
Human Security & ASEAN Transboundary Haze: An Idea That Never Came

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Abstract: *In 2003 ASEAN Heads of State committed themselves with the Bali Concord II to a dedicated plan of action on the regional level to deal with transboundary environmental issues such as degradation and pollution. Implicit in this statement is the economic, health and broader security implications of transboundary haze emanating from massive forest fires in Kalimantan (Borneo) Indonesia which began in a massive nature in 1997 and have since occurred annually no less than 11 times. While ASEAN has engaged this security issue with integrative rhetoric annual fires attest to the fact that regional level mechanisms cannot stop this phenomenon. It is my argument that human security interests in the realm of haze pollution will be sacrificed for national security concerns of economy and as such regional level frameworks add little value and are essentially empty frameworks. I will demonstrate that economic interests both private and public in logging and palm oil production are the reason why nothing substantial has been done to stop haze pollution. As such the nature of human security and ASEAN's equivalent of comprehensive security rings hollow not due to regime stability as Gerstl posits but to domestic and foreign economic interests linked to the larger political economy.*

1. Introduction

The highly destructive nature of logging (legal and illegal), deforestation and palm oil plantations, slash and burn land clearing practices have created an annual phenomenon known as “the haze” in Southeast Asia. Massive forest fires emanate from Kalimantan and Sumatra Indonesia catching northerly winds and ends up blanketing Singapore and Southern Malaysia in smoke, thus endangering health and causing economic damage. The severity of the annual fires and haze fluxuates and varies with 1997 and most recently 2013 standing out as extreme cases. Regional experts and citizens considered 1997 to be the worst year on record for air pollution with a record peak of 226 on the Singaporean Government’ PSI (Straits Times 2013).¹ However, this record was eclipsed in June 2013 as Singapore’s PSI reached a staggering 401 causing flight delays and rerouting from Changi Airport, school closures and people in Singapore and Malaysia’s southern state of Johor to stay indoors (BBC Asia, 2013). With this unprecedented health hazard engulfing the city state and southern Malaysia Singapore’s Environment Minister Vivian Balakrishnan openly broke ranks with the “ASEAN Way” stating bluntly that “No country or corporation has the right to pollute the air at the expense of Singaporeans’ health and wellbeing” (The Guardian, 2013). This along with various efforts on the part of former FM of Thailand and SG of ASEAN Surin Pitsuwan famous calls for “flexible engagement” because “delays and setbacks in one country can affect the region as a whole (Haacke 1999, Pitsuwan 1998) firmly contradicts von Feigenblatt’s (2009) assertion that ASEAN is governed according to absolute

¹ PSI denotes the Singaporean Government’s Pollutant Standards Index. The PSI specifically notes smoke haze as the “main pollutant of concern to health during a smoke haze is the fine particulate matter or PM10 (particulate of size 10 micron and below).” Accordingly, the PSI categorizes these pollution levels as: 81-100 (moderate), 101-200 (unhealthy), 201-300 (very unhealthy), 301-400 (hazardous), >400 (very hazardous). See Singapore Ministry of Manpower “Guidelines for the Protection of Employees Against the Effects of Haze at Workplaces”.

sovereignty. Criticisms and internal conflict in ASEAN have and are present as are regional constructs, mechanisms, declarations and statements to the effect of demonstrating, at least on a superficial policy level that ASEAN is active in promoting and solving the regional problem of transboundary haze.

The essay takes the position that transboundary haze caused by Indonesian forest fires constitutes internationally and within ASEAN's own definition a security risk and by extension a human security risk as it does not conform to traditional security mandates. Furthermore, regional declarations and mechanisms for the reduction and cessation of haze pollution is not viable and simply declaratory window-dressing due to powerful domestic economic and political interests. To substantiate this claim I will frame the transboundary haze problem within domestic political economy framework to show how conflicting interests of sub-state actors, government linked corporations and foreign policy actors blunts regional initiatives to solve this problem. The essay will begin by providing a short historical background of ASEAN agreements dating back to the 1970's up to present dealing with transboundary pollution. Next, I will provide the regional institutional structure of ASEAN norms and show how they lead to national interest's preference while discouraging regional level interests. Lastly, I will demonstrate how powerful domestic economic interests in Malaysia and Indonesia serve to discourage effective regional action to tackle this problem. Hopefully, this essay will allow for a more critical examination of human security in the region and in particular a more skeptical view of ASEAN level initiatives and rhetoric concerning its dedication to creating a 'people-centered' community within a 'comprehensive security' framework.

