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Friedrich-Ebert-Stiftung in Southeast Asia

Friedrich-Ebert-Stiftung has been present in Southeast Asia for more than 30 years. Its country offices in Bangkok, Jakarta, Manila and Hanoi have been active in implementing national cooperation programmes in partnership with parliaments, civil society groups and non-governmental organizations, academic institutions and 'think-tanks', government departments, political parties, women's groups, trade unions, business associations and the media.

In 1995, the Singapore office was transformed into an Office for Regional Cooperation in Southeast Asia. Its role is to support, in close cooperation with the country offices, ASEAN cooperation and integration, Asia-Europe dialogue and partnership, and country programmes in Cambodia and other ASEAN member states where there are no Friedrich-Ebert-Stiftung offices.

Its activities include dialogue programmes, international and regional conferences (e.g. on human rights, social policy, democratization, comprehensive security), Asia-Europe exchanges, civil education, scholarship programmes, research (social, economic and labour policies, foreign policy) as well as programmes with trade unions and media institutes.

Dialogue + Cooperation is a reflection of the work of the Office for Regional Cooperation in Southeast Asia of Friedrich-Ebert-Stiftung in Singapore: it deals with ASEAN cooperation as well as the Asia-Europe dialogue.

- *Dialogue + Cooperation* will tell you about our activities in Southeast Asia by publishing important contributions to our conferences and papers from our own work.
- *Dialogue + Cooperation* will contribute to the dialogue between Asia and Europe by systematically covering specific up-to-date topics which are of concern for the two regions.
- *Dialogue + Cooperation* will be an instrument for networking by offering you the opportunity to make a contribution and use it as a platform for communication.

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Editorial: Dialogue + Cooperation 2/2004

Dear Reader

This edition of *Dialogue + Cooperation* includes documents from two recent conferences organized by Friedrich-Ebert-Stiftung in November 2003 and in March 2004. These were an international conference entitled 'Human Rights, Ethnic Minorities and Religions: An Asia-Europe Dialogue on the Impact of Multinational Institutions', which was held in Manila, the Philippines, 10-11 November 2003; and an Asia-Europe Dialogue entitled 'Bridging Tensions between Traditions and Modernity in the Era of Globalization', which took place in Berlin, Germany, 23-24 March 2004.

The Human Rights Conference in Manila was the sixth in a series the Friedrich-Ebert-Stiftung Office for Regional Cooperation in Southeast Asia had organized since 1996.

The conference summary by Tina Pfeiffer and Norbert von Hofmann is followed by six papers presented at this meeting. Mark Neville introduces in his paper the position on minority and religious issues of two multilateral institutions – the European Union (EU), with its 25 member states, and the Council of Europe, with its 45 members. He highlights issues Europe has been struggling with, for example, the question of who belongs to a 'national minority', the issue of tackling non-discrimination through the development of comprehensive legislation and institutions, and the need for statistical data, crucial for any attempts to analyse discrimination.

Contrary to Europe, Southeast Asia's regional organization, the Association for Southeast Asian Nations (ASEAN) does not – as MC Abad explains in his paper – have on its agenda the specific issue of the protection of rights of ethnic minorities and religions. Instead, ASEAN engages in dialogue on the issue of human rights in general. However, outside of the ASEAN framework, there are a number of non-governmental organizations (NGOs) in Southeast Asia dealing with the protection of rights of ethnic minorities and religions, such as the Minority Rights Group International, whose Southeast Asian Project Officer, Minnie Degawan, participated in the conference. On the European side, the NGOs were represented by Lotte Leicht from Human Rights Watch in Belgium and Nils Rosemann from the Human Rights Forum in Germany, who presented an NGO perspective of the EU's internal and foreign policy. Rosemann explains that European history in general and German history in particular are closely associated with the struggle of minorities for their independence and self governance. The task for ethnic, cultural, linguistic and religious minorities in Europe is not so much the struggle for new rights, but to bring existing rights into practice.

The two security arrangements in Europe and Southeast Asia – the Organization for Security and Cooperation in Europe (OSCE) and the ASEAN Regional Forum (ARF) – and their role in protecting human rights and the rights of ethnic and religious minorities, are introduced by Mely Caballero-Anthony from the Institute of Defence and Strategic Studies (IDSS) in Singapore and by John Packer from the Office of the OSCE High Commissioner on National Minorities in The Hague.

John Packer concludes by stating that the populations of most states are to some extent diverse. No state, and no putative nation, is 'pure'. Nor is the state by nature neutral; by virtue of decision-making in any number of fields of policy and law, some persons are advantaged and others are disadvantaged. Where such disadvantage relates to matters of national or ethnic, cultural, linguistic or religious identity, there is the prospect that these disadvantaged persons will not enjoy life in equal freedom or dignity. The challenge, therefore, is to manage existing diversity in such a way that there is equality, as well as peace and security, stability and chances of economic and social development for all. This requires institutions, both domestic and international. No doubt such an institution exists in Europe with the Office of the High Commissioner on National Minorities in The Hague, but the ARF is still far away from such a development. Human rights promotion is nowhere in the agenda of the ARF. Unlike the OSCE, the ARF steers clear from advocating democracy and human rights. One could also add that, given its loose structure, the ARF does not even have any capacity at this stage to promote and monitor human rights. However, according to Mely Caballero-Anthony, it is necessary to go beyond the limitations of the ARF and look at what it has that can be utilized to move the human rights agenda forward. She highlights four points:

1. Continuing with norm-building exercises;
2. Revisiting the issue of institutionalization and pushing the preventive diplomacy agenda forward;
3. Building linkages with 'Track Two' institutions; and
4. Expanding the circle of 'inclusiveness' to non-state actors.

Nicholas Howen from the United Nations Office of the High Commissioner for Human Rights in Bangkok highlights in his paper the importance of the United Nations (UN) in the protection of the universal rights for ethnic minorities and religions. He explores the effectiveness of the UN human rights system on minority issues under four headings:

1. Creating UN human rights standards to protect minorities;
2. The UN as a forum on minority issues;
3. The UN human rights system as a source of remedies for injustices against minority groups;
4. The UN as an operational development agency active on the ground.

He concludes with a quotation by UN Secretary General Kofi Anan, which could very well have served as a theme for the whole conference:

We must do more to prevent conflicts happening at all. Most conflicts happen in countries, especially in those which are badly governed or where power and wealth are very unfairly distributed between ethnic or religious groups. So, the best way to prevent conflicts is to promote political arrangements in which all groups are fairly represented, combined with human rights and minority rights and broad-based economic development.

The final paper on the human rights issue of this edition of *Dialogue + Cooperation* was presented at the fourth German-Chinese Human Rights Dialogue held in June 2002 in Stuttgart/Germany. This human rights dialogue has been an annual event since 1999 and is organized jointly by the Friedrich-Ebert-Stiftung and the Chinese Foundation for the Development of Human Rights. The statement of Jiang Shu Xian from the China Association for International Understanding reflects the different standards of discussion on human

rights issues between Europe and Southeast Asia on the one side and Europe and China on the other.

The Asian-Europe Dialogue of Cultures was the second dialogue the Friedrich-Ebert-Stiftung Office for Regional Cooperation in Southeast Asia organized after the meeting in Singapore in November 2002, when 25 politicians, academics and civil society representatives from six Southeast Asian countries and Europe – Buddhists, Christians, Jews and Muslims – were invited to exchange opinions about the topic ‘Towards a Global Civic Identity’.

Fundamentalism, political extremism, exaggerated nationalism, racism, xenophobia and the loss of values occur in Europe just as much as they do in Asia, but are often expressed in different ways and to different degrees of violence, depending on specific combinations of negative factors. This phenomenon can be seen as the negative outcome of unresolved conflict between traditions and the process of modernization, leading to feelings of alienation, insecurity and fear in people and to the risk of falling into the trap of fundamentalist and/or extremist actors. However, the forms and strengths of fundamentalism/extremism in Europe and Asia are often different because they spring from different cultural backgrounds and also because the process of modernization in the two regions has been quite different.

Social and economic imbalances as well as the implications of globalization are seen by many people in both regions as the main reasons for tensions within and between civilizations. But growing fundamentalism is not only the result of the fight for a fairer distribution but also a mirror of cultures gradually deprived of their national identity.

The increasing discrepancy between tradition and modernity, also as a result of globalization, contributes to the growing insecurity and apathy of many people. Globalization impinges upon the sovereignty of states and the nation state is often only able to fulfil its classical task of safeguarding its citizens in a limited way.

The meeting in Berlin in March 2004 was attended by about 50 politicians, academics, representatives of international organizations and NGOs from Asian and European countries. In an open and fair debate, the participants discussed how to overcome cultural misunderstandings between the different civilizations in Asia and Europe, as well as deepen the mutual understanding about problems and conflicts on both sides; and how to define common ground which allows the civilizations in the East and the West to live together peacefully and at the same time enable them to remain ‘different’.

Besides a conference summary, this edition of *Dialogue + Cooperation* includes ten short statements, five from each of the two continents, that were used as introductions during the two days of deliberations.

All papers and statements reflect the opinions of individual authors. The Singapore Office of Friedrich-Ebert-Stiftung would like to express its sincere appreciation to all the contributors to this edition.

The Editor
Friedrich-Ebert-Stiftung
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Singapore

Human Rights, Ethnic Minorities and Religions: An Asia-Europe Dialogue on the Impact of Multinational Institutions – Conference Summary

Tina Pfeiffer and Norbert von Hofmann*

The two-day international conference entitled 'Human Rights, Ethnic Minorities and Religions: An Asia-Europe Dialogue on the Impact of Multinational Institutions' took place in Manila, the Philippines, on 10-11 November 2003. It was the sixth human rights conference since 1996 that the Friedrich-Ebert-Stiftung (FES) Office for Regional Cooperation in Southeast Asia (Singapore) had held in Manila in cooperation with the FES country offices in Southeast Asia.¹

For about 60 representatives of different institutions from Southeast Asian and European countries,² including politicians, academics and representatives of international organizations, non-governmental organizations (NGOs) and minority groups, the conference served as a platform for an open and constructive dialogue on recent issues and developments regarding indigenous peoples, ethnic minorities and religions in Europe and

Southeast Asia, and addressed the implications of these issues for multinational organizations in a national, regional and global context.³

There is an emphasis on the promotion and protection of the rights of indigenous peoples and ethnic and religious minorities in several international conventions and treaties:

- The United Nations (UN) International Covenant on Civil and Political Rights, 1966 (in force since 1976) is the first international treaty that includes provisions specifically referring to minorities (Article 27) and the right to religious freedom (Article 18).
- The International Labour Organization (ILO) Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries, adopted in 1989, has, until now, been the only treaty which fully protects the rights of

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1. The previous conferences were: 'Human Rights – Democracy and Development: An ASEAN-European Value Discussion' (August 1996); 'Human Rights – What Do We Have in Common? An ASEAN-European Value Discussion' (October 1997); 'Human Rights and Civil Society in Southeast Asia and Europe' (December 1998); 'Human Rights and Social Development – Economic, Social and Cultural Rights and the ILO Conventions' (January 2000); and 'Parliaments and Human Rights Policy: An Asia- Europe Dialogue' (December 2001).
2. The participants came from Belgium, Burma, Cambodia, China, France, Germany, Indonesia, Laos, Malaysia, the Netherlands, Singapore, Vietnam, Thailand and the Philippines.
3. The participants included representatives from international organizations such as the International Labour Organization (ILO), the (United Nations) Office of the High Commissioner on Human Rights (OHCHR), members of the Association of Southeast Asian Nations (ASEAN) Secretariat, the European Commission, the Organization for Security and Cooperation in Europe (OSCE) and the ASEAN Regional Forum (ARF), government and parliamentary representatives from several ASEAN states, as well as representatives of European and Southeast Asian NGOs.

minorities. The convention specifically states that indigenous and tribal communities have the right to a distinct ethnic and cultural identity.

- The UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by the UN General Assembly in 1992, urges UN member states and the international community to promote and protect minority rights and the participation of minorities in all aspects of political, economic, social, religious and cultural life.

In 1994, the UN General Assembly proclaimed the International Decade of the World's Indigenous Peoples (1995-2004) with an objective to strengthen international cooperation for solving problems faced by indigenous people in such areas as human rights, environment, development, education and health. With the culmination of the decade in 2004, the Southeast Asian offices of Friedrich-Ebert-Stiftung deemed it necessary to probe into issues concerning indigenous people and minority rights.

Divided into five different panels, the conference focused on the following:

1. The situation of ethnic minorities and religions in Southeast Asia;
2. The position of the European Union (EU) and the Association of Southeast Asian Nations (ASEAN) on the protection of the rights of ethnic minorities and religions;
3. The ILO Convention No. 169;
4. The rights of ethnic minorities and religions and the tasks of the regional security institutions of the Organization for Security and Cooperation in Europe (OSCE) and the ASEAN Regional Forum (ARF); and

5. The importance of the United Nations in the protection of universal rights for ethnic minorities and religions.

In taking stock of the situation of ethnic and religious minorities, specifically in the Southeast Asian countries of Burma (Myanmar), Indonesia, Malaysia, the Philippines and Thailand, the first panel noted that there is still much to be done with regard to the promotion and protection of minority, religious and indigenous rights.

In the European context, the relevance of an in-depth evaluation of the issues of ethnic minorities and religions has emerged, particularly since the early 1990s when unsettled minority issues led to destabilization and even wars in Central and Eastern Europe. The main regional international organizations that started to engage in these minority issues were the Council of Europe and the OSCE.

Since the early 1990s, the Council of Europe has taken several steps towards the promotion and protection of national minority rights (for example, the European Charter for Regional or Minority Languages in 1992). At the heart of European efforts for national minorities is the Framework Convention for the Protection of National Minorities, which entered into force in 1998.⁴ It is the first and so far the only binding and comprehensive international treaty dealing with the protection of national minorities in general.

During the discussion, the participants identified many similarities between their regions in the questions and problems regarding ethnic and religious minorities and indigenous peoples, and came to the realization that the protection of their rights

4. As of November 2003, 35 of the 45 member states of the Council of Europe have ratified the convention.

is neither a Southeast Asian nor a European issue alone, but something that concerns both sides.

In the context of the rights of minority and religious groups, the issue of nation-building as an ongoing priority in Southeast Asian politics was raised. On the question of how to build a nation-state in Southeast Asia and Europe with different ethnic, minority and indigenous groups, the participants agreed that state-building should be understood in the sense of managing diversities, and that strong states are necessary for the rule of law and good governance to prevail.

In response to the existing dilemma on the definition of minorities, the participants concluded that the determination of ethnic, minority and indigenous groups and communities should come from the groups themselves. The granting to ethnic, minority and indigenous groups of the right to self-determination will ultimately strengthen a nation-state, not weaken it.

Besides the right to self-determination, the focus of the discussion was on the rights of ethnic, minority and indigenous groups to determine for themselves the pace, speed and direction of their own development, and their right to land ownership and the utilization of their land, as well as certain collective rights (such as the right of access to media).

The 1989 ILO Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries is seemingly of less importance compared to the eight core conventions of the ILO, and still lacks ratification by most ILO member states.⁵ The participants agreed that more action

is needed when it comes to the position of the member countries of the EU and ASEAN on the protection of the rights of ethnic minorities and religions, especially on the part of trade unions which should appeal to their governments to ratify this ILO Convention. Only two countries in the EU, namely Norway and Denmark,⁶ have ratified the document, and none in ASEAN. However, plans for future ratification processes are imminent in some member countries.

As far as the interdependence of multinational organizations and human rights is concerned, the participants stressed the demand for the development of independent national human rights institutions in all ASEAN member states along the lines of those that already exist in Thailand, Indonesia, Malaysia and the Philippines. This could lead to the establishment of a formal and common structure of human rights in the form of a regional human rights mechanism for Southeast Asia, similar to those in European, African and American contexts.

The participants expressed regret that the emphasis of ASEAN seems to be more on political and economic cooperation, and that ASEAN has no common human rights standards.

Despite the efforts of some Southeast Asian states in building up national human rights institutions, according to (Asian) participants, the progress of ASEAN in establishing a common human rights policy leading to a regional human rights mechanism that might take over the role of a monitoring body is still too slow, and actually achieving this is seemingly impossible. The reason for such

5. As of November 2003, ILO Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries was ratified by only 17 countries.

6. cf. ILO, Ratifications for Convention 169, <http://www.ilo.org/ilolex/cgi-lex/ratifce.pl?C169> (16 November 2003).

development delays can be attributed to certain cultural, political and religious barriers within ASEAN. The participants pointed out that ASEAN needs a policy advocacy on human rights issues to intensify the existing dialogue concerning human rights and that this advocacy should be supported by a network of academics, government officials and NGO representatives.

Concerning the issue of globalization and its impact on minorities and ethnic and indigenous groups, the participants emphasized that without human rights, long-term and sustainable development cannot be attained.

In the panel discussion on the role of regional security institutions like the ARF and the OSCE, the participants stressed, that these 'soft' security organizations can contribute to and should deal more with human rights issues, for they are able to see security in a much wider sense, including human security, which is also about human rights matters.

On multinational institutions and their impact on human rights, ethnic minorities and religions, the participants concluded that institution-building is fundamental and that these institutions must not be static, but able to change dynamically and adapt to new upcoming problems. This concerns all multinational institutions as well as the UN. There was a brief discussion on the

need to revise the UN Universal Declaration on Human Rights of 1948 and to include a paragraph on the protection of minorities. However, many participants perceived that there was a risk that major powers would use such a revision to re-define human rights and therefore jeopardize the whole Declaration.

The important role of civil societies in the protection and realization of human rights of ethnic minorities, religions and indigenous people was a focal point in all panels of the conference. Participants stressed that civil society groups have to be included to a larger extent in all human rights discussions, a fact that needs to be addressed, especially in the Southeast Asian institutions of ASEAN and the ARF, which still lag behind the EU and the OSCE as far as the involvement of civil society groups is concerned. But participants also concluded that civil society groups – like multinational institutions – should not be static if they want to be accepted and participate successfully in changes concerning human and democratic development.

The panel discussions left many questions on human rights, ethnic minorities and religions, and indigenous people unresolved. This gave sufficient reason to continue the discussions in the near future in order to motivate as well as intensify the cooperation and dialogue among Southeast Asian and European states.

Europe: Rights of Ethnic Minorities and Religions – Linking Diversity

Mark Neville*

One aspect of the immense and wonderful colour and mystery of life is that groups of people differ from each other in their customs, their way of life, their faith, the colour of their skin and their way of dressing and so on....

This 'otherness' of different communities can of course be accepted with understanding and tolerance as something that enriches life; it can be honoured and respected, it can even be enjoyed.

Vaclav Havel, former president of the Czech Republic

Introduction

In this paper, the position on minority and religious issues of two of Europe's inter-governmental institutions is introduced, first the European Union (EU) with its 25 member states, including the ten accession countries which joined the EU in May 2004.¹ The paper then concentrates on developments within the Council of Europe, with its 45 member states.² It concludes by highlighting some issues that Europe has been struggling with in the hope

that these issues may stimulate further thought and discussion.

By outlining the current position in Europe, the intention is not to seek to transport any Western model to Southeast Asia. The approach is rather that of a cameraman providing a snapshot of developments in regional minority and religious protection at the European level, which nevertheless may provide inspiration for other regions.

The European Union

The economic focus of the EU has meant that human rights in general and minority/religious issues in particular have only

recently been addressed in the EU's institutional framework.

