water pollution
Cheras, Selangor, Malaysia
Chiang Mai Initiative; funding; purpose. See also Monetary cooperation
Chiang Mai, Thailand
China: and ASEAN; regional financial role
Cinema: Indonesian; Japanese
Citizen's media. See Media
CMI. See Chiang Mai Initiative
COD. See Chemical Oxygen Demand
Command-and-control policy: as an environmental policy instrument; effectiveness of;
Communication rights. See Indonesia; Philippines
Community forestry: community participation; in Thailand. See also Khao Rao Thien Thong Village, Chai Nat province, Thailand
Community media: role of. See also Radio stations, community
Community Radio Alliance: See also Radio stations, community
Community radio stations. See Radio stations, community

D

Dam construction: and NGOs; opposition to;
Dance, contemporary: and traditional art forms; Japanese; Western
Dance, traditional: Indonesian; Japanese
Deforestation. See also Environmental problems
Del Superior Gobierno. See Newspapers, Philippine
Department of Environment (Malaysia): control of effluent disposal
Department of the Environment. See Ministry of Science, Technology and the Environment Malaysia.
DeTik. See also Media, Indonesian
Developing countries: and ADB Policy; development policies
Development projects: and resettlement; impact on environment
Dioxin exhaust. See also Environmental problems
Director General of the Environment (Japan)
DOE. See Department of Environment (Malaysia)
Durians. See also Orang Temuan: economic activities

E

EAEC. See East Asian Economic Caucus
EAI. See Environmental Agency of Japan
East Asian Economic Caucus
Economic cooperation, East Asian: trade and industry
Economic growth: effect on environment.
Editor. See also Media, Indonesian
Effluents: from agro-based industries; standards; control of industrial discharges
EIA. See Environmental Impact Assessment
Eighth Malaysia Plan. See Malaysia Plan
EMS. See Environmental Management Systems
EMS. See European Monetary System
Encounter Radio. See Balai Budaya Minomartani
Endau-Rompin National Park
ENSEARCH. See Environmental Management and Research Association of Malaysia
Environmental Agency of Japan
Environmental conditions, Malaysia: pollution offences
Environmental governance; and governments; constraints in enforcement; enforcement efforts; role of business sector; role of government; role of NGOs; use of economic instruments. See also Environmental institutions; Environmental laws
Environmental Impact Assessment (EIA); in Japan; in Malaysia; reports
Environmental Impact Assessment Law 1997 (Japan)
Environmental Information Centre. See National Institute for Environmental Studies (Japan)
Environmental institutions. See also Environmental governance
Environmental laws; in Malaysia. List of; See also Environmental governance
Environmental Management and Research Association of Malaysia
Environmental Management Systems
Environmental penalties: in Japan; in Malaysia
Environmental policies: compliance with; factors influencing implementation; in Japan; in Malaysia; implementation in Japan; implementation in Malaysia; methods of implementation. See also Environmental governance; Environmental laws
Environmental policy instruments: command-and-control; economic; in Japan; in Malaysia; taxation
Environmental pollution: in Japan, causes of; in Malaysia, causes of; reduction of; Environmental problems. See Environmental problems
Environmental Protection Society of Malaysia (EPSM). See also Environmental governance
Environmental protection: and public pressure
Environmental Quality Act (EQA) 1974 (Japan?). See also Environmental laws
Environmental Quality Regulation (Japan?)
Environmental Quality Standards (EQS) (Japan?); major goals; rates of compliance
Environmental regulations. See Environmental laws
EPSM. See Environmental Protection Society of Malaysia
EQA. See Environmental Quality Act
EQS. See Environmental Quality Standards
EU. See European Union
European Monetary System
European Union: single currency
F
Federal Environment Agency (Japan)
Federal Timber Board (Malaysia)
Film festivals, international: Melbourne; Rotterdam; San Francisco; Singapore
Film, experimental; film-making. See also Film, independent
Film, independent: in Indonesia; in Japan; use of digital video
Film-makers: Chris Marker; Indonesian; Japanese; Stan Brakhage;
Financial cooperation. See Monetary cooperation
Financial investments: long-term
Financial sector regulation. See also Globalisation
First Malaysia Statement. See also Malaysia Plan; Outline Perspective Plan
Free Trade Agreement (FTA)
Freedom of speech
FTA. See Free Trade Agreement
G
GATT. See General Agreement on Tariffs and Trade
GDW. See Gerakan Desa Wawasan
General Agreement on Tariffs and Trade. See also World Trade Organisation
Genting Peras village. See Tanjung Rambai village
Gerakan Desa Wawasan (village empowerment). See also Pertandingan Ilham Desa
Germany: and EU monetary union
Gie; Riri Riza; Soe Hok Gie
Global Environment Information Centre: aims. See also Environmental governance
Globalisation; and developing countries; and industrialised countries; and international trade; conversion-based
Gomes, Alberto
Greenhouse gases. See Air pollution
H
Habibie, B.J. See also Indonesia
Harmoko
Hong Kong
Index