2. ASEAN Framework's for Transboundary Pollution

Engagement concerning regional pollution problems dated back to 1977 with the ASEAN Environment Program 1 in collaboration with UNEP later emerging into the ASEAN Senior Officials on the Environment in 1989 to promote collaboration, albeit in a modest fashion (ESCAP). Transboundary pollution was taken up at the official ASEAN level with the Kuala Lumpur Accord on Environment and Development in 1990 and the ASEAN Singapore Summit of 1992. These declarations were limited in scope and it took a bout of intense haze in 1994 to trigger the ASEAN Cooperation Plan on Transboundary Pollution to finally put this issue firmly on the regional security map (Roberts 2012: 88). This cooperation plan led to ASEAN adoption of a “Zero Burning Policy” for agricultural land clearance in 1999 but due to member (namely Indonesia) state resistance was still born (Jakarta Post 2013). In 2002 ASEAN leaders took a formal step to legalize a policy to cut down, monitor and respond to haze pollution by the adoption of the ASEAN Agreement on Transboundary Haze Pollution (ASEAN 2002). Currently, Indonesia is the only country not to ratify the agreement and is the ultimate source for the haze problem. Varkkey has demonstrated that in 2006 Indonesia was on the verge of seriously considering ratification but suddenly shifted national posture to its domestic Plan of Action and subsequently buried ratification in parliamentary delays (Varkkey 2009: 94). The reasons for this are resistance from domestic and external political and economic actors that undermined political will for ratification and dealing substantively with its responsibilities.

3. ASEAN: Institutional & Normative Constraints

This section will detail ASEAN norms, structure and legal framework in order to demonstrate the structural impediments to constructing and instituting binding agreements which push national interests to the fore often to the detriment of regional interests. Put simply ASEAN's weak institutionalization and decision-making procedure allow for national interests and needs to trump regional or community interests and goods. The "ASEAN Way" denotes a dual faceted *modus operandi* and constitutive norms that inform members as well as third party states regarding intergovernmental relations in ASEAN's regimes (Acharya 1997, 2001, 2005, Ba 2009, Jones 2011, Stubbs 2008, Nischalke 2002). ASEAN constitutive norms are composed of **regulative** norms consisting of integrity of state sovereignty and independence, no external interference or subversion (TAC Article 10), non-interference in internal affairs and peaceful settlement of disputes (TAC Article 2, 11, 13) and **procedural** norms of consultation and consensus in decision-making process of (Narine 1997: 365, 1999: 360, Sebastian and Lanti 2010: 155). ASEAN's core legal texts - 1967 ASEAN Declaration, 1971 ZOPFAN Declaration and 1976 TAC form the basis of ASEAN's regime principles and norms. Formalization of ASEAN norms with specific reference to the UN Charter are enshrined in the ASEAN Charter in dual layered legitimacy (ASEAN Charter, Articles: Preamble, 1, 2(a, b, c, d, e, f, j)). An important caveat is that ASEAN regulative norms enshrined in the abovementioned simply reiterate ipso facto regulative norms of global governance found in the UN Charter (Acharya 2001, Jones 2007, UNC Article 2.1, 2.3, 2.4). Bearing this in mind it becomes apparent that ASEAN as a post-colonial/Cold War entity simply coopted the language and internalized wholesale, global norms of regulation for its regional regime thus laying the contextual framework which informs ASEAN

conduct and its repertoire concerning regional integrative initiatives.