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1. The member states of the European Union are Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, United Kingdom, and, as of 1 May 2004, the ten new accession states of Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia (see <http://europe.eu.int>). Bulgaria, Romania and Turkey have also applied for EU membership (the first two hope to become members in 2007). (See <http://europa.eu.int/comm/enlargement/enlargement.htm>).
2. The member states of the Council of Europe are Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, 'the former Yugoslav Republic of Macedonia', Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine and the United Kingdom (see <http://www.coe.int>).

Whereas minority issues have become an important aspect of the external and accession policy of the EU, they have been

less relevant as far as the internal policy of the EU is concerned.

Internal Policy of the European Union

References to human rights and the (Council of Europe) European Convention on Human Rights were first included in the 1992 Maastricht Treaty (which introduced in Article 6 an explicit reference to the respect of human rights) and the 1997 Amsterdam Treaty, which transposed the 'Copenhagen Criteria'³ into primary law with one exception, namely the provision concerning minority rights. Both of these treaties were therefore silent on the issue of minority rights.⁴

Similarly, the adoption in 2000 of the Charter of Fundamental Rights of the European Union and the ongoing related negotiations for an EU Constitution do not contain any direct reference to minority rights. While there are a few lone voices (mainly from Hungary, as approximately 3.5 million Hungarians live in neighbouring states), there are unlikely to be any major advances in this area in the immediate future.⁵

All is not bleak on the EU side, however, as particular advances have been made in terms of setting standards in the field of

non-discrimination. These are of clear relevance to minorities and religions.

In the Charter of Fundamental Rights of the European Union the following provisions are made:

- Article 10 provides for the freedom of religion, which includes the freedom to change religion and to manifest religion or belief alone or in community with others and in public or in private.⁶
- Article 21 prohibits any discrimination, including on the grounds of race, ethnic or social origin, language, religion or belief, or membership of a national minority. However, it only covers negative discrimination and does not provide any positive duty to eliminate discrimination.⁷
- Article 22 states that the 'Union shall respect cultural, religious and linguistic diversity'.⁸

In addition, the European Council adopted in 2000 the Race Equality

3. In June 1993, the Copenhagen European Council recognized the right of the countries of Central and Eastern Europe to join the EU once they had fulfilled three criteria: (1) political: stable institutions guaranteeing democracy, the rule of law, human rights and *respect for and protection of minorities* (emphasis added); (2) economic: a functioning market economy; (3) incorporation of the Community acquis: adherence to the various political, economic and monetary aims of the EU. These accession criteria were confirmed in December 1995 by the Madrid European Council, which also stressed the importance of adapting the applicant countries' administrative structures to create the conditions for a gradual, harmonious integration. (See <http://europa.eu.int/comm/enlargement>).
4. However, Article 128 in the Maastricht Treaty and Article 13 in the Amsterdam Treaty dealt with the cultural dimension of European integration.
5. Hungary has proposed the inclusion of reference to minority rights in the basic provisions of the forthcoming EU Constitution. The Minority Rights Group has called for Article 57, relating to EU applicant states, to be amended to include specific reference to the Copenhagen Criteria. 'Minority Rights Group, EU Constitution risks letting states off the hook on minority rights', press release, 8 October 2003.
6. See <http://ue.eu.int/df/docs/en/CharteEN.pdf>
7. Ibid.
8. Ibid.

Directive⁹ (based on Article 13 of the Treaty of the European Community).¹⁰ This reflects an extensive approach to discrimination, covering direct and indirect

discrimination as well as harassment. It goes well beyond employment, including, for example, social protection, education and housing.

External Policy of the European Union

It can be said that concerns for minority protection have more dominantly figured in the EU's external relations:

Firstly, in the context of Eastern enlargement of the EU, acceding states were monitored in terms of the Copenhagen Criteria, borrowing standards of minority protection from the Council of Europe and the Organization for Security and Cooperation in Europe (OSCE). This monitoring was conducted by the Commission, which provided Regular Reports to the Council on a yearly basis from 1998.¹¹ After the accession of the ten new member states in May 2004, the monitoring in relation to these countries ceased.

Secondly, since the entry into force of the Maastricht Treaty, minority issues have

played a considerable role within the Common Foreign and Security Policy.

The respect for human rights and democratic principles has gradually become an 'essential element' of various cooperation agreements, including the former Lomé and current 2000 Cotonou agreements between the EU and the African, Caribbean and Pacific (ACP) countries.¹² EU cooperation agreements currently exist with three countries in Southeast Asia (Vietnam, Laos and Cambodia). The Commission stated in a communication in 2003 that this 'essential element' must be included in all future bilateral agreements (i.e. development programmes) with countries of Southeast Asia.¹³ However, while religious freedom would clearly fall within the scope of the 'essential element' clause, explicit references to

9. Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.
See http://europa.eu.int/eur-lex/pri/en/oj/dat/2000/l_180/l_18020000719en00220026.pdf
10. Article 13 of the Treaty of the European Community reads: 'the Council ... may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation'.
11. These Regular Reports have served as a basis for the Council to take decisions on the conduct of the negotiations or their extension to other candidates on the basis of the accession criteria. The Commission produced a comprehensive monitoring report for the Council and the European Parliament on 5 November 2003. (See <http://europa.eu.int/comm/enlargement/intro/criteria.htm>).
12. The agreement provides a framework for supporting the mutually reinforcing effects of trade cooperation and development aid. According to the rules laid down in the Vienna Convention on the Law of Treaties, a breach of an essential element of such a treaty would allow the EU to withdraw from the agreement. (See http://europa.eu.int/comm/development/body/cotonou/index_en.htm).
13. Communication from the Commission, 'A New Partnership with South East Asia', COM (2003) 399/4, p. 14. This communication also notes that 'the EU and a particular Southeast Asian country may also decide to initiate a bilateral dialogue specifically on human rights'. Cf. the EU-China dialogue.
14. See also Commission Working Document on Support for Indigenous Peoples in the Development Cooperation of the Community and the Member States, SEC (1998), (<http://www.fern.org/pubs/archive/indig98.pdf>). See also minutes from the workshop (http://europa.eu.int/comm/external_relations/human_rights/ip/report_98.pdf). See <http://europa.eu.int/scadplus/leg/en/lvb/r12001.htm> for a summary of the Declaration of the Council and the Commission of 20 November 2000 on the European Community's development policy (note that among the five main topics that 'must be promoted' – human rights, equality between men and women, children's rights, protection of the environment and conflict prevention and crisis management which also require systematic attention – minority/indigenous rights are not included).

minority rights (as in the Copenhagen Criteria) are absent.¹⁴

The EU has defined a strategy of 'conditionality' for its future relations with those countries of Southeast Europe with which association agreements have not yet

been concluded (Bosnia and Herzegovina, Croatia, Serbia and Montenegro, 'the former Yugoslav Republic of Macedonia' and Albania). Bilateral relations with these countries will be developed 'within a framework which promotes ... higher standards of human and minority rights'.¹⁵

Summary

At the EU level, while issues of minority protection and religious freedom have increased in importance, they have clearly not been treated as a priority and have mainly been in relation to external policies or subsumed in a developing human rights approach. In the internal relations of the EU, the most significant development has taken place in the sphere of non-discrimination, where the 'Race Directive'

is already having a major impact in EU states and candidate countries.

It can be said that, notwithstanding its political and economic power and influence, the EU is not the main European institution to examine human rights abuses in the context of minority protection and freedom of religion. It is in fact the Council of Europe and the OSCE.

Council of Europe

The European Union is Europe's wallet, the Council of Europe is Europe's soul.

Robert Runcie, Archbishop of Canterbury

Democracies do not become Nazi countries in one day. Evil progresses cunningly, with a minority operating, as it were, to remove the levers of control. One by one, freedoms are suppressed, in one sphere after another. Public opinion and the entire national conscience is asphyxiated ... it is necessary to intervene before it is too late. A conscience must exist somewhere which will sound the alarm to the minds of the nation menaced by the progressive corruption, to warn them of peril ...

Pierre-Henri Teitgen, former French minister of justice,
following the founding of the Council of Europe, 5 September 1949

The raison d'être of the Council of Europe, founded over 50 years ago on 5 May 1949, was to ensure that the suffering and destruction brought about by World War II should, in the words of Winston Churchill, 'never again' happen.

The work of the Council of Europe has thus been firmly anchored in the maintenance and further realization of human rights and fundamental freedoms across Europe. In its 50 years of existence, the Council of Europe has developed a

15. Council conclusions on the principle of conditionality governing the development of the EU's relations with certain countries of Southeast Europe, adopted on 29 April 1997, Bull. EU 4-1997, points 1.4.67 (commentary) and 2.2.1 (full text).

cobweb of standards, intricately linked with a range of other measures, which has given it the reputation of being the ‘conscience’ of Europe and the ‘soul’ of Europe.

The protection of religious freedom and the rights of ethnic minorities make up part of this cobweb. Council of Europe action in the field of protection of minorities and integrating diversity is based on the principle that the protection of minorities is part of the universal protection of human

rights, thus not solely an internal matter for states.¹⁶

I will refer firstly to the legal standards developed by the Council of Europe, the institutions that have been set up which contribute to the development and protection of these standards and also some of the programmes which are run in order to move the standards, and the monitoring, to the level of implementation and practice.

European Convention of Human Rights

The ‘jewel in the crown’ of the Council of Europe’s standards is the European Convention on Human Rights (ECHR) with its system of individual complaints to the European Court of Human Rights, which has great potential to advance the rights of persons belonging to minorities and guaranteeing freedom of religion.¹⁷

Whereas there are no explicit provisions on minority rights under the Convention, many articles deal with issues of importance for the protection of minorities, including Article 8, the right to private life; Article 9, the freedom of religion; Article 10, the freedom of expression; and Article 2 of Protocol 1, the right to education.¹⁸

Existing case law on minority protection has, however, mainly been of an ‘indirect’ nature, including, through the provision of non-discrimination in Article 14, providing protection from discrimination in the enjoyment of the rights and freedoms set forth in the Convention.¹⁹ Recent jurisprudence indicates a development of requiring that ‘equal situations are treated equally and unequal situations differently’, thus significantly expanding the Court’s non-discrimination jurisprudence in favour of substantive equality, which can greatly benefit the situation of often disadvantaged persons belonging to minorities.²⁰ The Court also seems to be opening up to the idea of indirect discrimination, albeit rather hesitantly.²¹

16. Article 1 of the FCNM.

17. For the text of the Convention and case law, see the homepage of the European Court of Human Rights, <http://www.echr.coe.int>

18. G. Gilbert, ‘Jurisprudence of the European Court and Commission of Human Rights in 2001 and Minority Groups’, UN Doc. E/CN.4/Sub.2/AC.5/2002/WP.2 24 May 2002. See also G. Gilbert, ‘Religious minorities and their rights: a problem of approach’, *IMGR*, vol. 5, no. 2.2 (1997), pp. 97-134.

19. Cf. the Belgian Linguistics case in which the European Court of Human Rights found that the absence of French language schools in a Dutch unilingual region of Belgium was discrimination on grounds of language. Decisions finding discrimination seem to require a high standard of proof, displaying some reluctance to find discrimination relevant and proven; dealing with discrimination only when a ‘clear inequality of treatment in the enjoyment of the rights in question is a fundamental aspect of the case’. *Airey v. Ireland* (1980). Indirect discrimination only exists ‘fleetingly in the jurisprudence’ (Patrick Thornberry, Committee Member for UK on the UN Committee on the Elimination of Racial Discrimination, 2001).

20. ‘The right not to be discriminated against in the enjoyment of the rights guaranteed under the Convention is also violated when States without an objective and reasonable justification fail to treat differently persons whose situations are significantly different.’ See European Court of Human Rights, *Thlimennos v. Greece* (2000).

21. In *Kelly v. UK*, the Court explicitly acknowledged for the first time, and repeated in 2002 in *McShane v. UK*, that ‘where a general policy or measure has disproportionately prejudicial effects on a particular group, it is not excluded that this may be considered as discriminatory notwithstanding that it is not specifically aimed or directed at that group’, see European Court of Human Rights, *Kelly v. UK*, 4 May 2001, para. 148.

The additional Protocol 12 to the Convention provides for a general non-discrimination clause, adding non-discrimination as an independent right, while it has been regarded as accessory under Article 14.²² The new Protocol removes this limitation and guarantees that no one shall be discriminated against on any of the stated grounds by any public authority. This Protocol is not yet in force but will certainly provide for enhanced protection, in particular for minorities, and it could open up juridical space between

the ECHR and the Framework Convention for the Protection of National Minorities.

The extension of the non-discrimination provisions will undoubtedly provide a boost for advancements in the protection of the rights of minorities and freedom of religion. While there have been calls to extend the rights in the European Convention of Human Rights through the preparation of an additional protocol of individual rights in the cultural field, these have not yet met with sufficient political support.²³

European Social Charter and the Revised European Social Charter

There are various provisions in the European Social Charter and the Revised European Social Charter that are important for minorities and could be more effectively used by them to further their rights and improve their situation.²⁴

Here reference can be made to rights such as the right to just conditions of work, the right to protection of health, the right to housing, the right to education and the right of migrant workers and their families to protection and assistance (which includes under the Revised Social Charter, the need to promote and facilitate, as far as practicable, the teaching of migrant workers' mother tongues to their children).

Under a protocol opened for signature in 1995, which came into force in 1998, complaints of violations of the Charter may be lodged with the European Committee of Social Rights.²⁵ Certain organizations are entitled to lodge complaints with the Committee (there is a list of non-governmental organizations [NGOs] with consultative status with the Council of Europe). This so-called 'collective complaints procedure' could provide a breath of life to the monitoring of social rights in Europe. Currently, 22 collective complaints have been lodged, one of which concerns access to housing for Roma Families in Greece (Complaint Number 15, *European Roma Rights Centre v. Greece*).

22. Protocol 12 requires ten ratifications: currently Bosnia and Herzegovina, Croatia, Cyprus, Georgia and San Marino have ratified.

23. At the Vienna Summit (8-9 October 1993), the heads of state and of government of the member states of the Council of Europe asked the Committee of Ministers to 'begin work on drafting a protocol complementing the European Convention on Human Rights in the cultural field by provisions guaranteeing individual rights, in particular for persons belonging to national minorities'. An Ad Hoc Committee for the Protection of National Minorities (CAHMIN) was set up to examine the question and met six times. The CAHMIN was faced with many problems in the course of its work, both of a legal nature (interpretation of the ECHR and its protocols, identification of new individual rights such as the right to cultural identity) and of a political and economic nature (the possible expense of securing these rights might force states to restrict their obligations). Another difficulty identified was that some of the rights suggested might involve a 'transfer of competences' between the executive and legislature on the one hand and the judiciary on the other, for example, in the field of national education.

24. See http://www.coe.int/T/E/Human_Rights/Esc

25. See http://www.coe.int/T/E/Human_Rights/Esc/5_Collective_complaints/Index.asp#TopOfPage

Framework Convention for the Protection of National Minorities

The Framework Convention for the Protection of National Minorities of 1994 entered into force on 1 February 1998 and currently has 35 state parties.²⁶ Although it is not the only instrument developed within the Council of Europe relevant to the protection of national minorities, the Framework Convention for the Protection of National Minorities is certainly the most comprehensive document in this area. Indeed, it is the first ever legally binding multilateral instrument devoted to the protection of national minorities in general.

The Framework Convention sets out principles to be respected as well as goals to be achieved by the Contracting Parties in order to ensure the protection of persons belonging to national minorities, while fully respecting the principles of territorial integrity and political independence of states. The principles contained in the Framework Convention have to be implemented through national legislation and appropriate governmental policies. It is also envisaged that these provisions can be implemented through bilateral and multilateral treaties.

The main operative part of the Framework Convention is Section II, containing specific principles on a wide range of issues, *inter alia*:

- non-discrimination;
- promotion of effective equality;
- promotion of the conditions regarding the preservation and development of the culture and preservation of religion, language and traditions;

- freedoms of assembly, association, expression, thought, conscience and religion;
- access to and use of media;
- linguistic freedoms;
- promotion of minority languages in private and public sector;
- use of one's own name;
- display of information of a private nature;
- education;
- freedom to set up educational institutions;
- transfrontier contacts;
- international and transfrontier cooperation;
- participation in economic, cultural and social life;
- participation in public life;
- prohibition of forced assimilation.

The monitoring mechanism of the Framework Convention is based on Articles 24-26 of the Framework Convention for the Protection of National Minorities and on the Committee of Ministers' Resolution (97)10 as well as other relevant decisions. The evaluation of the adequacy of the implementation of the Framework Convention by the Parties is to be carried out by the Committee of Ministers, which is assisted by the Advisory Committee (AC). The Advisory Committee is composed of 18 independent and impartial experts appointed by the Committee of Ministers.

State parties are required to submit a report containing full information on legislative and other measures taken to give effect to

26. The parties to the Framework Convention are: Albania, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Ireland, Italy, Liechtenstein, Lithuania, Malta, Moldova, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, 'the former Yugoslav Republic of Macedonia', Ukraine and the United Kingdom. Whereas Belgium, Georgia, Greece, Iceland, Latvia, Luxembourg and the Netherlands have signed but not yet ratified the Framework Convention, Andorra, France and Turkey have not yet signed the Convention.

the principles of the Framework Convention within one year of the entry into force. These state reports are made public and examined by the Advisory Committee, which prepares an opinion on the measures taken by each reporting state. Having received the opinion of the Advisory Committee and the comment from the respective state, the Committee of Ministers is called on to adopt conclusions and, where appropriate, recommendations in respect of the state party concerned.

States have increasingly made the opinions of the Advisory Committee and the comments of the states concerned public at an earlier date. This has been the case for Albania, Austria, the Czech Republic, Estonia, Finland, Germany, Hungary, Liechtenstein, Lithuania, Norway, Romania, Slovakia, Sweden, Switzerland, Ukraine and the United Kingdom.²⁷

With respect to various working methods, an important step was the introduction of country visits by the Advisory Committee as a customary element of the monitoring procedure (in fact, the first human rights treaty monitoring mechanism based on state reports, which has country visits as a regular element of monitoring). A further step was an agreement to authorize the Advisory Committee to submit a proposal regarding the commencement of the

monitoring of the Framework Convention without a state report when a state is more than 24 months behind in submitting a state report.²⁸

Governments are of course important actors and key sources of information for monitoring, but equally important has been the cooperation and input of NGOs, minority associations and civil society in general, without which the Advisory Committee could not fulfil its monitoring tasks effectively.

It is pleasing to note that most of the countries concerned welcomed the opinions of the Advisory Committee and provided constructive comments on them, in many cases indicating that the opinion has already prompted increased action to address specific shortcomings in the implementation of the Framework Convention. The opinions appear to have stimulated fresh rounds of interdepartmental discussions within governments, and in some cases they have prompted an immediate dialogue with national minorities on the issues raised.²⁹

It is imperative that these opinions, together with the resolutions of the Committee of Ministers, are translated into the languages of the countries concerned. So far, a number of states have already done this, but there remains scope for improvement in this respect.