Hong Kong International Film Festival
Hulu Langat district, Selangor, Malaysia
Hulu Langat Forest Reserve

I

IMF. See International Monetary Fund
Impoverishment Risk and Rehabilitation Model
Impoverishment: forms of. See also Affected Persons
Independent (Independent). See also Media, Indonesian
Independent news production networks. See also Radio
news networks
India: road development project
Indigenous people: in Malaysia. See Orang Asli
Indonesia: currency crisis economy; history; nationalist
movement; New Order; people; politics; popular dissent;
relations with Malaysia;
religion
Indonesian Broadcasting Commission (KPI). See also
Media, Indonesian
Indonesian Democratic Party (PDI). See also Indonesia:
politics
Initial social assessment: purpose. See also Asian
Development Bank; Policy on Involuntary
Resettlement
Institut Studi Arus Informasi (ISAI)
Institute for the Study of Free Flow of Information. See
Institut Studi Arus Informasi
International Monetary Fund: and Thai financial sector;
Thai rescue package.
International Standard Organisation: and environmental
management; ISO 14000; ISO 4001
International Timber Trade Organisation (ITTO)
International trade
Internet: role in underground news, Indonesia;
newsgroups
Internews Indonesia. See also Internews Network; Radio
news networks;
Internews Network
Investment, foreign: in ASEAN
Involuntary resettlement: and development projects;
elements of; impact on households; in developing
countries; population displacement; projects;
IRR. See Impoverishment Risk and Rehabilitation
Model
ISA. See Initial social assessment.
ISAI see Institut Studi Arus Informasi
Itai-itai (‘ouch-ouch’) disease. See also Water pollution
ITTO. See International Timber Trade Organisation

J

Jabatan Hal Ehwal Orang Asli. See also Orang Asli;
Tanjung Rambai Temuan
Jakarta
Japan
Japan Bank for International Cooperation
Japan Council for Sustainable Development: aims;
function; members. See also Environmental governance
Japan Environment Corporation: Japan Fund for Global
Environment. See also Environmental governance
Japan Fund for Global Environment. See Japan
Environment Corporation
Japan: 1946 Constitution; local governments
Japan: and ASEAN; and East Asian region; regional
financial role
Jaringan Radio Komunitas. See also Radio stations,
community
Jawatankuasa Kemajuan dan Keselamatan Kampung;
and rural development; operational model; roles;
structure
JBIC. See Japan Bank for International Cooperation
Jelebu-Semenyih highway
JHEOA. See Jabatan Hal Ehwal Orang Asli
JKKK. See Jawatankuasa Kemajuan dan Keselamatan
Kampung
Johannesburg Summit 2002

K

Kabuki. See also Performing arts
Kataastaasan Kagalanggalang Katipunan ng mga Anak ng
Bayan (KKK). See Katipunan
Katipunan Revolutionary Movement. See Katipunan
Katipunan; Andres Bonifacio; Kalayaan. See also
Philippines: history; Propaganda Movement
Khao Rao Thien Thong Village, Chai Nat province,
Thailand: bamboo community forest; mushroom
production. See also Rural development
Kobayashi Yasukata
Komnas. See Newspapers, Indonesian
Kuala Lumpur
Kyoto Protocol 1997
Lim Suan Li, Joyce
Local governments, Japan: and environmental legislations; Chiba Prefecture; environmental activities; Fukushima Prefecture; Ibaraki Prefecture; international cooperation; Kumamoto Prefecture
Local governments, Malaysia; and environmental governance
Logging; and NGOs