Taking into context ASEAN's formative period, it can be argued that ASEAN was a mechanism for consolidation of weak states with intramural territorial disputes and internal communist insurgencies. Thus ASEAN in its incipient form as argued by Jones (2009: 14, Jones 2010: 485, Narine 1999: 359) is a regional mechanism to allow breathing space for nominally developmental capitalist conservative regimes to nation-build by the promotion of internal security and stabilization of external affairs. This is evidenced by the words of former statesman Lee Kwan Yew (2000: 369-370) who stated "we needed stability and growth to counter and deny the communists the social and economic conditions for revolutions...While ASEAN's declared objectives were economic, social and cultural, all knew that progress in economic cooperation would be slow. We were banding together more for political objectives, stability and security." Given the exigent nature of security threats internal and external it is not surprising that ASEAN took its organization form. However, the foundations of ASEAN's procedural and regulatory norms have inhibited formal change and are currently being employed to blunt progressive reform and change in ASEAN's human rights regime. Difficulties in altering ASEAN norms have been evidenced since 1998 when then Thai Foreign Minister and former ASEAN Secretary General Surin Pitsuwan attempted a policy shift from non-interference to 'flexible engagement' (Collins 2013: 39, Haacke 1999) and throughout the 2000's with reference to the Burmese junta, however the later within a context of bringing Burma into the ASEAN fold of its status quo and elite serving interest while obviating external intervention (Acharya 2001: 108-115, Jones 2008: 273-274, 2011: 15, 2012). Thio (1999) sees ASEAN's structure as one that militates against self-reinforcing triggers and almost wholly dependent on political will of its members. As Leviter (2010)

argues this paradox has been aggravated further by the enlargement of ASEAN and interpretation of norms and view towards organizational shifts concerning its old and new member states.

ASEAN's constitutive norms are crucial to understand the resistance to institutional change and inevitable disappointing final drafts which as Leviter (2010) and Volkmann (2008) argue are the result of a difference of understanding concerning non-interference, democracy, human rights and national interests which lead ASEAN to the lowest common denominator outcomes and weak systems of enforcement. Furthermore, as ASEAN agreements are **soft law** based on relations-oriented dynamics of a social community which lacks binding and enforceable status, such agreements and their derivative institutions, committee's etc. are limited to official level advocacy and advice (Leung 2004, Leviter 2010, Orosa 2012). The problem with ASEAN's structural configuration lay in its constitutive norms which at once strengthen and shield the state with regards to external actor's latent interference while preventing a disparate collection of states from enacting meaningful internal change. This proceeds due to procedural norms of decision-making which were designed for nascent newly independent states in an environment entirely dissimilar from now. Conversely, consistent reference to UN norms imbue ASEAN states with a significant level of arguable legitimacy and maneuvering room as this is indeed the bedrock of international society and order. Thus as late as 2003 ASEAN Secretary General Yong reiterated on the verge of the second Iraq war the fundamental nature of UN norms and principles as focal points of national to regional institutional inflection and ASEAN institutionalism by stating "ASEAN members clearly differ in many aspects, such as political ideologies and government systems, levels of economic development, sizes of population, cultural affinities, world views and external relations. The ASEAN

membership is never intended to replace the national policy of each member government. But it is the indispensable “glue” binding these countries together in “unity in diversities”...[ASEAN members] uphold the principles and purposes of the UN as enshrined in the Charter of the United Nations” (Yong 2003).

4. Human Security: Conceptual Frame

Important to this discussion is the identification of environmental security which the report vaguely identifies as disasters, population growth and pollution. The necessarily broad concept of environment is a catch all term which can indeed include deforestation, water and the like (UNDP 1994: 28). The 1994 UNDP report located its security paradigm shift in a twin conceptual framework of “freedom from fear and freedom from want” which posited that a notion of security should focus on the individual rather than the state. This basic analytical frame inherently shifts the nature of responsibilities and duties from individual to state to one of state to individual. From a practical as well as theoretical perspective this indicates a change of the main referent object of security. That security would no longer be limited to *national* or *state* security but “humanity at every level, on every scale: individuals, (small) groups, and the global population” (den Boer and de Wilde 2008: 10).

A year later in 1995 Commission on Global Governance in its report ‘Global Neighborhood’ elaborated on the vagaries of the UNDP report by locating human security within the larger context of the global commons, governance and environmental concerns (Commission on Global Governance 1995). Regardless of the specificity or vagueness of the concept of human security, the importance is that in the immediate post Cold War period a separate discourse couched in ‘security’ terminology emerged. The immediate importance of this global discourse addition is to see if it filtered down to the regional level. Secondly, if it was taken up

or not and if so in what fashion was it interpreted. Lastly, to explain the interpretation frame and application of this abstracted to the larger institutional framework of ASEAN.