27. For state reports, Committee of Ministers' resolutions, Advisory Committee opinions, comments by the states concerned and information on follow-up seminars see the homepage of the Secretariat of the Framework Convention, www.coe.int/Minorities

28. Decision of the Ministers' Deputies at their 832nd meeting on 19 March 2003.

29. Examples of positive action following Advisory Committee opinions include: the Czech Republic adopted a law on National Minorities; in order to eliminate the legal impossibility of a Greek and Turkish Cypriot concluding a civil marriage in Cyprus, the Cypriot authorities decided to draft a law granting all persons this legal right irrespective of their race or religion; in order to bring legislation concerning the use of language into line with European standards, Estonia amended the language proficiency requirements for electoral candidates; as a step towards addressing the problem of the over-representation of Roma in 'schools with special curricula', Hungary adopted a decree guaranteeing that pupils, including Roma, are placed in such institutions only in justifiable cases, on the basis of an aptitude test at the request and with the consent of the parents; in order to strengthen the legislative framework to protect persons who may be subject to threats or acts of discrimination, hostility or violence, the United Kingdom has strengthened provisions concerning incitement to racial hatred and provided cover for religiously aggravated offences. See the Secretariat Fact Sheet of the Framework Convention for the Protection of National Minorities, www.coe.int/Minorities

In all resolutions adopted so far on the implementation of the Framework Convention, the Committee of Ministers has asked the country concerned to 'continue the dialogue in progress' with the Advisory Committee and to keep it regularly informed of the measures taken in response to the conclusions and recommendations of the Committee of Ministers. In particular, a number of state

parties have taken the initiative to organize, in cooperation with the Council of Europe, so-called 'follow-up seminars', bringing together governmental representatives, experts from the national side, representatives from civil society and members of the Advisory Committee, to discuss the implementation of the first results of the monitoring of the Framework Convention in the country concerned.

In conclusion

Approaching the second cycle of monitoring, the Framework Convention and its monitoring mechanism has greatly complemented the traditional mechanisms of human rights protection within the Council of Europe, namely the European Convention on Human Rights and the European Social Charter. While the Framework Convention has its detractors who complain, *inter alia*, about the weakness of some of the provisions and their programmatic nature, the lack of definition of what a minority is, etc., there

can be no doubt that it has made an important contribution to the overall web of human rights protection offered through the Council of Europe treaties. Its success has been to stimulate debate and provide a peg on which minority issues can be placed both at a national and European level. It is clear that the provisions are minimum provisions, but it does provide a safety net for countries in Europe, and it does provide an enormous boost for visibility for minority issues in the region.

European Charter for Regional and Minority Languages

Millions of people in Council of Europe member states speak a regional or minority language, but many such languages are under threat of extinction. The purpose of the European Charter for Regional and Minority Languages is to prevent their decline and help them develop by promoting their spoken and written use in public life and in social and economic contexts, as well as through the teaching of them. The Charter was opened for signature in 1992 and entered into force in 1998. Currently, it has been ratified by 17 states.³⁰

of Local and Regional Authorities of Europe (CLRAE), is cultural: to protect and preserve minority and regional languages as an essential part of the European cultural heritage. Thus the Charter is a further positive step in Council of Europe policy for intercultural understanding in Europe.

The overriding aim of the Charter, which was instigated by the Standing Conference

Part I of the Charter defines regional or minority languages as non-official languages traditionally used in a country by nationals of that country who form a group numerically smaller than the rest of the country's population. The definition excludes dialects of official languages and migrants' languages but gives special treatment to 'non-territorial' languages not

30. For information on the Charter on Regional and Minority Languages, see http://www.coe.int/T/E/Legal_Affairs/Local_and_regional_Democracy/Regional_or_Minority_languages

identified with a particular area of the country (e.g. Yiddish or Romany).

When states ratify the Charter, they are required to specify what regional or minority languages are covered.

Part II sets out the aims and principles with which states must comply:

- recognition of regional or minority languages;
- respect for the geographical area in which they are spoken;
- the need for resolute action to promote such languages;
- provision of facilities for teaching and studying them;
- provision of facilities to enable non-speakers of the languages to learn them;
- elimination of discrimination;
- promotion of mutual respect and understanding between linguistic groups;

- establishment of bodies to represent the interests of regional or minority languages;
- application of the Charter's principles to non-territorial languages.

Part III sets out measures to promote the use of regional or minority languages in public life.

Concerning the implementation, state parties are requested to submit periodic reports to the Secretary General (these must be made public) on their policies for implementing the Charter. These reports are then examined by an independent Committee of Experts. Legally constituted bodies or associations wishing to give additional information are allowed to make submissions to the committee of experts. States' reports as well as the Committee of Experts' reports will be made public.

European Commission against Racism and Intolerance

The European Commission Against Racism and Intolerance (ECRI)'s task is to combat racism, xenophobia, anti-Semitism and intolerance at the level of greater Europe and from the perspective of the protection of human rights.³¹ ECRI's action covers all necessary measures to combat violence, discrimination and prejudice faced by persons or groups of persons, notably on grounds of 'race', colour, language, religion, nationality and national or ethnic origin.

Members of the monitoring mechanism of ECRI are appointed on the basis of their in-depth knowledge in the field of combating intolerance. They serve in their individual capacity, are independent and impartial in fulfilling their mandate, and

do not receive any instructions from their government.

ECRI's programme of activities comprises three aspects: a country-by-country approach; work on general themes; and activities in relation to civil society.

The country-by-country reports focus on a range of matters, including legislative and institutional frameworks which exist in the 45 member states of the Council of Europe. They also highlight the main issues concerning racism, discrimination and intolerance in these countries.

ECRI makes an important contribution to protecting the rights of minorities and religions from the angle of non-

31. For information related to ECRI, see http://www.coe.int/T/E/human_rights/Ecri

discrimination. As a body it has been in existence since 1994 and has built up a number of policy recommendations which are of particular interest, including:

- General Policy Recommendation No. 2: Specialized bodies to combat racism, xenophobia, anti-Semitism and intolerance at national level;

- General Policy Recommendation No. 5: Combating intolerance and discrimination against Muslims; and
- General Policy Recommendation No. 7: National legislation to combat racism and racial discrimination.

Congress of Local and Regional Authorities of Europe

The basic aims of the Congress of Local and Regional Authorities of Europe (CLRAE), such as the achievement of local and regional self-government, are fundamental for minorities, and have brought minority issues into the mainstream of its monitoring procedures.³² The CLRAE's monitoring of local and regional democracy in member states has

mainly centred on the implementation of the European Charter of Local Self-Government. An increasing number of states have adopted this and other instruments related to the development of democratic practices, which have a bearing on various issues of minority concern, including territorial autonomy.³³

Other Bodies Operating within the Council of Europe, which Contribute to the Protection of Minorities and Religions

Making up the cobweb of protection within the Council of Europe are a number of other bodies and institutions, each making a contribution.

The Office of the Commissioner for Human Rights was established in 1999 as an independent institution within the Council of Europe.³⁴ In accordance with his mandate, and without excluding the possibility of complementary actions, the Commissioner focuses his activity on four main areas. These are:

- the promotion of education and awareness of human rights;
- encouragement for the establishment of national human rights structures where

they do not exist and facilitation of their activities where they do exist;

- identification of short-comings in the law and practice with regards to human rights; and
- the promotion of their effective respect and full enjoyment in all the member states of the Council of Europe.

The Commissioner has not shied away from tackling sensitive minority issues, such as allegations of forced sterilization of Roma in Slovakia and the statelessness of Russians in Latvia as two recent examples.

The Parliamentary Assembly (PACE) of the Council of Europe is sometimes referred to as 'the democratic conscience

32. For information related to the CLRAE, see <http://www.coe.int/t/e/CLRAE>

33. See for example, 'Territorial autonomy and national minorities', Recommendation 43 (1998) of the Congress of Local and Regional Authorities of Europe. For the reply from the Congress of Local and Regional Authorities of Europe, see http://cm.coe.int/stat/E/Decisions/2002/797/d10_2.htm

34. For information of the mandate and work of the Council of Europe High Commissioner for Human Rights, see http://www.coe.int/T/E/Commissioner_H.R/Communication_Unit

of Europe' and is made up of parliamentarians appointed by national parliaments.³⁵ PACE is the Council of Europe organ with the longest and most active record in dealing with minority issues. PACE has often placed emphasis on the justifiability of the rights of minorities, insisting on bringing the question of minority protection under the European Convention through an additional protocol.³⁶ PACE has also recommended that the Committee of Ministers draft an additional protocol to the Framework Convention, conferring on the European Court of Human Rights the power to give advisory opinions on the interpretation of the Framework Convention.³⁷

Through the work of its committees, PACE not only develops policy recommendations but carries out monitoring on issues relevant to the protection of minorities and religious freedom.³⁸

Also, the Assembly has called on remaining states to swiftly ratify, without reservations or declarations, the Framework Convention, and has recommended that the Committee of Ministers reconsider the confidentiality requirements set by Resolution (97)10 of the Committee of Ministers, so as to allow the Advisory Committee, if it deems it necessary, to hold joint meetings with the representatives of governments and of civil

society.³⁹ The importance of this type of political support from the Parliamentary Assembly for preparing an instrument such as the Framework Convention, or for the ongoing work of its monitoring bodies has to be stressed.

The Committee of Ministers of the Council of Europe is the decision-making organ of the Council of Europe through which agreements and common action by states are adopted and undertaken.⁴⁰

The **Committee of Ministers** commenced monitoring in 1994, based principally upon the 1994 Declaration on compliance, with commitments accepted by member states of the Council of Europe. In the Committee's thematic monitoring, topics relevant to minority protection have been addressed, for example on the theme of non-discrimination.⁴¹ However, since the principle of equal treatment among states is characterized by 'thematic monitoring', the minority issue has not been firmly brought under the Committee's monitoring agenda.⁴² Its resolutions and recommendations on a range of issues, prepared for it through a network of intergovernmental committees, have, however, provided important soft law guidelines on issues concerning minorities and also religions.⁴³

Regarding the Framework Convention, the Committee of Ministers has emphasized

35. For information concerning PACE, and related documents, see <http://assembly.coe.int>

36. See the proposal for an additional protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning persons belonging to national minorities, in PACE Recommendation 1201 (1993).

37. PACE Recommendation 1492 (2000), para. 12; PACE Recommendation 1623 (2003), para. 12.

38. See for example PACE Resolution 1309 (2002) 36, Freedom of religion and religious minorities in France, <http://assembly.coe.int/Documents/AdoptedText/ta02/ERES1309.HTM>

39. PACE Recommendation 1623 (2003), para. 12 viii.

40. For information of the work of the Committee of Ministers, see <https://wcm.coe.int/rsi/cm/index.jsp>

41. To date, eight themes have been adopted, including the themes of non-discrimination and local democracy.

42. Note however, the Committee's important role in the monitoring under the Framework Convention for the Protection of National Minorities.

43. See, for example, the Committee of Ministers' Recommendation No. (1997) 20 on 'Hate Speech'; Recommendation No. (1997) 21 on the media promotion of a culture of tolerance; Recommendation No. (2000) 4 on the education of Roma/Gypsy children in Europe.

that states should be encouraged to remove the obstacles that exist at national level in order to sign and/or ratify as soon as possible the Framework Convention.⁴⁴ Member states are further encouraged by the Committee to be 'judicious in their use of reservations or declarations'.⁴⁵

The intergovernmental work of the Council of Europe is carried out by the different

Directorate Generals within the Council of Europe with expert committees with representatives from all member states sitting in the meetings. Many of these committees deal with issues important for minorities and religions in one form or another. Examples abound and include history teaching, data-protection, Roma/Gypsy/Travellers, migration, etc.

Cooperation Activities Concerning Ethnic Minorities and Religion

While developing standards and monitoring standards can produce important results, this may not in itself be sufficient. International back-up and heightened awareness are needed.⁴⁶ The Council of Europe provides such assistance where it can. It has recently been assisting on laws on national minorities and has provided legislative assistance on non-discrimination

legislation in a wide range of countries. It helps states prepare for ratification of instruments such as the Framework Convention, provides training for many different professional groups (media, police, judges, etc.), and provides a range of awareness-raising materials ranging from brochures to websites to make its information widely available.

Some Emerging Issues in Europe

A good deal of this paper is devoted to mechanisms and development of the rights of persons belonging to minorities and religions in Europe. It may, however, be interesting to take a step back and look at some of the emerging issues in Europe which could have an echo for Southeast Asian countries too.

It is outside the scope of this paper to try and cover more than a handful of issues, but I will briefly stress three issues, – the definitional issue of who belongs to a 'national minority', the issue of non-discrimination and the need for statistical data.

Agreement on Who Should Be Protected as a National Minority in Europe

Defining a 'national minority' is still controversial and will likely remain so in Europe. There is no generally accepted definition of the term 'national minority' in international law, and there is no legally

binding definition in any Council of Europe instrument. Whereas the Parliamentary Assembly suggested a definition in 1992 in relation to the proposal of an additional protocol to the European Convention of

44. Reply from the Committee of Ministers to the Parliamentary Assembly Recommendation 1492 (2001), adopted by the Committee of Ministers on 12 June 2002 at the 799th meeting of the Ministers' Deputies.

45. Ibid.

46. Some examples of types of cooperation activities organized by the Council of Europe concerning ethnic minorities include the 'Non-discrimination Review' under the Stability Pact for Southeastern Europe, training programmes for NGOs and meetings of government offices for national minorities. See www.coe.int/T/e/human%5Frights/Minorities/3%2E%5FCO%2DOPERATION%5FACTIVITIES

Human Rights and Fundamental Freedoms concerning persons belonging to national minorities,⁴⁷ the Framework Convention has no definition of what a national minority is. States have adopted very different approaches to this issue. Under the Framework Convention for the Protection of National Minorities, states have been left with a margin of appreciation but not unfettered discretion, and the Advisory Committee on the Framework Convention has stated clearly that it is ready to challenge any arbitrary interpretation given by a state. Its initial approach has been cautious, encouraging states to discuss with persons belonging to excluded groups and seeing whether at least

some of the rights contained within the Framework Convention can be extended to them.

The same type of questions are relevant in the context of Southeast Asia: Should thought be given to developing a regional equivalent protection mechanism? Should there be a distinction between autochthonous groups and other groups? How should migrants be treated? What relevance does citizenship have? How should linguistic groups, religious groups, etc., be covered? These questions have as much relevance to Europe as they do to other regions of the world.

Tackling Non-discrimination

It is in this area that Europe has seen a flurry of activity. The development of comprehensive non-discriminatory legislation and bodies and institutions to tackle issues of discrimination has received an enormous boost by the EU's Race Directive and the growing body of findings and developing standards by the European Commission against Racism and Intolerance, and now also the Advisory Committee on the Framework Convention for the Protection of National Minorities.

One project mounted by the Council of Europe in this area has been a non-discrimination review for Southeast Europe in which a methodology for examining the legislative framework in existence in countries has been established. This methodology can be used as a starting point for countries both inside and outside of Europe in order to identify gaps in legislation. The review also develops a number of indicators to assist in analysing discrimination in practice so that discrimination can be identified and appropriate measures taken.

Availability of Comprehensive Statistical Data

This is crucial for any attempts to analyse discrimination or to gear policy in relation to ethnic minorities, religious communities

or other. While a census is one way of collecting such information it is not the only way. The collection of ethnicity data,

47. In PACE Resolution 1201 (1993) with regard to the proposal for an additional protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning persons belonging to national minorities, the expression 'national minority' was suggested to refer to a group of persons in a state who:

- reside on the territory of that state and are citizens thereof;
- maintain longstanding, firm and lasting ties with that state;
- display distinctive ethnic, cultural, religious or linguistic characteristics;
- are sufficiently representative, although smaller in number than the rest of the population of that state or of a region of that state;
- are motivated by a concern to preserve together that which constitutes their common identity, including their culture, their traditions, their religion or their language.

however, requires certain safeguards, both in terms of the rights of individuals to self-identification, and also in terms of protection of data.⁴⁸ Abuses of the collection of such data in the past (for example in Nazi Germany in relation to

Jews, Roma and others) remains an issue in certain countries, but the majority of countries in Europe have begun to tackle with increasing efficiency the question of the collection of accurate statistical data.

Conclusion

The implementation of the Framework Convention for the Protection of National Minorities and of the European Charter for Regional and Minority Languages is promoted by awareness-raising activities on these instruments, which are directed at parliamentarians, government officials and representatives of national minorities in all member states of the Council of Europe. Monitoring based on juridical instruments, political monitoring and the judicial mechanism of ensuring rights at the European Court of Human Rights add a further dimension to the cobweb of protection at a European level.

Challenges of linking diversity, accommodating different ethnic groups within states and the enjoyment of the freedom of religion exist in any political

system and in all geographical regions. While there remains much to be done to ensure a coherent system of minority protection in Europe, perhaps the experiences from the European institutions can lend some inspiration of a possible approach, or combination of approaches, which could be suitable for the context in Southeast Asia. An organ or committee to help promote inter-governmental discussions, programmatic provisions in a convention monitored by independent experts under political supervision, a regional High Commissioner on National Minorities, country-based ombudsmen/human rights commissions dealing with minority issues, a judicial mechanism ensuring the protection of individual rights and a collective complaints procedure, are all options.

48. Cf. the Committee of Ministers' Recommendation No. (1997) 18 concerning the protection of personal data collected and processed for statistical purposes.

The Politics of Human Rights and Democratization in ASEAN

MC Abad, Jr.*

The latest pronouncement of the Association of Southeast Asian Nations (ASEAN) Foreign Ministers on human rights and democratization was in June 2003, when they reaffirmed their 'commitment to the protection and promotion of human rights'. Similar pronouncements can be found in their annual Joint Communiqués since the 1993 World Conference on Human Rights.

Interestingly, in 1993, the Foreign Ministers agreed that 'in support of the Vienna Declaration and Programme of Action (of the World Conference on Human Rights), ASEAN should also consider the establishment of an appropriate regional mechanism on human rights'. Fortunately, this matter was taken up by an independent group of men and women from different countries in Southeast Asia, predominantly Indonesia, the Philippines, Thailand and Malaysia. Every year since 1996, this group has held informal meetings with ASEAN officials to press for the establishment of such a regional mechanism. Nothing much has happened yet, but ASEAN has been under constant pressure to reaffirm its own commitment. One of the reasons for the slow progress is the expansion of ASEAN from six to ten countries. The different political orientations of ASEAN countries today make consensus difficult to reach. But this is only half the problem. There is also the fact that older member states have little interest in following the commitment

through. Nevertheless, pending a region-wide mechanism, there is nothing to prevent the existing national human rights institutions in these four member states from collaborating among themselves. In fact, they are all members of the Asia-Pacific Forum of National Human Rights Institutions that was established in 1996. They are also parties to the Framework for Technical Cooperation under the auspices of the United Nations Regional Cooperation for the Promotion and Protection of Human Rights in the Asia-Pacific Region.

In the broader field of democratization, some ASEAN member countries are playing an advocacy role towards greater political openness in the region. For instance, Thailand authored a section in the ASEAN Vision 2020, which gave the region a mandate to work towards 'open ASEAN societies consistent with their respective national identities, where all people enjoy equitable access to opportunities for total human development, regardless of gender, race, religion, language, or social and cultural background'.

Indonesia and the Philippines, for their part, have pushed for the notion of democratic peace in Southeast Asia. Thus, after 36 years of existence, the word 'democracy' has finally found its place in an official ASEAN agreement. The ASEAN Leaders have signed the so-called Bali

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Concord II, which states that the ASEAN Security Community is envisaged to ensure that countries in the region live at peace with one another and with the world in a democratic environment.

Malaysia, on the other hand, has actively supported the role of the United Nations Secretary-General Special Representative in Myanmar, Tan Sri Razali Ismail, with a view to facilitating a democratic transition in that country. Beyond the unprecedented call for the release of Daw Aung San Suu Kyi and members of the NLD (National League for Democracy), ASEAN has urged Myanmar to resume its efforts of national reconciliation and dialogue among all parties concerned towards a peaceful transition to democracy.

