

CAL6010
Regional Human Rights Laws and Mechanisms
Seminar 1: Human rights and civil society in
Southeast Asia

Hanoi, 9 July 2012

Camilla Buzzi

PhD candidate

Institute of Human Rights and Peace Studies

Mahidol University, Thailand

DEFINITION

What is civil society?

Civil society is ... the realm of organized social life that is voluntary, self-generating, (largely) self-supporting, autonomous from the state, and bound by a legal order or set of shared rules. It is distinct from “society” in general in that it involves citizens acting collectively in a public sphere Civil society is an intermediary entity, standing between the private sphere and the state. Thus it excludes individual and family life, inward-looking group activity... the profit-making enterprise of individual business firms, and political efforts to take control over the state... [C]ivil society not only restricts state power but legitimates state authority when the authority is based on the rule of law.

Larry Diamond. 1996.

European roots

-Context of historical developments in Europe (16th century +):

➔ Rise of modern state

➔ Development of market economies

➔ Emergence of devastating and unresolved religious conflict

➔ Emergence of new ideas and practices

Definition fit with SEA/Asia context:

- 1 Assumption about democracy; conditions in SEA where different political life.
- 2 CSOs exist in Asia; significant growth since 1980s.
- 3 Development of CSOs spurred by different kinds of social developments in Asia.
- 4 Asian CSOS are diverse in composition, resources and goals; marked both by cooperation and conflict.
- 5 Voluntary – but CSOs can also be based on ascriptive criteria (religion, ethnicity)
- 6 CSOs in Asia not necessarily transformative: Proliferation of CSOS not necessarily resulting in institutionalization of a non-state public sphere.
- 7 CS can foster or prevent political change, tend to be more important than CS as autonomous arena for societal self-governance
- 8 Need to modify definition to fit different contexts.
- 9 CSOS more as dynamic concept: waxes and wanes under different conditions.

Civil society:

- A sphere/realm, not an actor:
- Accommodates all sorts of discourses and strategies
- State-market-civil society: Different types of activities (Iris Young)
 - ➔ State – activities coordinated through authorized power
 - ➔ Economy – activities coordinated through money
 - ➔ Civil society – activities coordinated through **communicative interaction**
 - ➔ How does such communicative interaction/public discourse constitute itself?

- Filled with different kinds of actors:

- ➔ Political and apolitical (culture, sports, welfare, community)

- ➔ May or may not challenge state hegemony

- ➔ Also 'uncivil' organizations in this sphere (militias)

- ➔ Which actors emerge to fill this realm?

Ex: NGOs, social movements, trade unions, women's organizations, indigenous people's movements, public intellectuals, groups and activists of various kinds, political parties in some contexts

CS and relations with state

-Significance of regime type

Importance of nature of regime in shaping strategies of activism:

- Limitations on political parties etc: push activism into civil society
- Incentives to play by the rules: prevent activism from going underground
- Strategies for reform: Contained contention (Malaysia: articulate claims within formal political process) vs. transgressive contention (Suharto's Indonesia: no space in formal political process)

-Coalitional capital

Social capital: Important at individual level; necessary ingredient for collective action

Coalitional capital: Importance at group level; ability of groups to work together to bridge social cleavages and rally broad-based support for systematic change

Two levels of capital and processes both for cultural change (new norms) and institutional change – short term and long-term changes.

-Political opportunity structures

Collective attribution of threat and opportunity

Ex: a transition

-Coordinating and complementary roles of CSAs and political society

➔ Differences in access to resources, mobilization, strategies for reform

CSAs: Awareness raising – encourage citizens to adopt new norms;
galvanize citizens into revising risks and opportunities; create alternatives
to status quo

Political society: Seize upon opportunities created by CSAs to further
reform/deepen opportunity structures.

The role of civil society:

Civil society, human rights and democracy

CS: Held together by communicative interaction, common norms and ideas.

Conventional theories of political change do not give much role to HR norms and ideas :

- ➔ Political change driven by socioeconomic change (modernization)
 - ➔ Driven by changes in class relations (middle class, working class)
 - ➔ Transition theory: bargaining between hardliners/softliners
 - ➔ Focus on CS for past decade
-
- ➔ Contrast with social movement theory: Shared ideas and norms keep movement together.

Some of the contributions that civil society can make:

- Can generate new ideas and strategies
 - Can give credibility to a reformist coalition
 - Can draw in additional support for reformers
 - Can help with publicity and awareness-raising
 - Can help monitor parties and elections /formal political arena
-
- ➔ Serve as bridge between public and political society
 - ➔ But not seek power in its own right
- Essential for quality and substance of democracy
 - > Challenge governing institutions into meeting particular needs, aspirations and conceptions of common good
 - ➔ Improve quality of governance

BUT...

Civil society not necessarily “civil”

- Can also reinforce cleavages in society
 - Can lead to monopolization of resource, polarization of state,
 - Dysfunctional
 - Fail to serve in bridge role
 - Conflict among CSAs or between CSAS and state
- => The darker under-belly of CS

HR civil society organizations in SEA

Key factors shaping HR concept in the region:

- Since struggles for independence from colonial rule: Right to self-determination
- Experiences of authoritarian rule: Civil and political rights
- International factors: Cold War era
- Asian Values debate
- Cost of economic development s strategies: ESCR violations
- New issues: migration, refugees, women, minorities/indigenous peoples, peace, human rights defenders, environment and climate
- Regionalization: ASEAN Charter, AIHCR, Upcoming ASEAn Decl. on HR

Organizing for HR in Southeast Asia:

- Lively CS scene in the Philippines, Indonesia and Thailand
- Gradual emergence of regional organizations
 - Common challenges/lack of regional protection mechanisms
 - Common opportunities in recent years

Ex: Asian Forum for Human Rights and Development (Forum Asia)

Ex: Asian Human Rights Commission (AHRC)

Ex: Asia-Pacific Forum for National Human Rights Institutions (APF)

Ex: Working group for an ASEAN HR mechanism

Ex: ASEAN Human Rights Resource Centre

Typical activities:

Assistance to victims – protection (Churches in the Philippines)

Legal aid/rule of law issues (structural aid – Indonesia)

Documentation, naming and shaming

Lobby and advocacy

Technical assistance to duty-bearers

Etc.

Etc.

Questions for discussion: Mapping exercise (group)

1. Does Vietnam have independent civil society?
2. How is the CS sphere in VN constituted?
3. How is communicative interaction/public discourse established in/for this sphere?
4. How does VN CSO organize itself and how does it relate to the state? Is it indigenous or mimicking other countries?
5. What role does/can CS play for HR in Vietnam?
6. What role can Vietnam play in regional civil society for HR?