5. ASEAN Human Security Discourse: State Purpose and Regional Resilience

It has been posited that ASEAN's traditional conceptualization of security was based around the state; specifically regional security and its vertical relationship with national and then regime security, the latter two being interchangeable concepts (Caballero-Anthony 2004: 161, Gerstl 2010). Essential to this framing of regime security is its twinning with national resilience that encompasses "political stability, economic success and social harmony" (Caballero-Anthony 2004: 161) which provides a rather rigid top-down model of security and by default the rights, responsibilities and duties of individual vis-à-vis the state. It has been commonly argued that ASEAN was a mechanism for consolidation of weak states with intramural territorial disputes and internal communist insurgencies. Thus ASEAN in its incipient form could be argued as a regional mechanism to allow breathing space for nominally developmental capitalist conservative regimes to nation-build by the promotion of internal security and stabilization of external affairs (Jones 2009, 14, Jones 2010, 485, Narine 1999, 359). Perhaps most importantly are provisions in the Treaty of Amity and Cooperation which state that no contracting parties will engage in subversion of another party (TAC Article 10) and the linkage which regional and domestic order shall be ensured, which is increased prosperity or which would later be called 'performance legitimacy' (TAC Article 12). This should be taken within the context of fear of neighbor state subversion and deference paid to elite centered regime control. When taken into the larger context of ASEAN constitutive norms the structural

nature of cooperation and comprehensive security begin to take substantive form to include security threats of a wide variety but inherently flow from the state itself. as such the idea of a human security discourse is accessed and present historically just couched in regionally specific terminology and conceptualization of 'comprehensive security'.

The ASEAN Charter does not explicitly reference human security but does offer a parallel conceptualization of pushing towards being a 'people-oriented' community (ASEAN 2007: supra 1.13) which is formulated and cross referenced by mention of 'people' and the need for sustainable development, peace and democracy, empowerment and equitable access for human development, welfare and justice (ASEAN 2007: Preamble, 1.4, 1.9, 1.10-12). People-orientation in ASEAN's comprehensive security framework is elaborated upon in the ASEAN Political-Security Community (APSC) Blueprint which frames comprehensive security as going "beyond the requirements of traditional security but also takes into account non-traditional aspects vital to regional and national resilience, such as the economic, socio-cultural, and environmental dimensions of development" as well as acknowledging the "interwoven relationships of political, economic, social-cultural and environmental dimensions of development" (ASEAN 2009: 2, 8). ASEAN does not reference the haze issue directly in the APSC Blueprint but does so in an indirect fashion by identifying non-security issues needing to be strengthened to include the ASEAN Agreement on Disaster Management and Emergency Response (AADMER) (Ibid: 14). Embedded within the AADMER is specific reference to "recalling the ASEAN Agreement on Transboundary Haze Pollution of 10 June 2002, which provides the co-operative framework to prevent, monitor, mitigate and respond to trans-boundary haze pollution in the overall context of sustainable development". (ASEAN 2005: Preamble supra 8). By ASEAN's own implicit definition

environment pollution can be seen as a human security issue as defined by UNDP just simply packaged in regional terms of comprehensive security.

Given that ASEAN does cross reference legally binding documents provides strong evidence of political contestation as pollution is not mentioned in the APSC but does so in a derivative manner. Secondly, while the above instruments range from declarations to legally binding agreements they share a common strain of regional substantive and procedural quality which is respect for sovereignty and non-interference by either referencing ASEAN core documents such as ZOPFAN, Charter, SEANWFZ, TAC and Bangkok Declaration which itself references the UN Charter which upholds the same regional principles of the ASEAN Way. As stated above the nature of this balancing act between people-orientation and the ASEAN Way at least in terms of substantive practice will allow for state interests defense when conflict of interests arise. Simply put regardless of whether ASEAN agreements are binding or not, declaratory or treaty based there is always what I would term a 'sovereignty release valve' to diffuse, water down or not implement agreements if domestic economic and political concerns outweigh costs (absolute gains) of regional cooperation (relative gains).