Efforts to promote and protect human rights cannot be separated from the broader issue of democratization. To call for the protection of human rights is to work towards democratization. Respect for human rights can only be sustainable and meaningful within a certain political environment.

Sponsoring items like democracy and human rights in the ASEAN agenda is not easy, not only because of the political differences among member states and their potentially regime-threatening consequences, but also because of the organization's preoccupation with other regional issues that require attention. These include economic integration, the spread of HIV-AIDS, Severe Acute Respiratory Syndrome (SARS) and other communicable diseases as well as transboundary pollution. Moreover, international terrorism and various forms of transnational crimes, such

as drug trafficking, money laundering, arms smuggling, piracy and trafficking in persons, particularly women and children, have become major concerns for the region. Some of us continue to hope that greater economic openness and empowerment might be a catalyst for more open societies.

All of the above are important and legitimate preoccupations, but they cannot serve as an excuse to neglect the equally important and universal values of human rights and freedom. At the same time, it is important to understand the limitations of inter-governmental institutions in dealing with issues that have regime-threatening political implications, whether real or imagined. ASEAN can only function the way the member states want it to. It is not independent of its member states. Therefore, the more democratically like-minded the ASEAN region, the more we can expect advances in the field of human rights. This is how crucial Indonesia's transformation is as the world's third largest democracy in the political development of Southeast Asia.

This leads me to my conclusion. In order for us to see progress in issues that we consider important, we must have regional networks of advocates and champions. They might be ASEAN member states, members of civil society, eminent individuals, local communities or well-meaning friends from abroad. Nevertheless, I believe that international or regional public opinion and pressure is only as important as the domestic constituency of political and social change willing and able to make a difference.

The Position of the European Union on the Rights of Ethnic Minorities and Religions – An NGO Perspective of the European Union’s Internal and Foreign Policy

Nils Rosemann*

European history in general and German history in particular is closely associated with the struggle of minorities for independence and self-governance. The two processes of nation-building – immediately after World War II and at the beginning of the 1990s – are over. The new task for ethnic, cultural, linguistic and religious minorities is not the struggle for new rights but to bring existing rights into practice.

From a non-governmental organization (NGO) perspective there are three main areas of concern:

1. The narrow concept of ‘national’ minorities;
2. The backlash of minority rights and freedoms after 11 September 2001;
3. The different concepts of protection within the European Union (EU) and within European Development Aid.

The Narrow Concept of ‘National’ Minorities

In light of the recent sixty-fifth anniversary of the *Kristallnacht*¹ in Germany, I would first like to ask: ‘Who belongs to a minority and who defines the minority?’ When, in 1938, synagogues and public buildings were burnt, Germans of Jewish faith did not consider themselves a minority – they perceived themselves as a religious group. Thus becoming a minority often has to do with the denial of certain rights and freedoms by another group. In addition, in Germany it was the ‘Aryan’ majority that declaimed themselves as something better, as a superior race, by excluding other groups of society. This example shows that

it has to be the minority who defines itself as such.

Unfortunately the definition and categorization of minorities is still a matter for the majority. Minorities are able to claim their rights only if the majority acknowledge them as a specific minority group. The narrow concept of ‘national minorities’ in the European Framework Convention for the Protection of National Minorities and the European Charter of Regional and Minority Languages follows this doubtful concept instead of accepting the right to self-determination as the

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1. *Kristallnacht* (literally ‘crystal night’), usually translated into English as the ‘Night of Broken Glass’, was a massive pogrom against Jewish citizens and their property throughout Germany during the night of Wednesday 9 November 1938.

International Covenant on Civil and Political Rights does.

Article 27 of the International Covenant on Civil and Political Rights reads:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

The European Framework Convention for the Protection of National Minorities (adopted 1 February 1995 and entered into force 1 February 1998) protects 'national minorities'. In addition, the European Charter of Regional and Minority Languages protects 'historical developed languages'.

The underlying concept of these instruments is the protection of 'old' and acknowledged minorities instead of guarding numeric minorities from assimilation. As an example, Germany has 82.5 million inhabitants and four acknowledged minorities:

1. 50,000 Danish people in the North;
2. 50-60,000 Frieses, a German tribe in the North;
3. Up to 60,000 Serbs or Wenden, a Slavic minority in the East; and

4. Approximately 70,000 Sinti, Roma and Travellers, who received minority status after a long struggle for recognition.

The precondition for recognition as a minority is the historical background of the people. If they are able to show that they have existed and lived in a certain area with certain cultural differences, then recognition as a minority is just a question of procedures and fact-finding. But if a minority is mainly assimilated, like the Sinti, Roma and Travellers, or even more problematically, if the people are not domestic, the acknowledgement of a minority is a political issue rather than a juridical question.

Compared to the almost 60,000 people of each minority, there are 7.35 million non-Germans living in Germany, among them 1.9 million Turks, 590,000 Yugoslavs and 610,000 Italians. For the Turks in particular, minority status could protect them from assimilation and could foster tolerant coexistence instead of outlawing cultural habitudes and facilitating the radicalization of Turkish and Muslim society in Germany.

This brings me to the second issue: The backlash against human rights and, in particular, religious freedom after 11 September 2001.

The Backlash against Minorities after 11 September 2001

After 11 September 2001, Germany passed two 'anti-terror-packages'. Both of them are threats to civil and political freedom, but they are largely neutral in terms of any distinction between certain groups. However, there are points that are discriminatory:

- Changes in asylum law: A 'terrorist', and this includes any member of a group

that agrees (even in exceptional cases) on violence to reach their political aims, can never get asylum;

- The introduction of Racial Profiling/ Screening (*Rasterfahndung*): Since July 2002, most German Administrative Courts have forbidden 'screening' of German students, but not foreign students;

- Change of German Association Law: The privilege of religious communities under German Association Law (*Vereinsrecht*) has been withdrawn. Although this is applicable to Christian communities too, it is aimed at banning Muslim communities.
- Although there is no rise in anti-Semitic violence and crimes related to 11 September because violations of synagogues and Jewish cemeteries are unfortunately 'common' in Germany, there have been cases of members of the Muslim community assaulting people because of a Star of David, a polarization on the Israel-Palestinian Conflict as well as an unholy alliance between the German Far Right Movement and Islamic terrorists. In addition, during the last election in 2002, a member of the presidium of the Liberal Party accused the vice-president of the Jewish community of causing anti-Semitism in Germany by his behaviour.

The Different Standards of Protection within the EU's Development Aid Policy and Foreign Economic Relations

As outlined above, the protection of minorities within the EU can be stated as sufficient for so-called national minorities but insufficient for groups of migrants in a minority position. Although there is still a need for progress, minorities in the EU are able to foster their own cultures and practise their religious beliefs within their communities.

The last issue I would like to focus on is the protection of minorities in the external relations of the EU. There are quite good concepts in Development Aid, but a lack of coherence within European economic policies. I take the example of indigenous people to outline the underlying problems.

The active participation of indigenous peoples plays an important role in the development process as it enables these peoples, who are often vulnerable and disadvantaged, to shape their own development. The EU has already established a framework for its activities in this area through a working paper presented by the Commission in May 1998 and adopted by the Development Council Resolution in November. The outlined framework for cooperation is covered by three specific guidelines:

1. integrating concern for indigenous peoples into all of the EU's policies, programmes and projects;
2. consulting indigenous peoples on policies and activities that affect them;
3. providing support in key thematic areas.

Under these guidelines, the EU carried out a vast range of activities between 1998 and 2000. It allocated 21.9 million Euros to projects directly benefiting indigenous peoples. These EU policies and activities included the promotion of human rights and democracy and the policy on the environment and sustainable development.

In a report to the Council, the Commission concluded in June 2002 that cooperation with indigenous peoples is an evolving process. Certain measures are proposed to improve this cooperation in the future:

- continuing to improve the integration of this issue into policies, programmes, etc. (The methodology for mainstreaming this topic must be further developed, projects relevant to indigenous peoples must be systematically identified as such and a specific reference to indigenous peoples

must be made with a view to establishing a central database on actions in support of indigenous peoples);

- continuing to enhance cooperation and coherence within the Union and with other donors;
- incorporating specific guidelines to protect indigenous peoples in the Commission's official documents, including all relevant policies;
- enhancing the consultation of indigenous peoples; (in particular, small organizations must be better informed of the Union's action and the Commission's delegations on the ground must be strengthened so that they can help with the management of micro projects.)

However, these aims of the EU's Development Cooperation are not complemented by the EU's International Economic Policies, which are harming the rights of indigenous people directly. The EU is, next to the United States and Japan, the main engine behind globalization. The framework of globalization lies in the World Trade Organization, supported by market-driven concepts of the World Bank and the International Monetary Fund.

Within the World Trade Organization, basic needs and values of indigenous people become a tradeable good, like water, food and natural resources. Under the General Agreement on Tariffs and Trade (GATT), services, lying traditionally within the community, are becoming or should become commercialized, like education, water or environmental services. Under the Agreement of Trade Related Aspects of Intellectual Property Rights (TRIPS), knowledge might be patented and will become an internationally protected intellectual property right instead of belonging to a community.

This process has led to the situation where, according to a statement of the World Bank, indigenous peoples are the poorest in the world, despite living in the richest areas of the planet.

There should be an aim to build up coherence between the EU's Development Aid Policy and its Foreign Economic Relations under the concept of human rights in general and minority rights and rights of indigenous people in particular.

The Approach of the OSCE High Commissioner on National Minorities

Frederick John Packer*

Let me begin by stating the obvious: there is no shortage of problems and, indeed, no lack of complexity in understanding, much less tackling, them. But, roughly speaking, notwithstanding some important questions of definition, I believe we know what the basic problem is. Let me summarize it in simple terms: How can we all live together? I mean this both literally in the sense of survival and also in the fuller sense of getting along. For if we do not settle our disputes, we face the prospect of violent conflicts which endanger our lives and those of others. And if we fail to find adequate modes and structures, we will hardly coexist, never mind be free to pursue our individual and collective development. So, we have before us a challenge – at once simple and yet profound.

There is no simple answer. The challenge is multidimensional and manifests itself in infinite variety. To be sure, no two situations are the same. People's needs, interests and aspirations differ, sometimes substantially and other times only in nuance (although no less importantly for those concerned). But, I submit, there are some universally valid aspects of the *problématique*, and there are also some universally valid responses, *mutatis mutandis*.

Permit me to cite just the natural requirements and limits of life, and the universally valid value of life. If we start with this, with human nature, we can agree

on the need to respect life for all in equal dignity. This is not radical. Indeed, it is the essential message of all great religions, philosophies and of civilization itself. Yet, while all human beings are fundamentally the same, and, to quote Article 1 of the Universal Declaration of Human Rights, are 'born free and equal in dignity and rights', 'are endowed with reason and conscience' and so 'should act towards one another in a spirit of brotherhood', it is also a fact that human beings differ in cultures, languages, religious beliefs and associations through which they can maintain and develop their unique social and individual identities and pursue their aspirations. Of course, in so far as such differences, sometimes profound, inspire differing behaviour and choices, so living together becomes a challenge. For we do not share all the same needs, interests or aspirations. The more precise question, therefore, is, how can we organize ourselves as societies and even as a species such that each may enjoy the maximum freedom compatible with that of others?

The paradox is that one's own freedom is conditioned by the freedom of others, at least to the extent that we are social animals, and humans are very social. So, we need regimes and institutions to regulate and guarantee our mutual freedom. I dare say there is no freedom in the absence of institutions. This is a universally valid proposition, although where and how we draw the lines may and does vary

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because what is acceptable for some is not so for others.

Still, universally, we have drawn some lines, first and foremost in basic international law, as largely expressed in the Charter of the United Nations. This essentially constitutional instrument clearly expresses common interests that reflect our interdependence. First, there is peace and security followed by an order of justice both between and within states. But this is not without reason. Rather, it is clear that the objective is economic and social development, and not for some, but for all, including very clearly on the basis of universal respect for human rights. This is a base line. The progressive development of international law and more generally international relations in our increasingly complex world leads us to address on this basis a number of related issues. The situation of minorities is an important one among these.

I will not now recount the many problems. We know them well enough. Rather, let me talk about how we might address and possibly solve some of them by focusing on possibilities and then organizing ourselves to work together in the common interest to realize those possibilities step-by-step. I leave aside respect for basic human rights and fundamental freedoms, not because I mean in any way to undervalue these. It goes without saying that especially the freedoms of thought, expression, association, movement and assembly, along with the rights to life, physical integrity and due process of law are not only basic rights, but also prerequisites for peace, stability and development. So, I will take these for granted, and if this is not the case in any situation then we have a more fundamental and preliminary problem.

Let me share a perspective from a step down the line. Admittedly, my perspective is

somewhat top-down and even what some might label 'static'. This perspective recognizes and works within the existing international order – it is realist in this sense. Moreover, it seeks to achieve what is possible and to make international relations work constructively, consistent with declared values and existing international law. So, it is evidently political. From this perspective, the state is vital as an instrument of public security, a guarantor of rights and a facilitator of opportunity.

I begin with common interests, which is orthodox international relations theory and practice. There are many such interests. I have already mentioned these in general terms. Let me be more specific in relation to national or ethnic, cultural or linguistic and religious groups – whether they are in the position of minorities or majorities, or as equal communities, or simply as composites or associations of individual human beings.

Positively, there is the common interest that the full extent of human knowledge, ingenuity, creativity, understanding and wisdom can be free and even facilitated with a view to solving common challenges through scientific, technological and organizational development, thus prolonging our lives with better conditions of living. Potentially, this increases the pie of total freedom accessible to all. This means that more needs, interests and aspirations can be met or facilitated. Similarly, there is the common interest in civilizational development seen in more than just physical or material terms. There is the common interest in social and spiritual development for which cultural, linguistic and religious diversity is enriching.

Let me be clear about one thing: diversity is a fact, not a policy question. The policy question is what one may wish to do about it. Suppress it? Destroy it? Facilitate or

promote it? And if we think of any of these – for we are speaking about diversity among human beings – we must think of how we propose to go about implementing such policies for better or for worse.

Let us consider things less positively, if such diversity is not viewed in terms of its enriching value. At the least, benign neglect implies lost potential. Much worse, if the diversity is suppressed either forcefully or less so by malignant neglect, then there are potentially serious precipitations. For some time, such suppression (especially if amounting to oppression) may do ‘no more’ than harm specific victims. But, over time, history shows that suppression is not suffered long without reactions. People resist – and will fight for liberty and more so for the maintenance of their basic identity, especially for their ethnic or cultural communities and religious beliefs. This raises the spectre of violent conflict with all its attendant implications. First, there are the costs of destruction and insecurity. Second, displacement and refugee outflows often result. At the same time, there are arms flows – both legal and illegal. Then there are covert actions on all sides, often involving trafficking and similar organized crime. And so violence spirals and begets corruption and social deterioration. This is to say nothing of instability, which gives no basis for people to plan their lives or to invest – much less for foreigners to invest; to the contrary, there is capital flight both foreign and domestic.

Nothing of what I am describing is imagined. And none of it is unique to any one part of the world or one culture. Let me speak about Europe. The last century is a bloody legacy of all I have mentioned, with tremendous cost in material and human terms. I do not believe it is any different in Asia. Your own stories paint the same picture, whether of Burmese refugees in Thailand, or the demands of

independence movements in Aceh and Irian Jaya, or the challenges of trafficking or of terrorism, whether domestic or transfrontier. I do not need to tell you about your own situation, and I would not presume to do so.

Instead, let me share the perspective of how in Europe we have been struggling to deal with our own similar problems and challenges. My colleagues from other intergovernmental and non-governmental organizations have shared their specific experiences, views and some concerns. We have been trying, in starts and stops (and admittedly far too late), both to protect ourselves from the risks and costs and also, more positively, to create the conditions for social and economic development unleashing the totality of human potential – viewing diversity as a public good and common wealth.

One way – an institutional means – has been the establishment of the High Commissioner on National Minorities within the Organization for Security and Cooperation in Europe (OSCE). The OSCE is a soft security pan-European and Euro-Atlantic intergovernmental organization which is essentially political in nature (i.e. with almost no legal instruments), born of the Cold War and the common threats that entailed for the now 55 participating states. The OSCE functions by consensus and it includes Partners for Cooperation, among which are Thailand, Japan and South Korea – so there is one member of the Association of Southeast Asian Nations (ASEAN) and, with Russia, Canada, the United States of America and the European Union, a number of members of the ASEAN Regional Forum (ARF).

Within the OSCE, the High Commissioner on National Minorities (HCNM) is not a human rights instrument, neither supervising state compliance with

international standards nor protecting or even necessarily acting for minorities. Rather, the HCNM is an instrument of conflict prevention, constituting an individual of high integrity and reputation, who acts independently and impartially on the basis of his own judgement to address situations involving national minorities, which have the potential to erupt into violent conflict affecting relations between OSCE states. Importantly, and this is no doubt the basis upon which states agreed (some reluctantly) to the creation of this instrument, the HCNM is obliged to work through quiet diplomacy, is precluded from taking up individual cases (so, he is in no way an ombudsman) and cannot become involved in situations concerning organized terrorism. Still, within these terms, the HCNM has managed to build the confidence of OSCE states through respectful, careful and helpful assistance in solving the real problems facing participating states. Following this cooperative, problem-solving (and let me add face-saving) approach, the HCNM has proven a useful instrument of conflict prevention in a number of situations, especially those of transitional societies where the risks of inter-ethnic conflict are great. The proof is in the eating, so to say, such that a number of states have invited the HCNM either to become involved in certain situations where bilateral relations were awkward (and bilateral approaches were overly politicized and showed poor prospects for resolution despite common interests to this end), or they have invited the HCNM and his specialized staff to share their expertise and accumulated knowledge to assist with policy development and legislative reform within their own states. This last aspect of the HCNM's work was hardly expected when the institution was created, but has become common as confidence has grown.

I do not want to mislead you into believing that everything is a rosy picture of

cooperation and confidence in the OSCE region. This is far from the case. But today, no one doubts the validity of either the institution or the basic approach of the HCNM. And, I might add, for relatively little expense (i.e. the cost of a dozen or so professional staff and their travels), an important source of violent conflict and related instability has a dedicated institution to address it at its earliest stage. The sum of material goods protected against loss and of human potential unleashed, as opposed to suppressed, is difficult to calculate.

First, there is the initial importance of the value of human life and diversity. This means to respect and facilitate equally the dignity of persons with differing needs, interests and aspirations. It also means to manage such diversity, viewing it as a social and economic asset rather than threat. This implies, in turn, both domestic and multilateral institutions to address the challenges of diversity management (and the effects of its possible neglect or failure). On the basis of accumulated experience, at least in Europe, there are a number of recurrent issues that can benefit from developed regimes of management, such as education, public use of languages, public administration, delivery of social services and participation in public life (especially political processes of decision-making). Let me emphasize that, happily, most of these admit to the accommodation of considerable diversity. Few require absolute conformity of all to just one way. For example, while we cannot imagine a system of management of our highways that would let people choose which side of the road to drive on, we can imagine (in fact, it is common experience) that schooling and public administration take place in a number of languages, to varying degrees. These may not be infinite in their possibilities; to be sure, there are limits to what is feasible especially where significant public expense is involved. This also does

not mean that there is no need or legitimacy for states to require, for example, everyone to learn a common language. Indeed, such requirements are also a means to ensure freedom in the sense of equal opportunities to participate in public life and have full mobility in the job market and so forth. Certainly, since each situation is unique, the exact arrangement or policy mix will vary tremendously from situation to situation. But with a view to helping states, minorities and ordinary citizens understand the organizational possibilities, the HCNM invited a group of internationally recognized independent experts to make some general recommendations, known as the Lund Recommendations on the Effective Participation of National Minorities in Public Life. Similar general recommendations have been made on issues of education, the use of language, elections and, only recently and quite specifically, the use of minority languages in the broadcast media. These are all available on the OSCE web site, and in many languages.