MacDougall, John A., See also Apakabar
Mahathir Mohamad
Malacca, Malaysia: orang asli in
Malaysia; and Orang Asli; Kerinci; Minangkabau
Malaysia Plan: Third (1976-1980) and environmental policies; Sixth; Seventh (1996-2000); Eighth (2001-2005)
Malaysia: hydropower project; indigenous people; politics See also Barisan Nasional; United Malay National Organisation; rural development
Malaysian Nature Society. See also Environmental governance; Non-governmental organisations
Mamberamo. See also Media, Indonesian: underground publications
Manila; and ADB
Marcos, Ferdinand: Martial Law
Market infrastructure: Asian region
Marsi
Matsuyama, Japan
Medan Prijaji. See also Newspapers, Indonesian
Media organisations see Media; People's media
Media, Indonesian: and Ministry of Information; censorship; communication rights; democratisation activism; freedom; magazines; people's media; underground publications. See also Indonesian Broadcasting Commission (KPI)
Media, Philippine: alternative press; censorship; communication rights; democratisation; freedom. See also Newspapers, Philippine
Media: alternative; censorship; commercial; mainstream; democratisation activism; organisations; reform. See also Independent news production networks; Radio stations;
Mekong River: dams on
Newspapers, Philippine: Del Superior Govierno; El Ilocano; Kalayaan; history; La Solidaridad; revolutionary journalism
NGO. See Non-governmental organisations
NIES. See National Institute for Environmental Studies
Nihon Buyo. See also Performing arts
Noh dance; basic stance; centre; Jo-ha-kyu; Ma; movement; music; novelty; principles; rhythm. See also Performing arts
Non-governmental organisations: and environmental issues; and resettlement; role in media; role in rural development

O

Orang Asli; and constitution; and land resources; and laws; and the state; current situation; groups; history; population; problems faced; views on; Orang Dalam. See Malays; Orang Temuan
Orang Temuan. See Temuan
Outline Perspective Plan (Malaysia); Second (1991-2000). See also National development planning

P

Pak Mun dam
Palm Oil Mills Effluent (POME).
Palm oil mills: as source of pollution. See also Effluents; Environmental problems
Paya Indah Wetlands
Paya Lebar village. See also Tanjung Rambai village
People’s Communication Charter
People’s media: media organisations. See also Media
Performing arts, Japanese: form; meaning; yugen. See also Dance, contemporary; Dance, traditional
Pertandingan ala Kumpulan Meningkat Mutu Kerja (KMK); See also Pertandingan Ilham Desa
Pertandingan Ilham Desa; model village; objectives; See also Rural development
Philippines: history; people; people’s media; port project; power corporation project; urban development project
Policy on Involuntary Resettlement: basic principles; implementation in ADB projects; recommendations. See also Asian Development Bank
Polluter Pays Principle; effect of. See also Environmental policies

POME. See Palm Oil Mills Effluent
Poverty: in rural areas. See also Amanah Ikhtiar Malaysia
Press Law (Law no. 40/1999): effect of
Press Publication Enterprise Permit (Ministry of Information Regulation No. 1, 1984) see Surat Ijin Usaha Penerbitan Pers
Propaganda Movement: Graciano Lopez Jaena; Marcelo H. del Pilar. See also Philippines: history; Rizal, Jose