6. Indonesia Palm Oil Investment and National Development

Indonesian land ownership and the exploitation of its natural resources can be traced back to the Dutch colonial period where the Dutch who were concerned largely with trade at first then later engaged in land ownership due to colonial contestation over Aceh, Bantam and Macassar and fear of colonial power encroachment into monopolistic enterprises (Dixon 1991: 66). At independence the Dutch

model of landownership was essential taken up verbatim by the Indonesia state whereby the 1945 constitution stated that all of Indonesia's land, water, and natural resources would hitherto be controlled by the state (Barber 1998, Varkkey 2012a). due to Indonesia's lack of development and extensive poverty which was coupled to an antagonistic foreign policy of Sukarno that led to rapid economic decline and deterred foreign investment General Suharto seized power in 1967 and as such turned the Indonesian economy around with a focus on western development models for rapid development (Acharya 2001, Haftel 2010, Narine 2002). Almost immediately upon coming to power Suharto appropriated some 90% of all forest lands which covered over 133 million hectares thus centralizing control over these vast resources within the state and more specifically the Forestry Ministry and Presidents office (Duncan 2007; Palmer and Engel 2007, Varkkey 2012a). The government then began rapid exploitation of natural resources in order to gain foreign capital to finance foreign debt for large-scale infrastructure projects and imports (Rasiah 2003: 66). It is noted that the timber industry alone provided income from exports worth \$5.5 billion per year, which was some 15% of the country's local exports (Varkkey 2012a). this enormous contribution to the country's finances cannot go unnoticed as being a primer and indeed central industry for modernization as it was part and parcel a norm of the regions development model which stipulated massive exploitation of natural resources for export in order to gain foreign exchange to pay for imported goods and development.

Alongside this exploitation of timber came massive involvement of the Indonesian military in illegal logging operations that draws upon local, regional and national government in an intricate web of corruption that spans patronage linkages which continues up to the present (Casson and Obidzinsk 2007, Smith et. al. 2007). The Indonesia government itself has accepted that "more than

85% of concessionaires were breaking logging rules in 1992/93. Only 30% of the log production on Kalimantan was reported to the government. In 1989/90, sales of confiscated illegally harvested logs were expected to earn the government around \$2.3 million” (Glastra 1999). Case has demonstrated that Suharto used forest resources in the form of government concessions to coopt bureaucracy, military and conglomerates, thus occupying the economic landscape with bureaucratic families, financial generals, and business-minded offspring in order to create interlocking ties of patronage that would flow within the general hierarchy and create derivative chains of resources to draw upon when needed (Case 2003, Varkkey 2013a). Within this context of state concession granting to favored inner circle individuals such as Bob Hassan and Liem Sioe Liong fully up to 1/3 of all Indonesian forest came to be owned by a small cadre of persons connected to Suharto himself (Barber 1998).

7. Forestry Concessions & Business Links

The number of concessionaires in the Indonesian forestry sector is not large where approximately 500 concessionaires are controlled by no more than 50 conglomerates operating different companies with concessions as subsidiary firms (Dauvergne 1994). This sort of cross holding pattern in forest concessions and oil plantation owners can be seen by the following extrapolation: Muslim Mas is a Singaporean firm with massive landholdings and owns the world’s largest palm oil refinery. Its subsidiaries include but are not limited to PT. Globalindo Alam Perkasa Estate II with 10,770 hectares, PT. Multipersada Gatramegah with 9,278 hectares in Papua PT Musim Mas 33,409 hectares, PT Daya Indah Nusantara 29,910 hectares, PT Siringo Ringo 29,278 hectares, PT Megasurya Mas 13,389 hectares (Greenpeace 2014). These are just a side shot of some of the holdings of this group which own more plantations on Kalimantan and Sumatra. Kuala Lumpur Kepong Berhad owns and operates more than