To conclude, the populations of all states are to some extent diverse. No state, and no putative nation, is 'pure'. Nor is the state by nature neutral; by virtue of decision-making in any number of fields of policy and law, some persons are

advantaged and others are disadvantaged. Where such disadvantage relates to matters of national or ethnic, cultural, linguistic or religious identity, there is the prospect that these disadvantaged persons will not enjoy life in equal freedom or dignity. The challenge, therefore, is to manage existing diversity in such a way that there is equality, and that there is peace and security, stability and chances of economic and social development for all. This requires institutions, both domestic and international.

The good news is that this is possible and can be done constructively, based on respect for human rights, especially non-discrimination, under the rule of law. Participation is particularly important, not just for its own sake or to placate minorities, but to make better policy and law which will inspire voluntary compliance and the loyalty of the whole population in the common interest. This is the route to peace, security, stability and ultimately to prosperity. We are trying in Europe. I see no reason why the rich diversity of Asia should not be similarly managed, taking into account its own peculiarities, to the benefit of all Asians and the world beyond. I encourage you in this direction and wish you every success.

Regional Security Institutions and the Rights of Ethnic Minorities and Religions: The Case of the ASEAN Regional Forum

Mely Caballero-Anthony*

Introduction

The conventional role of protecting human rights for all individuals, regardless of colour, race and creed has been entrusted to the state. If one goes back to classical social and political thought, the notion of a 'social contract' between the people/society and the state underscores the duty of the latter to ensure that the rights of its people are guaranteed and protected. In exchange, the people give up their rights to the state and its political leaders and give them the moral authority to rule. So entrenched is this thought that, as history would tell us, revolutions and wars have broken out within and between states in the fight for and the protection of human rights.

Beyond the state, the international community, through various regional and universal institutions, supplements and/or complements this role in many different ways. One could therefore consider the role of the United Nations (UN) and its various agencies and examine their respective functions within the context of human rights protection. To date, there has been a proliferation of international human rights instruments

that have been developed, and many more are being developed under the auspices of the UN. More recently, apart from the more defined international human rights instruments that have been developed, there have also been several initiatives by the UN to promote and protect human rights, particularly in the area of conflict prevention and conflict resolution. This would include the United Nations Secretary General's Report on Prevention of Armed Conflict (RPAC) released on 7 June 2001 and the Report of the International Commission on Intervention and State Sovereignty, otherwise known as the 'Responsibility to Protect' (RTP) Report submitted to the UN on 30 September 2001. The multitude of international covenants and recent UN initiatives reflect the fact that the task of promoting and protecting human rights is a multidimensional effort, requiring comprehensive and multilateral approaches, and more importantly, that the protection of human rights is no longer confined to state and interstate institutions but necessarily requires the participation and active engagement of other non-state actors.

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The Relevance of the ASEAN Regional Forum in Promoting and Protecting Human Rights

The ASEAN Regional Forum (ARF) was established in 1994 and is the only multilateral organization in the Asia Pacific dedicated to security issues. The work of the ARF has been outlined in the 1995 Concept Paper which laid out the three stages of security cooperation in the region: confidence-building, preventive diplomacy and conflict resolution (later renamed 'elaboration of approaches to conflict').

Since its inception, the ARF has essentially been a forum for dialogue of security issues. It has adopted a loose, informal approach in its work toward building trust and confidence among states of different ideological orientation. Currently, we have in the ARF a 23-member grouping comprising like-minded and non-like-minded states across the vast expanse of the Asia Pacific. The ARF has also as its members all the major powers in the international system – the United States of America (USA), China, Russia, Japan, India and the European Union (EU). In placing a premium on the process of

inclusive regionalism, the ARF has eschewed legalistic frameworks and binding commitments. Instead, the ARF works on the basis of consultation and consensus, and focuses on developing habits of dialogue and on the development of norms of cooperative security.

Given this framework, the work of the ARF has been mainly on confidence-building measures (CBM), and it has had in the past nine years a crowded agenda of CBM programmes. Most member states have recognized the importance of the ARF as a vehicle for airing their own security perceptions. Some analysts in fact credit the socialization through the ARF of engendering a more positive attitude in states that were initially suspicious of multilateralism. Although the ARF has officially moved from CBM stage to preventive diplomacy (PD), the progress has been slow and marked by controversy. This is discussed in more detail in the next section.

The Importance of Preventive Diplomacy

In examining whether the ARF can have a role in the promotion of human rights in the region, it is clear that it is in its work or progress on preventive diplomacy that the ARF can make a relevant contribution. As the phrase implies, PD is the critical stage at which appropriate non-military interventions can be deployed before a problem or dispute breaks into a conflict situation and eventually poses a threat to regional security. The principles of PD as proposed in the ARF call for:

- Diplomacy – reliance on diplomatic means and peaceful methods, e.g. persuasion, negotiation, enquiry,

mediation and conciliation.

- Volunteerism – employed only at the request of parties or with their consent.
- Non-coercion – does not include military action or the use of force, or other coercive activities, e.g. sanctions.
- Based on international law – any action should be in accordance with the basic principles of international law.
- Respect for sovereignty and non-interference in the international affairs of states.
- Timeless – deploying most effective preventive (not curative) action at an early stage of a dispute or crisis.

But, as noted earlier, the progress on PD has been impeded by controversy. Some members see PD as a threat to their countries' sovereignty. As a result, the ARF has been bogged down over definitional debates about PD, i.e. whether the scope of PD should cover interstate conflicts only, and whether it should be limited strictly to diplomatic measures.

So far, a lot of time has been spent by ARF countries deliberating on what appropriate mechanisms to adopt to get the PD agenda started. These have involved, among others, plans for:

- An enhanced role of the ARF Chair;
- A register of lists of Experts/Eminent Persons (EEPs);
- Voluntary submissions of Annual Security Outlooks (ASO).

Of the three mechanisms above, there has been progress on the annual publication of ASOs and compiling the list of EEPs, while the guidelines for the enhanced role of the ARF Chair are still being deliberated. Given the fact that the ARF is not institutionalized – it has no secretariat or structured committees – these mechanisms are the extent to which the ARF can go with regard to any proactive PD efforts. Although the ARF notes that CBM work overlaps with PD, there is no visible PD programme beyond the activities of the ARF's Intersessional Support Groups (ISGs) on

CBMs, peacekeeping operations, disaster relief, and search and rescue missions. Aside from these three areas, the ARF has recently focused quite a lot of attention on efforts at enhancing cooperation in the fight against terrorism and has had intersessional meetings on counter-terrorism and transnational crime.

Evidently human rights promotion is nowhere on the agenda of the ARF. As mentioned earlier, the ARF is all about CBMs for promoting security cooperation. Unlike the OSCE, the ARF steers clear from advocating democracy and human rights (or even the principle of market economics). One could also add that, given its loose structure, the ARF does not have any capacity at this stage to promote and monitor human rights, unlike the OSCE which has a specific body, i.e. the High Commissioner for National Minorities. At best, the ARF during its annual ministerial meetings can only make note of human rights concerns during their deliberations. This was reflected, for example, in the Chairman's Statement of the Tenth ASEAN Regional Forum, held in Cambodia in June 2003.¹ Yet even this can be selective, since while the concerns for democracy and human rights in Myanmar were discussed, there was silence about human rights issues in other ARF countries like Russia, China or even the USA. Where then can we locate the ARF in the global effort of promoting and protecting human rights?

Locating the ARF in the Human Rights Agenda

As an evolving institution with the ultimate objective of promoting security cooperation in the region, one could and should go beyond the limitation of the ARF and look at what it has that can be harnessed

to move the human rights agenda forward. I shall highlight four points that I think are realistic given where the member states of the ARF are at the moment.

1. See Chairman's Statement of the Tenth ASEAN Regional Forum Meeting, Phnom Penh, 18 June 2003, <http://www.aseansec.org/14845.htm>

Continuing with Norm-building Exercises

Regardless of its image as a 'talk shop', the ARF has managed to survive largely because of the kind of approach it has taken. Beyond instituting habits of dialogue and its emphasis on process rather than product, the ARF is also all about norm-building. These norms, based on general principles such as the non-use of force, the need to solve disputes by peaceful means, the right of each state to choose its own political, social and economic system, cooperation among states and nations, and others, all contribute to engendering a positive and peaceful environment. These norms serve various purposes, which include, among others, the restraint forced on states not to act with force and threaten the security of states and communities.

These associative norms are also useful in the promotion of evolving security concepts

such as comprehensive and human security. The ARF member states are being 'socialized' to the importance of regarding security beyond the conventional confines of state and military security to related issues like economic, political, environmental and other security issues falling under the general rubric of comprehensive and non-traditional security. It is also through these associative norms that the security concerns of individuals and communities under the rubric of human security can be propagated. The development of these evolving security concepts is salient in the promotion of human rights since, at the very least, it raises the standards of what security is and how security cooperation might be better achieved.

Revisiting the Issue of Institutionalization and Pushing the PD Agenda Forward

In crafting strategies to improve the institutional capabilities of the ARF, it is tempting to aim high and yet difficult to seek a balance between what is desirable and possible, between the desired ends and available means. Within this context, the ARF could act on the suggestions that have been offered, particularly moving the PD agenda forward. I shall highlight some of the most important ones:

1. Providing for appropriate institutional resources to coordinate activities, gather information and possess analytical capabilities to process information and data.
2. Developing fact-finding and good offices missions to promote conflict prevention and crisis management. It is in this area that progress on the enhanced role of the ARF Chair must take place.

3. Establishing an OSCE-type Conflict Prevention Centre to deal with conflict prevention and reduction. The ARF could consider establishing a similar institution that would institutionalize activities such as fact-finding and early warning.
4. Formulating a set of norms beyond the established regional set of norms to ensure the security of minority populations while discouraging secessionist aspirations.

These issues are now being studied extensively in the region. The Institute of Defence and Strategic Studies (IDSS) of the Nanyang Technological University, Singapore, for example, published a monograph on 'A New Agenda for the ASEAN Regional Forum'.² The monograph examined comprehensive options to push

2. See 'A New Agenda for the ASEAN Regional Forum', *IDSS Monograph No. 4* (Singapore: Institute of Defence and Strategic Studies, 2002).

the ARF agenda forward, particularly on the work on preventive diplomacy. In fact, some of the recommendations by IDSS included adopting certain preventive diplomacy mechanisms, which are found in the OSCE. These included, among others, the establishment of an ARF Secretariat, the setting up of a Risk Reduction Centre (RRC), and promoting enhanced defence participation at ARF meetings (so far ARF meetings have been attended mostly by the foreign ministers of ARF member states). These recommendations have already been

officially forwarded to the ARF for their consideration.

While the work on preventive diplomacy in the region has been bogged down by the suspicion of some countries that this could lead to interference in internal affairs, there has nevertheless been an appreciation that progress must take place. This would necessarily require a change in political mindset, otherwise there will only be heightened uncertainty in the region and the ARF will risk losing its relevance.

Building Linkages with Track Two Institutions

Within the Association of Southeast Asian Nations (ASEAN), the ASEAN-Institutes of Strategic and International Studies (ASEAN-ISIS) has been one of the pioneering Track Two bodies that has made its mark in Southeast Asia by the kind of work it has done in supporting political and security cooperation in the region. Through workshops and conferences, academic research, policy output and its own networking activities, ASEAN-ISIS has built up valuable expertise, and has, in fact, been responsible for pushing for more ideas that have had concrete outcomes. One of these was the need to have an enhanced Post Ministerial Meeting within ASEAN that germinated into the idea of establishing a multilateral security forum, now known as the ARF. ASEAN-ISIS has, as one of its core activities, an annual meeting on human rights. One of the things that it has tried to help promote is the establishment of the Regional Human Rights Commission.

On the broader region, the Council for Security and Cooperation in the Asia Pacific Region (CSCAP), of which ASEAN-ISIS is a core group member, has

made a significant contribution in providing an informal mechanism by which a political and security dialogue can take place between scholars, officials and others in their private capacities. CSCAP has produced important policy inputs. One of its latest policy outputs is a review of the progress and prospects of the ARF. Under the initiative of CSCAP's Singapore National Committee, a working paper on 'The ARF into the 21st Century' examined ways to move the ARF forward, particularly towards pushing the preventive diplomacy agenda. CSCAP has also done a lot of work on promoting the concept of comprehensive and human security. These reservoirs of ideas and norms can go a long way towards promoting human rights in Asia Pacific.

As Track Two institutions, ASEAN-ISIS and CSCAP are known to push the envelope by examining issues that governments may perceive as sensitive. The collaboration and linkages between Track Two institutions and ASEAN and the ARF are therefore important in contributing to the promotion and protection of human rights, as well as conflict prevention in the region.

Expanding the Circle of 'Inclusiveness' to Non-state Actors

If Track Two bodies are the epistemic communities that we can count on, the participation of Track Three, or members of civil society, in promoting human rights is crucial. Civil society groups can complement the efforts of regional institutions and the UN through their own work on human rights advocacy. More importantly, they are well placed to serve as conduits between local actors and the UN, ASEAN and the ARF in conflict prevention. There should therefore be a need for a vertical dialogue between the ARF, with people's organizations and non-governmental organizations (NGOs) as Track Three.

There has not been much contact between local actors and ASEAN or the

ARF in the region. Unlike the EU, which provides for a structured representation of civil society in its various activities, or even Southern Africa's SADC (Southern African Development Community), which provides for an NGO division in its secretariat, neither ASEAN nor the ARF provide for civil society representation. However, there is some progress in engagement between Track Two and Track Three in ASEAN. Through the initiative of ASEAN-ISIS, the ASEAN People's Assembly (APA) was started in 2000. It was the first time ever that representatives from a wide array of civil society groups in the region were brought together to dialogue with Track Two. The third APA was held in Manila in September 2003.

10. For details relating to the disputes see references listed in note 9.

The Importance of the United Nations in the Protection of the Universal Rights for Ethnic Minorities and Religions

Nicholas Howen*

I think the United Nations (UN) is ambivalent, or maybe even schizophrenic, when it comes to minorities. Member states in the UN created the Genocide Convention, yet in Rwanda, UN peacekeepers were not permitted to protect even a small fraction of the hundreds of thousands of Tutsis (and moderate Hutus) who were killed during the genocide in 1994.

It is perhaps not surprising to see the contradictions within the UN when you ask, 'What is the United Nations?' The UN is a group of governments, but also with the participation of civil society. The UN is a series of agencies and programmes that work on the ground, with international civil servants who have some space to act, within significant political constraints. The UN is also the bodies and mechanisms, some of them independent, set up by governments to protect human rights.

What is important for us today is that the United Nations is all of us. This is something that Kofi Annan as the UN Secretary General has very much emphasized. Therefore, as we consider how the UN is relevant for minorities, I would ask you to consider how you want to change the organization. After all, almost every body or mechanism or treaty created since the UN was established exists because of the power of ideas and advocacy of people and organizations of the formal structures of the United Nations. This

gathering of civil society and governmental and political figures should consider how we actually want to make the UN more effective on minority issues.

If we were to write about minority issues as a security issue, the chapter on the UN would be very short, unlike the chapter on the OSCE. There has been insufficient thinking within the UN, except at the rhetorical level, about the fact that if you fail to deal with minority issues, situations can lead to violent conflict. You will find some references in General Assembly resolutions and Security Council resolutions. In the early 1990s, the concept of preventive diplomacy was developed: the UN would put people in place, on the ground, to help stabilize situations before conflicts erupted, especially where minority issues were involved. Unfortunately, this was only put into practice in relation to Macedonia in the 1990s.

Within the UN, when addressing minority issues, you need to look at the human rights system. I would like to explore the effectiveness of the UN human rights system on minority issues under four headings: first, using the UN to create standards or norms; second, the UN as a forum; third, the UN as a source of remedies for injustices suffered by minority groups; and fourth, the UN as an operational organization on the ground in all of your countries.

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1. *Creating UN Human Rights Standards to Protect Minorities*

In the area of standard-setting we again confront the schizophrenia of the UN. Some of you know that in 1948, states rejected the proposal to include an express paragraph in the Universal Declaration on Human Rights to protect minorities. True, we have the Genocide Convention, but we know that the weak implementation of this treaty has been particularly tragic.

So we have to rely on the rather brief reference to minorities in Article 27 of the International Covenant on Civil and Political Rights, the protection of freedom to practice religion found in the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981) and, of course, we have the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (adopted by the General Assembly on 18 December 1992, Resolution 47/135). I mention this Declaration because it is often overlooked. But its text does actually speak in a very relevant way to many of the minority issues. I want to point to eight keywords or themes in this Declaration that resonate with me.

The Declaration is about recognizing fundamentally the right of existence of minorities. It is about the right to assert an identity and to do so in different ways or forms that are important to particular minority groups. It is about the right to effective participation of minorities in cultural, religious, socio-economic and public life. It is about maintaining contacts within a country and cross-border. It is about the community, being able to be part of a community, as well as maintaining one's identity as an individual. It is about the obligation of states to take special measures to protect minorities. It is about the fact that the interests of minorities must be taken into account whenever there are

decisions that affect them. And finally, it is about the duty of international cooperation, the obligation of governments to work together to address minority rights with fairness and justice.

For me, these eight keywords or themes really encapsulate many of the issues we have discussed: existence, identity, participation, contacts, the community, special measures, due regard for legitimate interests and international cooperation.

Should there be a legally binding UN treaty to protect the rights of minorities? Objectively, many human rights advocates would say the answer is obvious: 'Yes, of course'. In the process of international human rights law-making over the last 15 years we have seen marginalized groups in society and those working on their behalf, standing up and saying 'we have missed out on the light of the Universal Declaration of Human Rights, we must be brought in from the shadows'. This has led to treaties protecting certain groups. It has happened for children with the Convention on the Rights of the Child; for migrant workers with the Migrant Workers' Convention. It is happening now as the disabilities movement is working for a new convention on the rights of persons with disabilities. It is not happening in relation to minority groups because the UN is a political body within which there are of course clashes of political interests.

But if those working on minorities believe that a new, legally binding global benchmark or standard is required, then they should present and introduce this vision for further discussion. The outcome will depend on the decision of member states, but civil society can propose it.

And of course, I suppose, the starting point I should have made was that if all human

rights already guaranteed in the Universal Declaration of Human Rights and existing human rights treaties were already respected for all people, we would not have the same sort of difficulties relating to the rights of minorities. It is because their

rights are not adequately protected by existing standards that minority groups make a claim to special rights and measures to be able to enjoy the same rights as others in society.

2. The UN as a Forum on Minority Issues

Despite all the weaknesses of the UN, I believe a particularly strong aspect of its work is its ability to act as a forum for groups to raise issues and create political space at the international level. The UN is remarkably open to civil society in comparison to most other intergovernmental organizations. This is especially true in relation to indigenous populations and minority groups. In most cases, groups seeking to access and speak at UN mechanisms on indigenous and minority issues do not have to go through the torturous bureaucratic process of applying for some form of consultative status.