R

Radio Cibangkong: role of. See also Radio stations, community
Radio News Agency 68H. See also ISAI; Radio news networks
Radio news networks. See also Independent news production networks
Radio stations, commercial
Radio stations, community; problems of; role of Reformasi. See Indonesia: political reform
Research Centre for Environmental Risk. See National Institute for Environmental Studies (Japan)
Research Centre for Material Cycles and Waste Management. See National Institute for Environmental Studies (Japan)
Resettlement programmes; plans. See also Involuntary resettlement
Rizal, Jose: El Filibusterismo; Noli Me Tangere; See also Philippines: history; Propaganda Movement
Rubber processing factories: as source of pollution. See also Effluents; Environmental problems
Rural development: best practices; community participation strategies; effectiveness; failures in; in Indonesia; in Malaysia; in Thailand; role of microfinance institutions; role of NGOs; successes in; sustainability. See also Amanah Ikhtiar Malaysia; Pertandingan Ilham Desa
Rural institutions. See also Rural development
Rural Reconstruction Foundation (Thailand). See also Khao Rao Thien Thong Village, Chai Nat province, Thailand
Sahabat Alam Malaysia. See also Environmental governance; Non-governmental organisations
SAM. See Sahabat Alam Malaysia
Sans Soleil
Satu Merah Pangung
SEA. See Strategic Environmental Assessment
Selangor, Malaysia
Semenyih dam
Siar (Broadcast). See also Media, Indonesian
Sinar Harapan. See also Newspapers, Indonesian
Singapore: per capita income
SIRIM Berhad: and use of cleaner technology; Cleaner Technology Extension Service; Cleaner Technology Information Service
SIUPP. See Surat Ijin Usaha Penerbitan Pers
Skim Pinjaman Ikhtiar Malaysia (general loan schemes). See also Amanah Ikhtiar Malaysia
Skim Pinjaman Khas Ibu Tunggal (single parent loans). See also Amanah Ikhtiar Malaysia
Skim Pinjaman Khas Nelayan (fisheries loans). See also Amanah Ikhtiar Malaysia
Skim Pinjaman Pendidikan (education loans). See also Amanah Ikhtiar Malaysia
Skim Pinjaman Perumahan (housing loans). See also Amanah Ikhtiar Malaysia
Social issues
Soenda Berita. See also Newspapers, Indonesian
South Korea: and ASEAN; and currency crisis
Southeast Asia: dance
Standards and Industrial Research Institute of Malaysia. See SIRIM Berhad
Strategic Environmental Assessment.
Suara Independen (Voice of Independence). See also Media, Indonesian
Suharto. See also Indonesia
Suharto: and New Order. See also Indonesia
Sukarno. See also Indonesia
Surat Ijin Usaha Penerbitan Pers (SIUPP). See also Indonesia: media
Surveillance, financial: institution; mechanisms; report
Sustainable development. See also Environmental institutions; Environmental laws

T
Tai, Lee Ming
Taiwan
Takahashi Saori
Tanjung Rambai Temuan; and Malays; economic activities; employment; ethnic identity; hunting tools; land security; See also Orang Asli; Temuan
Tanjung Rambai village. See also Orang Asli; Tanjung Rambai Temuan; Temuan
Technology, Cleaner. See also Technology, Cleaner
Television stations: commercial; cable services
Tempo. See also Media, Indonesian
Temuan; history; legendary figures; political orientation; religious beliefs; settlements. See also Orang Asli; Tanjung Rambai Temuan
Thai government: and financial institutions; and IMF; and local banks; economic programmes; financial sector development; foreign equity participation; Thailand: agriculture; Bank of Thailand; currency crisis; economic conditions; finance companies; financial sector development; financial system; foreign direct investment; foreign reserves; GDP; impact of globalisation; public financial institutions; role of Thai king in rural development; rural development. See also Bank of Thailand; Banks, Thai; International Monetary Fund Thai government
The Year of Living Vicariously: description; reviews
Theatre: Japanese traditional; Western
Timbulharjo village
Tirto Adi Surjo
TNI Watch (Army Watch). See also Media, Indonesian: underground publications
Tokyo
Tokyo Electric Power Company (TEPCO): Memorandum on Pollution Control; and Ohi Thermal Power Station; and Tokyo Metropolitan Government. See also Agreements for Environmental Pollution Control (Japan).
Tokyo Magic Hour: description; film-making; music; reviews
Tokyo Prefectural Ordinance for Factory Pollution Control of 1949. See also Japanese local governments
Toxic substances: categories
Trisakti University, Indonesia

U
UMNO Baru. See New United Malay National Organisation
UMNO. See United Malay National Organisation
UNCED
United Malay National Organisation
United Nations Agenda 21; in Japan; in Malaysia
United Nations Commission on Sustainable Development. See also Environmental governance
Universal Declaration of Human Rights
V

Videodance; and film/video; movement; rhythm; video editing
Village Development and Security Committee. See Jawatankuasa Kemajuan dan Keselamatan Kampung

W

Waste incinerators. See also Environmental problems
Water Pollution Control Law (Japan)
Water pollution: as a health concern; in Japan, effect on public health. See also Air pollution; Environmental problems
World Bank
World Trade Organisation
World Trade Organisation. See also General Agreement on Tariffs and Trade
World Wildlife Fund (WWF) Malaysia. See also Environmental governance; Non-governmental organisations
WTO. See World Trade Organisation
WWF. See World Wildlife Fund

X

Xpos (Expose). See also Media, Indonesian: underground publications

Y

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