250,000 hectares of plantations in Malaysia and Indonesia of which over 200,000 is in Indonesia (KLKB Annual Report 2012). PT BW Plantation Tbk is owned by the Widodo family and has an active plantation operation 89,468 hectares (BW Planation n.d.) but it also cross owns land via subsidiaries such as Pt Bumi Langgeng Perdanatrada with 8,877 hectares, Wana Catur Jaya Utama with 9,490 hectares (Greenpeace 2014). Lastly the massive Salim Group with over 200,000 hectares of palm oil and 100,000 hectares of sugar plantations (Varkkey 2013a). There are essentially four direct purposes for this sort of patronage connection. Firstly, is the nature of patronage ties where the state official receives financial incentives as well as later assistance (perhaps investment in pet industries) in risky industries by providing the concessionaire with cheap loans and access to credit as has been documented by Varkkey (2012a). Second, is protection on the part of Chinese-Indo business persons who are in a precarious ethnic situation in Indonesia being privileged commercially but many times suffer the brunt of political strains as was seen in 1999 with Chinese pogroms in Jakarta. Third, is to build ties with military and bureaucratic elites by providing avenues for corruption and financial extraction in order to provide two-way systems of self-help relations. Lastly, due to the massive scale of illegal logging and prevalence of small-scale farmers the ability to unofficially allow for trickle down economic benefits to the majority of the population who do benefit from insider corrupt practices and lack of state services. Some of the more interesting direct links in this patronage system are two of the directors of the Indonesian plantation company BSP are Bungaran Saragih and Anton Apriyantono who were Ministers of Agriculture (Bakrie Brothers, 2010). Chairman of Bakrie and Brothers Group which is the parent company of BSP, is Aburizal Bakrie, who is also the chairman of Golkar, Indonesia's strongest political party who is known also for his close links to Ginandjar Kartasasmita, a former speaker of the Regional House of Representatives (Varkkey

2012b). The Indonesian military has 30% direct ownership in plantation company Duta Palma which allows for extensive involvement in financial affairs not to mention a vested interest to keep plantations and forest clearance going by the notorious TNI (Gilbert, 2009).¹ It is interesting to note that currently 14 of Indonesia's 20 richest persons are involved in forestry sector, namely oil palm with families switching out of old sectors such as cigarettes (<http://www.forbes.com/>).

8. Conclusion

The nature of oil palm investment both internally in Indonesia, from Malaysia and the larger external nature of downstream retailers such as P&G dictate that Indonesia will have to take one of two courses regarding its forest sector: regulation and sustainability or wait till there is nothing left to preserve. The first option would inherently stop or bring to a precipitous halt the haze problem but this would entail major political will among Indonesia's politicians to cancel, regulate the concessions of land which have already been parceled out. In reality this not likely to happen as too many vested interests are involved with deep ties to the Indonesian state. The second option is more likely and why the recent attempt by Norway to pay Indonesia to stop logging and converting forest failed. Inherently, when one considers the regional problem of haze and its transnational effects it is not difficult to see why it has languished. While the Transboundary haze framework is legally binding it is not enforceable due to the ASEAN Way. It can be seen from the above that regional interests are and will be sacrificed for national interests. National interests in this context can be

¹ For an excellent study of the trans-country political nature of oil palm plantations and economic influence by specific companies and how foreign policy of ASEAN member states can at times be represented by single interests that negate regional legal frameworks see Varkkey, H. (2013). Malaysian investors in the Indonesian oil palm plantation sector: home state facilitation and transboundary haze. *Asia Pacific Business Review*. 19 (3), 381-401.

viewed from a perspective of small interests group, at times family interests. This is the reality of ASEAN and its attempts to tackle regional haze pollution that without political will ASEAN agreements are simply words on paper. It should be noted that all the blame for haze cannot and should not be placed on Indonesia alone. Malaysia and Singapore have signed the haze treaty which is binding, however a closer look into investment in the oil palm sector reveals deep connections with Malaysian investors which often have links via government linked corporations and Singaporean firms that engage in both plantations as well as regional logistics to ship timber around the world. So while these countries pay policy lip service to Indonesia's behavior their own practices of not taking care of home companies and in the Malaysian case facilitating investment by home companies exacerbates the problem to which they complain about. While this short paper is not extensive it has attempted to highlight some of the major issues surrounding transboundary haze in ASEAN as a human security issue and why human security as a derivative concept is failing in ASEAN.

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