The Working Group on Indigenous Populations, I think, has probably become one of the most important international forums where indigenous groups have been able to amplify their voice internationally. And now we also have the New York-based Permanent Forum on Indigenous Issues.

Similarly, we have the Working Group on Minorities, which is eight years old. The Sub-commission on Human Rights (a group of 26 independent experts elected by the Commission on Human Rights) established it in 1995 to implement the Declaration on Minorities. It is the only mechanism in the UN entirely devoted to minority issues. It consists of five experts from five regions of the world, including from this region, Soli Sorabjee, the Attorney-General of India.

During the Working Group's annual one-week sessions, any minority group can go

to Geneva and speak on the record before experts, governments and civil society present. Groups are only excluded if they advocate violence or are a political party. Otherwise, freedom of expression is the rule at the Working Group. And so it really does give a sort of resonance to opinions and is an opportunity for networking.

During the 2003 session of the Working Group, groups from Southeast Asia raised minority issues relating to Mindanao in the Philippines, Aceh in Indonesia and West Papua in Indonesia. These issues were also all reflected in the report of the session.

The Working Group on Minorities could be more effective, but it has, by and large, fulfilled this role as a forum. One of the weaknesses of the Working Group expressed by some is that it has never been able to address an actual situation of minority rights. It can listen to issues raised by minority groups at the meetings and reflect them in the report. But it does not do any fact-finding. It does not make recommendations about particular minority problems in particular countries – because the Commission on Human Rights, the parent body of the Sub-commission, has not given it this mandate.

So the question for you is whether member states in the UN Commission on Human Rights should be encouraged to direct the Sub-commission on Human Rights to do more with its Working Group on Minorities. Clearly, it is politically sensitive. This needs to be explored with member

states in a way which is constructive and cooperative, and which tries to work

through these minority issues pragmatically and with principle.

3. The UN Human Rights System as a Source of Remedies for Injustices against Minority Groups

Thirdly, the UN can be a source of remedies for individual victims of human rights violations and a way to address real country situations. Because of the lack of any minority-specific mechanism, apart from the Working Group on Minorities, we have to turn to the general human rights system. Minority groups have perhaps underutilized this system.

The thematic experts could be encouraged to shape more of their work to address minority issues. For example, at some time the Special Rapporteur on the Right to Health could come up with a report on the right to health relating to minority groups. (The Special Rapporteur on Housing has already produced a special report on women and adequate housing.)

Over the years, the UN Commission on Human Rights (53 member states that meet for six weeks every year, March to April, in Geneva) has created 26 independent thematic experts to deal with a vast range of human rights issues, from arbitrary detention to disappearances, to torture, to health, to education, to food, to violence against women. They are, I think, one of the best kept secrets of the UN human rights system. Most can receive complaints and raise individual cases with governments, any government. This is mainly done as confidential correspondence, but they also make public statements when they consider this appropriate. Most can make country visits with the consent of the government concerned. All write annual reports to the Commission, with recommendations to member states about how to tackle particular human rights problems.

The UN human rights system is also based on six (now seven) core human rights treaties (relating to civil and political rights; economic, social and cultural rights; children; discrimination against women; torture and racial discrimination, with the seventh being the new migrant workers' convention). Under each of the six treaties, an independent committee examines how states that have ratified the relevant treaty have implemented their obligations.

But we have a problem in Southeast Asia, because relatively few states have ratified the core human rights treaties. If we are serious about the universality of human rights we need to work together to encourage governments in the region to ratify all these treaties. This would be an important, symbolic moment, when there should no longer be controversy about the universality of human rights.

One of the 26 thematic experts is the Special Rapporteur on Indigenous Populations, Mr Stavenhagen, who visited the Philippines last year.

4. The UN as an Operational Development Agency Active on the Ground

Fourthly, the UN is more than a series of intergovernmental meetings, it is more than civil society advocacy or the bodies and mechanisms in Geneva I have mentioned. The UN is also the practical development, human rights and humanitarian work in-country carried out by the UN Development Programme, by my office, by agencies working on refugees, food, health, agriculture, education, children, culture and so on.

We are now seeing one of the most significant changes in the way UN development agencies work on the ground. We are moving slowly from the idea of development as the provision of services, to the idea of development as a process to help social change in society so that everyone can enjoy their full freedoms and make choices about their lives. Increasingly development practitioners are asking: which groups are marginalized and discriminated against? What are the long-term underlying and structural, economic, political and social reasons why these groups have never benefited from trickle-down economics, why do they lack a voice in decisions that affect them? And how do you build the capacity of these groups to claim their rights? How do you build the capacity of governments to respect, promote and fulfil rights?

It is potentially a huge change. The changes have been driven by an understanding that 'development' has often failed because it has failed to deal with structural inequalities in society that prevent development reaching marginalized groups. Too often development practitioners have just accepted what is often called the 'elite capture' of resources, the elite capture of development. It happens again and again.

This change in development is happening in a gradual and cooperative way with governments, because that is the way the UN works.

Clearly this is all potentially of great benefit to minority groups to the extent that they too have been marginalized. It includes the UN working with authorities to say that a stable and harmonious society is only possible if the inequalities that lead to conflict are addressed. It involves helping governments to implement their obligations under international human rights standards, which, if respected for all, will often prevent such conflict.

I would say to you that you need to be talking to the UN agencies in your countries and asking how are they dealing with the most marginalized and discriminated groups. Because even within marginalized groups, there are more marginalized groups. For example, I have done a lot of work with the disabilities movements, within which the intellectually disabled are themselves discriminated against by others who have disabilities.

So if the rights-based or human rights approach continues to be encouraged in a very cooperative way, it can assist minority groups.

A good recent initiative of the Working Group on Minorities has been to start organizing sub-regional seminars. The first one in Asia Pacific took place in Chiang Mai, Thailand, in December 2002. It was a gathering mainly of minority groups and it adopted a series of recommendations and conclusions that reflect the way these groups see the reality of their lives in Southeast Asia.

I would like to highlight seven particular recommendations or themes.

First, the gathering put particular emphasis on civil society participation and effective participation, a word that was repeated again and again.

Secondly, there was an emphasis on the need for minorities to have remedies for violations of human rights. Without remedies, human rights are merely rhetorical.

Thirdly, the seminar concluded that citizenship rules must be applied in a rational, objective and non-discriminatory way, and birth registration must be provided for all children.

Fourthly, transmigration policies should not be carried out in a way which implants settlers in minority areas and weakens their effective participation.

Fifthly, states should guarantee transborder travel and facilitate cooperation between groups split by borders.

Sixthly, states should respect and protect by law customary lands and domains.

Finally, states should ensure autonomy and decentralization. The minority groups saw as basically positive the changes in Southeast Asia in this respect, but emphasized the need to tailor such changes to the specific requirements of each situation and to ensure that they really do result in actual, effective participation of minority groups.

Let me finish with a quote from Kofi Annan. One of the reasons I am in the United Nations is because I do respect my boss. I think he is a moral leader. And he is always good for a quotable quote. I would like to leave you with these thoughts. The UN Secretary General said in April 2000, and I quote:

We must do more to prevent conflicts happening at all. Most conflicts happen in countries, especially in those which are badly governed or where power and wealth are very unfairly distributed between ethnic or religious groups. So, the best way to prevent conflicts is to promote political arrangements in which all groups are fairly represented, combined with human rights and minority rights and broad-based economic development.

Promoting Human Rights Development in the People's Republic of China: The Germany-China Human Rights Dialogue

Jiang Shu Xian*

Since September 1999, there have been four people-to-people dialogues between China and Germany on human rights. Both parties have felt that the dialogues were meaningful and beneficial.

Each dialogue has gone deeper into the issues and carried greater influence than its predecessors. The governments of both countries are also placing increasing importance on them.

The theme of the first seminar was 'The Development of Human, Social, Economic and Cultural Rights'. During the seminar, both parties exchanged opinions on the concept of human rights, obtained common consensus and clarified numerous misunderstandings. A stage of mutual understanding was reached.

In the second and third seminars, both parties discussed in great detail the themes of 'Human Rights Policy and Social Rights', and 'Development of Human Rights and Legal Systems', among other things. The discussions went deeper and were more concrete. Both sides not only touched on theory, but also shared their individual successes and experiences in implementing policies to safeguard human rights in various sectors. The dialogues were constructive as both sides came to the table with the sincere desire of promoting their countries' human rights development. In

the course of the discussions, there were differences of opinions. However, as an attitude of openness and desire to learn and draw lessons from each other prevailed, the disagreements did not affect the friendship but strengthened the understanding and friendly relations between them.

Through dialogues on various fields of human rights, we have enhanced our mutual understanding, communication, knowledge and learning from each other. The friendship between the two countries was further developed and human rights development on both sides benefited. As a result, the dialogues were valued and supported by the governments of both countries.

On 30 June 2000, during Chinese premier Zhu Rongji's visit to Germany, the director of the China Legislative Affairs Office of the State Council, Yang Jingyu, and the German minister of justice, Herta Däubler-Gmelin, signed the 'Sino-German Agreement on Law Exchange and Cooperation'. One of the items in the agreement is the people-to-people dialogue on human rights between the two countries. This treaty has provided the working mechanism for our dialogues to continue.

In summarizing the outcome of these seminars, I believe we have reached the following common consensus:

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Dialogue on equal footing and mutual exchange should take place because both countries have similar principles yet each is unique in its approach to safeguarding human rights

Through exchange, both sides have gained more understanding on the universality and peculiarity of the human rights relationship. To safeguard human rights is to realize a person's dignity and freedom. Until every person in a society has complete freedom of development, human rights have not been achieved. This can only happen when there is high productivity and society is truly equal. Currently no country in the world has reached this stage. As such, every country has the tremendous and difficult task of continually improving its human rights. The issue of human rights will become more prominent when the economy, society and political environment move forward. People's understanding of and demands for human rights will also increase. As such, improving human rights is a long-term task.

We acknowledged that as every country's situation is different, every country has a

different responsibility to safeguard its human rights at different stages. Every country is unique. To a developing country and its people, the most critical human rights issue is to take care of the right to subsistence and development. Those who live in developed nations must not forget that there are still billions of people in this world living in hunger. A child in a developed country will not seek food and water whereas a child in a developing country cannot enjoy a symphony on an empty stomach. If poor people seek the freedom of migration, it is very likely that they will be treated as illegal immigrants and put into jail. Human rights issues cannot be resolved with the same model and system. Every country needs to assess its own economic climate, religious and cultural heritage, political background, etc., and will have to adopt different strategies to promote human rights development.

Human rights must be guaranteed through legal systems

Although safeguarding human rights needs the push of the people and media, the most important step is through legislation and law enforcement. Whether legislation can be effective or not will depend on who holds the power of legislation. Before China was liberated, the country had no sovereign rights and its people had no status. China's invaders and oppressors robbed its people of their rights. It was only after the people of China fought courageously that they obtained the right to be the masters of their country. This is a prerequisite of safeguarding human rights. It is also the foundation for the birth of the Constitution of the People's Republic of China. The Constitution is the fundamental law of a country. Under the provision of the Constitution of the People's Republic of

China, 'all the rights of the country belong to the people of the People's Republic of China'. Through this legal framework, the Chinese people have made their dreams come true. The Constitution has specifically defined the political rights of citizens, such as the rights to vote and stand for election; the rights to freedom of speech, publishing, gathering, forming associations and demonstration; the rights to personal freedom, wealth ownership, religious belief and freedom; as well as the rights to monitor government organizations and public servants. The economic, cultural and social rights of citizens are also drafted into the Constitution. In order to ensure that citizens enjoy the benefits of human rights, the Constitution stipulates that 'every citizen of the People's Republic of

China is equal in the eyes of the law'. No person or organization has privileges above the Constitution and the law. All government agencies must carry out their official duties in accordance with the law to safeguard citizens' rights. When citizens exercise their rights, they must not harm the interests of the country or society, nor the freedom and rights of other citizens.

In order to fulfil the provision under the Constitution, there is a need to formulate special laws in different sectors to safeguard the rights of different people. Since China implemented its policies of reform and opening-up and opted 'to rule the country by law' as its basic national policy, its legal system has been strengthened. The National Peoples' Congress and its Standing Committee have formulated nearly 400 nation-wide laws, the State Council has formulated over 700 administrative laws, while the Local People's Congress at various levels has formulated over 6,000 local laws and regulations. The National People's Congress is planning to establish a Chinese socialist legal system by 2010.

Setting up special legislation is a long-term process and legislation has to be continuously refined. In every country, as the social economy develops, the interests of people will change. In order to handle the relationships among people and safeguard the rights of different people in society, the legal system must continue to improve and develop. As every country situation is different, each country legislature has its own unique model. Hence, there is scope for mutual exchange, learning and drawing lessons from one another. This will promote the development of human rights issues. The exchange between China and Germany on legal matters has already started and very good results have so far been achieved. Non-governmental organizations from the two countries have also discussed the relationship between human rights and the legal framework. In future there will be other exchanges on protecting the interests of different people groups. This is how we work solidly towards safeguarding human rights.

Changes in situation have provided new scenarios for human rights issues to be researched together

Presently we are facing rapid expansion of the economy through globalization and diversification. We have encountered new opportunities and challenges to safeguard human rights. From a global point of view, international relations have evolved into a very complex matter. The two important questions on peace and development have not been resolved. The key issue that needs to be addressed urgently to safeguard human rights is the reduction of the inequality between the countries of the northern and southern hemispheres and the eradication of poverty in developing countries. Unless poverty is eradicated, social imbalances will become acute, politics will become unstable and people's

sense of security jeopardized. As economies experience new interrelated yet competing changes, every country in the world will have to face the task of economic restructuring. Governments have to ensure their economies grow continuously to safeguard the employment rights of their people and achieve social justice. This is a new challenge faced by all countries in order to safeguard their human rights. When the social environment changes, the first to be affected are the rights of women and children, old people, the handicapped, the poor and the unemployed. Though the economic development of our two countries is different, the rights of these groups of people still have to be addressed.

The dialogue on human rights needs to be concerned not only with concepts, but also with practical steps and concrete measures to safeguard human rights. An atmosphere of willingness to learn and draw lessons

from each other will benefit human rights development in both countries. Both sides feel that the dialogue has been very useful and needs to be continued.

The Asia-Europe Dialogue of Cultures: 'Bridging Tensions between Traditions and Modernization in the Era of Globalization'

Ten Statements

History of a Conflict-sensitive Relationship: Tradition versus Modernity in Asia and Europe

Judo Poerwowidagdo*

With regard to the history of the conflict-sensitive relationship between tradition and modernity in Asia, I have eleven theses to share:

1. Traditional societies, in Asia in general and in Indonesia in particular, were feudalistic, hierarchical and non-democratic. Throughout the history of Asia, from Afghanistan in the west, to South Asia, Northeast Asia and Southeast Asia, there were many different monarchies. Traditional societies were organized hierarchically, and were characteristically feudalistic.
2. These traditionally feudalistic societies of Asia were also generally male dominated, and did not believe in gender equality. Women were not considered equal with men. However, there have been some exceptional cases in Asian history where women have had a significant role, or occupied a powerful position in society. Indonesia, for example, had a Queen of the Kingdom (Ratu Kencana Wungu in the Majapahit Kingdom) and in traditional Korean society, priests called *syaman* were mostly women and played a significant role in society.
3. These traditional Asian societies were also deeply spiritual and upheld high morality, that is, social mores (*adat* or customs) were considered sacrosanct for the sake of harmony. Any transgression of these rules of conduct, any violation of the mores, created an imbalance and problems, and had to be rectified. This usually was done through customary rituals.
4. Asians encountered modernity when Western people ventured to Asia, bringing with them not only different religious traditions, but also secularism and its fruits, i.e. science and technology. This does not mean that there was no science or technology in Asia, but that Western science and technology were largely the fruit of secularism.
5. When traditional societies in Asia were confronted with modernity and secularism, Asian tradition yielded to it. When you see a traffic sign that indicates 'yield', you have to give way to other vehicles before you can continue. Asian tradition yielded to Western modernity and secularism and its science and technology, and as a result was somewhat left behind.

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6. When Asian societies adopted the modernity, secularism, democracy, science and technology brought by Europeans, conflicts were inevitable because Asian traditional values and practices were not in accord with these.
7. As long as Asian societies, Indonesian society in particular, remained 'traditional', i.e. keep their traditions intact, there was no conflict with the West. They were simply dominated or subjugated and ruled by modern Western (European) powers (society).
8. Indonesian political leaders realized that Asia could defeat the West only after Japan won the war against Russia in 1905. This was possible because Japan had opened itself to the modern West. In 1908, the Indonesian National Awakening Movement (*Boedi Oetomo*) began to use or apply modern organization techniques and secular science and technology in their fight for independence from Dutch colonial power. Conflict between the modernizing Indonesian society and the Dutch colonial power was inevitable.
9. The struggle for independence in Indonesia was successful. Independence was achieved because national political leaders used modern organization, ideology (nationalism) and secular science and technology in their strategy to gain freedom and independence.
10. 'Dialogue' is the best method or strategy to resolve conflicts between societies (parties) of different interests. 'Diplomacy' eventually became the best means of solving conflicts between the Indonesians and the Dutch colonial power. Diplomacy (round-table dialogue) resolves conflicts better than the use of force or power. Diplomacy can prevent violent conflicts and should be applied more in preference to the use of force (weapons) to resolve differences in political, cultural, economic, social and religious interests.
11. The current situation of terrorism is the fruit of the inability (or unwillingness) of powerful nations to understand the needs and interests of the less powerful, marginalized societies globally; and the inability (or unwillingness) of powerful nations to provide justice and equality at the global level. I do not think or believe that 'terrorism' is a result of the conflict of traditions and modernity, or a manifestation of the clash of civilizations in Huntington's terms.

Donald Sassoon*

Tradition versus modernity? This is a modern question. The concept of tradition necessarily requires its counterpart: modernity.

Before the modern era, all discussion about change, progress and reform required modernity – 'the new' – to be somewhat disguised, masquerading as a return to an

'authentic' pre-existing tradition, often an invented one. All the challenges mounted against the Roman Catholic Church were depicted by their promoters as a return to the true tradition. Even the movement for the unification of Italy, a modern movement aimed at an objective that had never existed before, was called by its supporters *Il Risorgimento*, the resurgence.

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The lure of the new is, in itself, not new. Since the end of the last century, modernity has had considerable appeal, hence the proliferation of the term 'new': art nouveau, the New Imperialism, the New Woman, the New Liberalism and, later, the New Order (Hitler), the New State (Salazar), the New Deal (Roosevelt), the New Freedom (Woodrow Wilson), the New Economic Policy (Lenin), the New World Order (George Bush senior), the *nouveau concert européen* (Jacques Delors), the New Right, the New Left, the New Age, the *nouveaux philosophes*, the New Economics, etc. Tony Blair's 1996 speech 'New Britain: My Vision for a Young Country' was preceded by Harold Wilson's 1964 'The New Britain'.

In the modern age, modernity faces a world without, if I may say so in this context, any veil. It feels itself to be the superior twin. Tradition, at least in Europe and probably everywhere else, is on the defensive. To be for change is good. It is a positive value. To be against change requires some sort of justification. Modernity has won.

But this victory has not been easy. To trace the site of this conflict one needs to return to the end of the nineteenth century when we had the obsessional use of the word 'new' and when modernism raised its head, even in a religious movement within the Church, duly condemned as heretical, false, rash, bold and offensive by the Pope (Pius X) on 3 July 1907 with the decree *Lamentabili Sane* (with truly lamentable results).

Behind the word 'modernism' there lurks another word, the same one that lurks behind 'globalization': it is capitalism. In the present era, the era of its great victory, the word 'capitalism' has a distinctive, old-fashioned sound. It is suggestive of ancient, no longer 'modern' Marxist dogmas. It is equally suggestive of an older, brasher form of capitalism, of manufacturing and smoking chimney stacks, of proletarians and industrial bosses.

Yet it is worth reminding ourselves of the enormous modernity of Marx's prophecy, written in 1848:

Modern industry has established the world market ... This market has given an immense development to commerce, to navigation, to communication by land ... The need of a constantly expanding market for its product chases the bourgeoisie over the whole surface of the globe. It must nestle everywhere, settle everywhere, establish connections everywhere ... The bourgeoisie has through its exploitation of the world market given a cosmopolitan character to production and consumption in every country ... In place of the old wants, satisfied by the production of the country, we find new wants, requiring for their satisfaction the products of distant lands and climes. In place of the old local and national seclusion and self-sufficiency, we have intercourse in every direction, universal inter-dependence of nations. And as in material, so also in intellectual production. The intellectual creations of individual nations become common property ... The bourgeoisie, by the rapid improvement of all instruments of production, by the immensely facilitated means of communication, draws all, even the most barbarian, nations into civilisation ... It compels all nations, on pain of extinction, to adopt the bourgeois mode of production; it compels to introduce what it calls civilisation into their midst, i.e., to become bourgeois themselves. In other word, it creates a world after its own image ...

These are very familiar lines, not only because they have been cited so many times, but because the 30-year old Karl Marx, writing the *Communist Manifesto* in 1848, is describing a world which is familiar to us. It is our world. Reading these words, once again, we are jolted into an inescapable feeling of recognition. This bourgeoisie on the rampage, destroying the past wherever it goes, with no memory of it, and no wish to remember, may have been only a glimmer in 1848, but we now recognize it as the apparently unstoppable

force it has become. In fact we recognize ourselves in it, at least those of us (and in the West it is the majority) who, whether from a position of hostility or of support, feel part of this new world as we go about our daily life, consuming, communicating, shopping, travelling.

The great debate about globalization has only just started, but most people agree that today the convergence of consumption, including cultural consumption and lifestyles, has reached unprecedented intensity. Increasingly we buy, eat, wear, watch and listen to the same things. And most of those who are not part of this enchanted world of consumer capitalism – the majority of the world's population – appear to want to join it and work hard to do so.

Underpinning this world-wide system is an equally global ideology – market capitalism – which no longer needs defending. Its universal appeal encounters no countervailing force. We are all, as some socialist prime ministers would put it, 'pro-business'.

If today, we are in fact at the beginning of a new great age of capital, what are we to make of the second half of the nineteenth century, a period regarded as one of unparalleled optimism in capitalism, nearly universally considered the royal road to progress and human amelioration?

Yet, at no time in the nineteenth century was capitalism defended and accepted with the vigour and conviction characteristic of our own times, when even its most vociferous opponents, those who had often predicted its downfall, having long resisted its seductions, have laid down their ideological weapons conceding that there is no alternative. This is the Age of Capital.

In the decades after the 1850s, however, the anti-capitalists had more support than

the pro-capitalists. The advance of capitalism caused considerable anxiety, even in prosperous England; and not only, as one might expect, among suffering workers and threatened peasants, but also among the middle classes themselves who were afraid of everything: of potentially seditious workers, of economic uncertainty, of rapidly changing status, of Jews and the Irish, of cholera and smallpox, and, above all, of the poor.

The real pro-capitalists were those who consistently advocated the removal of all legal and political obstacles to the full development of market freedoms: competition and individual enterprise. Many within this uninhibited minority – for it was a minority – recognized that capitalism, if unleashed, would produce, at least in the short term, far too many victims and consequently generate a degree of hostility dysfunctional to capitalism itself. Correspondingly, the rapidly developing socialist movement realized that pure antagonism was not the proper basis for a wide popular movement. While confidently expecting capitalism's collapse, they thought it better to advance a reformist programme that, paradoxically, would make capitalism more tolerable.

Laissez-faire liberalism and the glorification of self-interest and individualism gained widespread acceptance in Victorian England. Yet even in England, practical liberals had to acknowledge that their ideas could not be defended with intransigence. Even William Gladstone became, when prime minister, an advocate of limited state interventionism and social reformism.

The so-called Great Depression of 1873 – now held to be exaggerated – coincided with a growth of anti-capitalist ideas and a retreat from the rosier versions of Manchester Liberalism throughout Europe.

By the end of the century, traditional individualistic liberalism was giving way to a new 'collectivist' liberalism (TH Green and LT Hobhouse). This envisaged a positive role for the state in the solution of social problems and the establishment of a just society. The road was open for the great reforming administration of Asquith and Lloyd George that laid the foundation of the British welfare state.

Even old-fashioned liberals were not sure where the boundaries of state interference should be erected. All agreed that the state should have, as Weber put it later, a monopoly of the means of force. Most also agreed that some basic infrastructures could only be built and maintained by the state, such as roads and bridges. Education generated more debates. In principle, liberals were happy to leave it to those who could afford it, but they were suspicious that if the state refrained from running the schools, the priests would do it. Clerical education was an evil to be avoided at all costs, hence the rapid development of compulsory and free state education in most European countries.

The real capitalists were equally ambivalent. They somewhat understood that the free market, like socialism, was very nice in theory but did not work in practice. They wanted a state that protected them from foreign competition, i.e. from market forces. In the real world of capitalist enterprises, the protectionists prevailed. Capitalists needed a state to lord over them, discipline them, nurture them and kill a few to save the rest; a real Hobbesian State-Leviathan overseeing the war of all against all. Stateless capitalism never had a chance.

In Japan, the 'invisible hand' was simply non-existent. Japanese capitalists, created by the state, remained grateful, obedient and loyal to it. And, by the beginning of the nineteenth century, Japan was the second fastest growing country in the world.

At the time, the critics of capitalism and modernity were numerous.

First there were reactionaries who wanted to go back to an idyllic pre-capitalist rural past. These were mainly intellectuals, because few politicians could afford, politically speaking, to propose wiping out the entire manufacturing sector. But Thomas Carlyle and Matthew Arnold had no such inhibitions. They turned to the past to recover the ties of affection, social loyalty and solidarity which held together a stable and humane hierarchy, and which had been destroyed by the remorseless advance of money-based relationships.

In France, Ernest Renan lamented the philistine attitude towards culture which industrialized England so prominently displayed. Some of the most significant thinkers of the nineteenth century concurred, including Swiss historian Burckhardt and German Heinrich von Treitschke, who argued against the minimalist state of the liberals.

In Russia, the hostility towards capitalist development was even more widespread. Religious-minded slavophiles, like the socialists, believed that common ownership represented the best form of social organization, and hoped that Russia would be able to skip Western-style capitalism.

In Roman Catholic countries, religious traditionalists believed that socialism was a godless state-worshipping creed, to be fought at all costs; but they were equally scornful of what they regarded as the foundation of liberal capitalism: individualism. They believed that the economy should be organized on craft associations based preferably on the family.

Throughout Europe, as suffrage expanded, conservative, nationalist and socialist parties had, at best, an ambivalent attitude towards capitalism. Conservatives liked the

idea of private property, but were afraid of the consequences of frenetic individualism. Socialists were not afraid of capitalist modernity – single anti-clericalism was important to them – but were hostile to capitalism.

Traditionalist anti-capitalism was enormously helped by the simple fact that much of Europe was still deeply traditional, something which socialists and liberals, mesmerized by modernity, urbanization and rapid economic change, had not realized. Virtually everywhere in nineteenth-century Europe, popular religious images and books constituted the only real form of mass popular culture, especially in Roman Catholic countries with a reasonably high level of literacy such as France. Women were of paramount importance in this revival, particularly in the countryside. They were the main market for the new forms of popular religious art. They were responsible for the unquestionable feminization of the Roman Catholic Church, the astonishing growth of the cult of the Virgin Mary and the massive pilgrimage to new shrines such as Lourdes in France and Marpingen in Germany. These masses had not yet been co-opted by capitalism, felt excluded from the modern society it was bringing about, and were anxious about the social disruption it was begetting.

What Now?

Today tradition is no longer defended seriously. However, the capitalism that rules Europe still faces constraints: the welfare state and the multiplicity of regulation of the labour markets may be on the retreat, but they still exist and cannot be done away with easily. This is because it has not been the result of the struggle of a single political force – social democracy – but the result of a complex resistance that has included various shades of conservative thought (usually religiously based). Each has played its role.

Now the situation has reversed. All the main political parties are, in one way or another, pro-business. All of them are, with different shades of emphasis, pro-globalization.

In the West, religion – with some significant exceptions – appears to be largely a spent force, one which can activate political movements only when it bases itself on principles which are shared by the non-religious majority: pacifism and solidarity.

There are two important exceptions. One is constituted by the significant Muslim minority in Europe, almost all made up by immigrants or their children (apart from Albania and Turkey). This community is deeply divided, as immigrant communities often are, between a strongly assimilationist majority and a fundamentalist minority.

The assimilationist majority is keen to play a complete role in modern society. For them, the appeal of tradition is residual. Tradition is, at most, a way of staying together to defend themselves against discrimination as well as a set of symbolic rituals (such as food and festivities) meant to keep them together.

The fundamentalist minority, in spite of appearances, has little to do with tradition. Their ideology is new and largely invented – the case of young French Algerian women wearing the *chador* is emblematic. It was not worn 30 years ago in the street of Paris by their mothers. Today it is an act of defiance and identity. It is worn by women who are very unlikely to want to remain in the kitchen and have lots of children.

The other important exception to the modern waning of religiosity is in the United States of America. But there, religious fundamentalism, the ideology of a minority, is totally modern. Though disguised under the cloak of opposition to abortion and defence of the family, its practices are, like

those of Islamic fundamentalism, solidly in the late twentieth century and the beginning of the twenty-first. But while Islamic fundamentalism can be traced, to some extent, to the fury and anger of young intellectuals and students who find that the

path of prosperity and wealth (the path to modernity) has been barred to them, American fundamentalism is based on a conservative defence of those who have achieved such prosperity and wealth.

Claudia Derichs*

The history of conflict between tradition and modernity is long and rich in topics, in Europe and Asia alike. I am not a historian – that is why I can barely claim a proficiency in evaluating historical developments from such a perspective. Rather than from a historical perspective, I would like to look at history, at the relationship of tradition and modernity in the various civilizations and cultures of the world, from a political science perspective. I would like to apply a comparative view to the relationship of these two categories, hence compare the relationship of tradition and modernity in Europe to that in Asia.

Europe's modernity is characterized by the term 'enlightenment'. Enlightenment serves as a rallying point in the European history of ideas. This is, however, not valid for Asia. The former deputy prime minister of Malaysia, Anwar Ibrahim, puts it into clear words:

Unlike the West, Asia does not have its defining moments in history, and a common stock of ideas that moulds a shared outlook and conscious identification with a common civilization ... There was no Enlightenment, as in Europe in the eighteenth century, to spawn a cluster of ideas and common attitudes towards life, the individual and society.¹

When we say 'Asia did not have this', we implicitly refer to Asia as an entity that

forms a counterpart to Europe. This makes our discussion difficult, because the terms we use today – Asia, Europe – are terms that have been brought forward by political history, by *Realpolitik*, to be more concrete. Who talked about Southeast Asia, let alone Southeast Asian studies, before the period of decolonization? Nobody, because it was different spheres of political influence which determined regional names like British India, Indochina and others. Today's nation-states in Southeast Asia were created by way of decolonization. They were then perceived as an encompassing geographical region commonly known as Southeast Asia and distinguished from Northeast Asia rather than from one another. European academia well reflects this perception: area studies separate between Sinology, Japanology and Korean studies, but subsume a culturally and politically highly heterogeneous assembly of countries in the south quite simply under Southeast Asian studies. It is because of this view that the Malay civilization, to name an example, has been submerged as an epistemological unit. The Malays (understood as a cultural community) have been 'allotted their place' in today's nation-states of Indonesia, Malaysia, Brunei Darussalam and others. Malay civilization as a subject of science is barely approved, it is but a few institutes in the region that hold up this transnational perspective.²

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1. Anwar Ibrahim, *The Asian Renaissance* (Singapore/Kuala Lumpur: Times Books International, 1996), pp. 127ff.
2. A pioneer among such institutes is the Institute of Malay World and Civilization (Institut Alam dan Tamadun Melayu, ATMA) at the National University of Malaysia in Bangi, Selangor.

We do not find such a situation in Europe (with regard here to Europe as a discursive zone within which the ideas of enlightenment were spread). As early as the nineteenth century, the nation-states in Europe possessed the opportunity to shape, write and construct their national history. There was no need for them to struggle for liberation from colonial masters in the twentieth century; instead of fighting for national independence, they were able to cultivate their civilizational achievements with intensive commitment, and to adopt modernity. This was thoroughly carried out with transnational diffusion in terms of language and culture – think, for instance, of the usage of French in the higher echelons of society, where this language symbolized a ‘high culture’. A common religious base (Christianity) served as a platform for epistemological development, in particular the discourse on enlightenment. In Asia, different religious and civilizational spaces produced new ideas as well, and these new ideas of course questioned old traditions. A common discursive space as found in Europe, however, could hardly evolve in the region of today’s East Asia, primarily because

- (a) discourse within the different religious spaces tended to be practised more in depth than in breadth (within Buddhism, for instance, Mahayana and Theravada developed their own discursive currents); and
- (b) the political conditions (colonization) heavily discouraged an intensive discursive diffusion that might have promoted the development of a shared cultural-religious ground.

After independence, practically every nation-state in the region strove to combine modernity with a strong national notion in order to promote its individual path of nation-building. It is remarkable that those states which did not suffer from colonization – Thailand and Japan – had

other options and opportunities than the colonized entities. For Japan, the history of ideas of this country put forth quite a lively and complex discourse. After ‘opening towards the West’ in 1868, Japan had no problem with the integration of elements of indigenous tradition and ‘Western’ modernity into its nation-building process of the nineteenth and twentieth century. The discursive space allowed for such an integration because it could develop much more ‘freely’ than in the discourse in colonized neighbour states.

Frankly spoken, what seems to us in Europe as less conflict-sensitive in the relationship between tradition and modernity is essentially contingent upon the political history of today’s world regions and their nation-states respectively. However, if we concentrate on cultural-religious civilizations instead of focusing on single nation-states, we discover the fact of what the humanities and the social sciences call different modernities. For the Islamic civilization, the shape of this different (or other) modernity has already been analysed substantially. For the above-mentioned Malay civilization, this process has yet to be intensified. A prime reason for the slowness of the process is the fact that ‘Malay’ is understood as an ethnic category, and as such it serves primarily to identify Malay communities in the different nation-states of Southeast Asia. A transnational view that crosses the borders and relates to a common Malay civilization is barely applied. A (different) Malay modernity is thus not on the research agenda of regional scholarship. The dominance of politics – or *Realpolitik* – has once again occupied the worldview. From the perspective of national politics, doing research on the national history of individual nation-states is obviously more important a task than opening a transnational view. Within the European Union, intensive efforts have been made to give ‘region’ priority before ‘nation’. It

has become a leading idea of the European integration process. Conversely, in Asia the 'nation' takes precedence over the 'region',

and this fact is largely a result of the (political) history of that part of the world.

The Cultural Impact of Globalization and Modernity

Randolf S David*

In his intriguing work, *Nationalist Thought and the Colonial World*,¹ the Indian writer, Partha Chatterjee, examines the contradictions of nationalist discourse in the developing world.

Nationalism denied the alleged inferiority of the colonized people; it also asserted that a backward nation could 'modernize' itself while retaining its cultural identity. It thus produced a discourse in which, even as it challenged the colonial claim to political domination, it also accepted the very intellectual premises of 'modernity' on which colonial domination was based.

Whether conceived in the consciousness of the native intelligentsia or of the colonial masters, the 'people' who form the nation are treated as passive subjects who must be rescued from themselves, tutored or educated before they can become the authors of their own lives. This kind of arrogance has not been a monopoly of the colonialists; it has also been the frame of mind of the dominant native élite and even of the progressive intelligentsia.

The élite's bilingualism allows them to navigate the waters of globalization without much effort, functioning as effective carriers of a sensibility that is, however, alien to the consciousness of the masses they seek to govern. In the Philippines, they speak of civic duty, while the people talk of *pakikipagkapwa* (intrinsic responsibility to others). They speak of independence,

while the people talk of *kasarinlan* (identity). They speak of citizenship, while the people talk of *pagpapakatao* (being human). The intelligentsia speaks of the rule of law, while the people talk of the obligations of *kapatiran* (fraternity).

These are not only different languages, they are also incommensurable value systems founded on different philosophies of life. Finding this gap problematic, technocrats have been trying for the longest time to drown it in the vocabulary of modern nation-building. The persistence in the Philippines of the various insurgencies, of millenarianism, of folk practices, of the great divide between rich and poor, and of the thousand and one markers that historians label as components of the 'little tradition' – all attest to the failure of their efforts.

Today, like many nations in the developing world, the Philippines is a divided society that goes through the rituals of nationhood with diminishing enthusiasm. We have a standing army whose main function has been, since independence, to quell internal uprisings rather than to counter external threats. Its mission has been not so much to defend the nation but to complete the campaign of pacification of the islands begun by colonialism. We have an intelligentsia that uses its energies more to explain the society to the outside world than to interpret the national experience

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1. Partha Chatterjee, *Nationalist Thought and the Colonial World* (Minneapolis: University of Minnesota Press, 1986), p. 30.

in terms that our people themselves could understand. The relationship between our national leaders and the masses has been mainly transactional and devoid of moral commitment. Our politicians do not so much lead and govern as preside over an uneasy truce. The recalcitrance of the excluded has become so troublesome over the years that many members of the dominant élite have proposed a more overt authoritarianism in order to consolidate the nation and place it on the track to modernity.

Modernity has tended to prioritize instrumental rationality, economic productivity and individual autonomy over other equally important human concerns such as community, good interpersonal relations, inner calm and honour. The latter values may not be modern, but they are important sources of the kind of solidarity needed to build citizen democracies.

In an ideal world, there should be alternative paths to modernity. Every nation must create its own path based on the contingencies of its own history and the sensibilities of its own people. It has been disastrous for countries aspiring to development to have taken a shortcut by importing wholesale the institutional framework of other societies whose experiences were vastly different from their own.

Institutions must grow from the instincts of the people if they are to have any enduring authority. Alien institutions, imposed from the outside, are easily subverted. They command obedience only for as long as they are supported by coercive and remunerative power, but they do not evoke any sense of responsibility on the part of the people, nor any of 'the will to solidarity of generational chains stretching forwards and backwards' that Nietzsche

once talked about in reference to the Germany of his time.²

Such has been, in many ways, the history of the Philippines' own institutional framework, which was wholly constructed from the material of its colonial past. Our leaders failed to transform and adapt this colonial legacy to the changing sensibilities of our people. Instead, it became the main source of the divide between the educated few and the vast masses. The judicial system in my country is a telling example: its civil code was taken from Spain, its penal code from the United States. What aggravates this situation is that the legal proceedings in our courts have always been conducted in a foreign language – in Spanish until the arrival of the Americans, and in English from then on. To this day, witness testimonies rendered in a local Filipino language have to be translated into English in order to become part of court records.

The extensive use of English by those who were fortunate enough to go to school hastened the modernization of the Filipino middle classes and their insertion into the circuits of the global economy. But the price has been the further estrangement of the vast majority who were already being marginalized by the effects of a dualistic economy.

The so-called new nations that arose from the ashes of colonialism today confront not only the inherited fault lines of their societies but also the problems unleashed by globalization. Many societies are imploding beneath the pressure of globalizing forces. As a result of this implosion, sub-national communities are emerging along the old fault lines, and new powerful forces at a global level are seeking their incorporation. A resurgent Islam that offers itself as a shield against the corrosive

2. Friedrich Nietzsche, *Twilight of the Idols*, translated by R.J. Hollingdale (London: Penguin Books, 1990), p. 105.

effects of modernity is seeking the politico-cultural integration of its adherents across nations, races and continents. On the other hand, an American-led war on terrorism is incorporating domestic conflicts by giving them a global spin.

What is to be done? The answer cannot possibly lie exclusively in the promotion of a cosmopolitan identity revolving around universalist ideals. If they are to be common enterprises in self-rule, nations must be allowed and supported to rebuild themselves along lines that tap their own

cultural resources for mutual commitment. This has become more necessary today because of the great inequities that the global market economy is creating, not only between nations but especially within them.

These inequalities cannot be eased by aid and charity alone. They require decisive redistributive policies that only a society with a high degree of mutual commitment among its citizens can possibly enforce. And such commitment cannot be nurtured without common identities rooted in inherited traditions.

Anand Kumar*

It would have been easier for me to present my understanding about 'Traditions and Modernization in the Era of Globalization' if the title of the session or the whole conference had been 'Understanding Tensions between Traditions and Modernities in the Era of Limitless Economic Globalization and Limits of Cultural Globalization'. Because to put globalization and modernity in the singular while giving space for plurality in tradition creates problems in the context of the question for us to consider. Similarly, my own presentation could be 'Surrender, Suicide or Sustainable Development: Understanding Tensions Between Tradition and Modernity in the Era of Globalization'.

Let me begin with a footnote that tradition and modernization could be better located if we also gave some attention to the processes of nation-building and globalization in the context of South Asia, which are related to two other processes: decolonization and democratization. I also want to begin by remembering two giants of modern time: one representing Asia, the other representing Europe. They are Gandhi and Einstein. Both had definite problems in approaching complex

relationships between traditions and modernities. They were nervous about the claims of modernizers. They were worried about the passion of the traditionalists.

Keeping that spirit in mind, let me draw your attention to the fact that the present wave of globalization is linked with the late 1980s and early 1990s. People say that the fall of the Berlin Wall was the event that marks this new process. Before the wave of globalization, tensions between tradition and modernity in South Asia were absorbed in three areas. First and foremost was the state, because colonial history created a situation of state-centric initiatives. Colonial society by definition was a state-centric social formation. In the post-colonial era, too, the state emerged with greater legitimacy because of the successful introduction of democratization. The second area was the market and the third community. These three together created a kind of interface with the external pressures and internal dynamics of tensions and changes. There were certainly five major patterns in negotiating social change, which is the larger theme for the specific consideration of modernization and modernity.

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Social changes were either accepted and resulted in reforms, or rejected as a resistance of the modern, or a dialogue took place, or there was a destruction of traditions, or finally, there was also a bypassing of traditions. These created trajectories of modernization in the South Asian experience. There were also situations of disenchantment with modernity in South Asia's 150 years of engagement with modernity via Westernization, which was twinned with colonization. Now in this environment you have the introduction of globalization.

How can globalization be defined, since not everything is globalization? Modernization is related to globalization. Capitalism is also related to globalization. But globalization requires specificity. For this paper it is better to define globalization as the compression of time and space beyond the nation-state. The important point is the reference to the nation-state, otherwise there is internationalization and there is nation-building. They both have similar features and consequences in terms of 'space' and 'time'. But globalization is unique because it is the compression of time and space beyond the nation-state. This has three major aspects. One is the death of distance. Another is the end of history. And a parallel attribution is the disenchantment with modernity. Let us also note that there are economics of globalization, but politics of the nation-state and culture of ethnicization. These three do not gel together. They create zones of tension and domains of deprivation. The old indicators of modernization were political movements and parties, education, the process of planning, the process of elections. This is in the realm of polity. Now there are new indicators accompanied by the process of globalization. They are the dream of sustainable development, the imperative of cultural dialogue, human rights regimes, gender justice movements and environmental care-related movements.

We find that as there are economics of globalization, politics of nation-state, culture of ethnicization and society of differential integration, we have to pay attention to 'exclusion and inclusion dynamics'. This is where the tension is located. People feel afraid of globalization because of the possibility of exclusion. And people feel attracted to globalization because of the chance of inclusion. There are two communities of gainers and losers and they cannot be divided between Asians and Europeans. There are gainers and losers across continents and they are linked with each other. Therefore there are five shifts in the making in the context of looking at the potential for new cultural integration in these times of globalization, which is a reality as a process. It is not a choice. It cannot be wished away. And at the same time it is not really something that can be put exclusively in dark colours or bright colours. These five shifts are in need of a new global contract for millennium development goals, which are transnational goals and part of process of the globalization discourse. But they are not part of capitalist, consumerist globalization, which is creating so many negative emotions and structural tensions.

What are these five shifts? First, there is the shift from representative democracy to participatory democracy because globalization is creating limits to representative democracy. It has increased pressure to reduce the role of the state even before welfare states have been fully developed in South Asia.

Second, there is the shift from the globalization of human rights to the humanization and democratization of the globalization process itself. The pressure for the globalization of human rights is resisted by South Asian regimes. It is not very fair on their part but it will be much better if the agenda is larger to democratize the process of globalization itself.

The third shift is to move away from the cult of violence. Whether we like it or not, a cult of violence has been promoted in these 15 years of globalization in terms of interstate relations in a manner unprecedented since the end of World War II. The cult of violence has to be replaced by a culture of non-violence, which has to be around a spirit of dialogue and appreciation of differences.

The fourth shift should be from despotic hegemony to democratic harmony. I do not want to elaborate on it any further, because there is a need to have American participation, or at least the official voices of the American establishment to make sense of what the critique is. For example, there is a book entitled *Why Americans Are Hated around the World* that advocates the

replacement of this despotic hegemony with democratic harmony.

And the fifth shift in the making is the move from the deepening of disparities and deprivations to sustainable and equitable development. In short, what we have to try to do is to bring back the need to define globalization before getting deeper into this debate and also differentiate the economic, political, cultural and social moments and components of globalization in the context of tradition-modernity engagements. This would establish an appropriate framework to explore and understand the contrast and compatibility, communalities and diversities between Europe and Asia, and within Europe and Asia with reference to the interaction between tradition and modernity.

Indrajit Banerjee*

In this era of increasing and accelerated globalization, there are undoubtedly new opportunities for intercultural and international understanding, tolerance and integration. Yet, our world is also witnessing increasing tensions between nations and peoples, between races, religions and communities. The threats of terrorism are ringing out across the world and human beings increasingly live in fear and insecurity.

Ignorance and mistrust are perhaps the most significant dangers in a world that is characterized by intensifying global and local articulations. It is here that the dialogue between cultures becomes a crucial ingredient to maintain peace and harmony.

The theme of this dialogue 'Bridging Tensions between Traditions and Modernization' is particularly relevant to the contemporary cultural landscape.

Globalization fundamentally challenges many established cultural beliefs and practices. Globalization alters the scope and scale of cultural change through processes of integration and disintegration. Local cultures that have thrived and imbedded themselves for centuries are being forced out of their isolation through the increasing impact of distantiated cultural influences on their values, attitudes, lifestyles and practices.

These dramatic changes create conflicts and tensions between the forces of modernization and those that represent deep-rooted traditions which persist and resist change. In many ways, modernization can be considered a natural progression and all societies have changed over the centuries due to structural political and economic factors. Yet it is the sheer scale and speed of change that globalization brings with it that creates resistance to change.

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Resistance to modernization and globalization also springs from historical experience. Globalization has been seen by many as being coextensive with the history of Western imperialism. Centuries of conquests and colonization of Asia by the West have made Asian nations sceptical of Western intentions. As Western nations are at the forefront of the globalization movement, there is fear that the process of globalization will result in the increased hegemony of the West over the world. Recent developments in Iraq and other parts of the world underline some of these hegemonic tendencies and unfortunately justify some of these fears and suspicions.

These fears can lead to conflicts between the developed and modern nations of the West and the emerging but still largely traditional societies of Asia. Reconciliation and respect for cultural specificity thus become central to a mutually beneficial and harmonious cultural, political and economic cooperation between Asia and Europe. Globalization can succeed only if it is founded on respect for cultural specificity and diversity.

Asia has undergone profound changes over the past two decades. Strong and unprecedented economic growth, expanding literacy, development of infrastructure and other critical factors have forged a new Asian reality. These have in turn led to significant changes in Asian society and culture, and resulted in progressive industrialization and the emergence of an increasingly cosmopolitan consumer society. Asia's encounter with modernity is apparently challenged by strong local cultures and traditions that resist change and revolution. In many Asian countries, a majority of the population still live in rural areas that are deeply imbedded in tradition. The move towards modernity in the urban areas thus continues to be in stark contrast to the traditionalism of rural societies and communities.

It is interesting to examine the discourses and practices of Asian governments in this conflict between modernization and tradition. While faced with the economic compulsion to modernize their nations to benefit from global economic integration, many of these governments have to be sensitive to the local traditional practices and values of a vast majority of their populations who are also their key political constituencies. Thus time and again, discourses on technology and modernization are delicately balanced with references to local traditions and cultures. It is also important to highlight the fact that the process of nation-building, which many Asian nations have had to undertake since achieving their independence, is difficult without the forging of a national culture and identity, and these imperatives, too, make it mandatory for governments to emphasize the traditional values and characteristics of their nations as a shared symbolic framework which constitutes the national identity. Religious, ethnic and linguistic sensitivities, often identified with tradition, thus constitute important dimensions of government policy and discourse.

Asia-Europe dialogue is critical in this era of globalization. New opportunities exist in increased economic and political cooperation between these regions and their nations. Yet the first task at hand is to build bridges through dialogue. Only when mutual understanding, tolerance and respect between Asian and European nations are established will the full potential of globalization be achieved. It is not desirable to reject traditionalism to espouse modernity and they are never mutually exclusive anyway. Traditions often conceal within themselves the core values of a society and community. While most societies undergo superficial material and physical changes from time to time, they rarely lose their spiritual essence which is deeply imbedded in history and what we

refer to in our ordinary parlance as 'tradition'.

The greatest challenge to globalization rests in the ability of societies to espouse change and modernity while maintaining their core values, practices and traditions. This is also vital for the maintenance of cultural diversity. If modernity represents

a progressive homogenization of the world's cultures and practices then it is indeed not desirable. Unity in diversity, respect for the other, and a great tolerance and understanding of the world's cultures and civilizations constitute some of the greatest hurdles faced by mankind in this twenty-first century.

Modernization under the Rules of Globalization

Javed Jabbar*

When referring to the 'rules of globalization' it is tempting to drop the 's' and say globalization is the rule of a single state. And to say this is not to demonize the United States. It is to appreciate its extraordinary power and creativity. For instance, the World Intellectual Property Organization in 2002 registered 44,500 applications for new patents from the United States. The next four countries, including Germany, Great Britain, Japan and the Netherlands, could not together equal more than 40,000. That is the kind of unprecedented lead a single country today enjoys in terms of technical creativity.

And that is related to the real root of its power. That root is the first amendment to the United States Constitution which says, in effect, that there shall be no law to abridge freedom of thought or expression.

We are living in a world where a single country's economy is ten trillion dollars strong. Elements of its armed forces are physically present in over 100 countries at the same time. That is certainly going to shape globalization. How do we deal with the singularity of a particular state? It may be the World Trade Organization, the International Monetary Fund or the World

Bank, which were precursors of contemporary globalization. Or it may be democracy, which is offered as the ultimate model, but which, particularly now in South Asia but also earlier in the 1930s in Europe, fails to produce checks and balances. It can distort the whole direction of society and generate extremism while all the institutional and theoretical checks and balances collapse.

How are these emerging tensions viewed? First, we have to note some contours, for example, cultural contours. Bergson¹ said that 'culture is the sum total of man's products'. But that may be too physical a definition. There is also the view that culture is about a society's capacity to stimulate the creativity of its people simultaneously on several levels. The level of life and family, the level of work and productivity, the level of free speech, the level of arts and crafts, the level of political institutions.

And if the individual in Asia or Europe today lives in that context of culture, the media are inevitably part of this modernizing process. They are a kind of soothsayer who advances globalization. But the media also deliver self-fulfilling

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1. Henri Bergson, French philosopher 1859-1941, Nobel Prize Winner in Literature 1927.

prophecies. There is a dangerous nexus that seems to be emerging between corporate media and state power as a silent partnership and even under the banner of 'freedom of expression', whereby corporate media actually advance the interests of states.

The other contour is the decline of the state. News of the death of the state is premature. We are, in fact, living not in the age of nations as suggested by the term 'United Nations'. We are living in the age of the state. Never before has there been such a large corpus of global laws, policies and rules on an interstate basis. States have negotiated this new framework of human existence. So the state is not going anywhere. However large multinationals may become, the state is only changing its role. It is not being eroded, particularly post-9/11.

Another contour is that modernization wants us to separate church from state, which is fine, because the church represents a theocratic extreme that is not acceptable. But it also wants us to go to another extreme – the secular state. And what does this mean in terms of an individual's life? You separate the church from the state: you separate the body from the soul. You want the individual to fill this vacuum with the pursuit of rational scientific thought. And that is where the crisis begins, with the bypassing of the spirit.

It is spirituality that is required in a state. A state need not be religious and need not be theocratic. It does not need to be secular but it can be spiritual. And the need therefore arises to foster the spiritual state based on the Sufi tradition,² which is the real essence of Islam and which takes a mystical, value-based, experiential approach to Islam and not a hand-me-down type of approach.

Where do we stand in Asia in general and in the Islamic world in particular against these contours?

I would refer to the great Muslim philosopher and social scientist, Ibn-i-Khaldun, who lived about 700 years ago. He formulated the concept of '*assabia*', which really represents social cohesion, group loyalty and solidarity. Even though it is sometimes misread as cultivating loyalty to a tribe or promoting parochial interests over those of humanity, the more profound application of *assabia* is the universality of the human community which has broken down in virtually every Islamic country.

And that is the root of the crisis, because the tensions within Islam are perhaps far greater than the tensions between Islam and Europe today. There are tensions between sects and schools of thought, and tensions between a government that might represent a Muslim majority but is unable to satisfy the expectations of Muslim civil society. The tensions between Muslim states were perhaps worst expressed in the Iran-Iraq war, which lasted almost a decade and cost the lives of millions of people.

There are the tensions of Islam and the absence of *ijtihad* which is the real development of *jihad* that has nothing to do with violence. *Jihad* is the struggle for self-improvement. The Prophet of Islam, after scoring a decisive military victory said, 'And now begins the real *jihad*'. And from that comes *ijtihad*, which is allowed for in Islam but which we in Muslim countries have abandoned for centuries. It is the interpretation of Islamic sources, applying contemporary and new knowledge and rationality to what has been revealed in the Holy Quran and by the traditions of the Prophet.

2. Sufism is a mystical Muslim school of thought.

The rules of globalization from the Pakistani perspective have to be seen from how unique Pakistan is. Pakistan could be called the single most unique country on the planet today.

There are five categories of nation states. The first is the historical state, of which China, Persia and Egypt are examples. The historical state occupies the same territory and has had the same people and the same language for thousands of years. The second is the migratory state. Millions of Europeans migrated to North America, South America, Australia and Southern Africa, and got rid of the locals or subsumed them. They created beautiful new states: migratory states. The third is the permuted state, for example Germany. This is no disrespect to Germany, but Bismarck brought together Germany in the nineteenth century and created the state out of something very historical. The fourth is the post-colonial state, such as Jordan, Iraq, Uganda and Kenya. The fifth is the religion-based state, and there are only two states in this category: Pakistan and Israel. Whereas Israel does have a historical connection with the land on which their prophets first preached Judaism, Pakistan has no similar historical claim of a direct connection between our Holy Prophet's original land and the territory of Pakistan. As a word, 'Pakistan' is a synthetic creation. It is a beautiful but new 'put-together' name, unlike Israel, Egypt, or China. Pakistan is a country that had to develop its identity soon after it was created.

Pakistan was the most modern state to be born – and at only three month's notice. Lord Mountbatten, on 2 June 1947, decided to 'create' India and Pakistan on 14-15 August 1947 by arbitrarily moving up the original approximate target of 1948. Pakistan became the first country in the world born with two wings separated by a thousand miles of territory. It was the first country post-World War II to disintegrate,

in 1971, and therefore had to reinvent itself, to create a sense of 'Pakistaniat'.

We are a lopsided federation with four provinces, one larger in population than all the other three. And it began with a man who was an ultra-modernist: Muhammad Ali Jinnah. Under the shadow of Gandhi he is not as well-known internationally and is misperceived as the 'divider' of South Asia. The fact is that he wanted to remain within a confederal India right up to 1946. He could barely speak the Urdu language and yet millions listened to him rapt, because they totally trusted his integrity.

Today Pakistan is ruled by a military general, which is one of our many contradictions. But the good news is that the mullah alliance, known as the enemy of liberalism, secured less than 11% of the popular vote. After the bombing of Afghanistan, the people of Pakistan, uneducated as the majority may be, had great political sense. They gave General Musharraf 84% approval rating in an opinion poll (by Pew Research), which shows the kind of enlightened motivation that people have the capacity for.

There is a silent revolution going on in Pakistan today. 33,000 women are elected to local government councils, 17% of seats are reserved for women in our legislatures and yet the barbaric custom of *karo-kari*, where a woman can be killed by her brother or her husband merely on suspicion of illicit sexual relations, remains in certain areas.

Lastly, Pakistan is the epitome of freedom of expression in Asia and in Muslim countries. By any standard it has some of the highest levels of freedom of expression. In fact, I would suggest there is more freedom of expression in Pakistan's media than in countries with higher levels of social and economic development such as

Singapore or Malaysia. Singapore's per capita income is about US\$22,000 and Pakistan's is about US\$400.

The tensions arising from the rules of globalization will have to be dealt with by

Sigrid Baringhorst*

Globalization has led to a fundamental change in the nature of statehood, but that does not mean that we can speak of a total erosion of the state. Globalization has rather lead to a transformation of the state, which takes place at two levels. On the one hand, political decision-making has become a multi-layered process. Governance does not only take place at the level of nation-states. Political regulations are more and more defined and implemented below the nation-state, that is, at the local and regional level, and beyond the nation state, that is, on the supranational level such as the European Union, in international organizations such as the United Nations, or in transnational regimes. For citizens, this situation has an important impact on the perception of the state: political steering has become complex and thus it has become much more difficult to adequately assign political responsibility and accountability.

On the other hand, we are witnessing a substantial change in the relationship between state, market and society in that state regulation has shifted in favour of social self-regulation. The consequences of this shift are ambivalent. Owing to the growing deregulation of economic and social processes, individual autonomy has significantly increased. However, at the same time, new problems are arising from the deficits of political regulation. Many citizens feel that too much is expected of them – they do not feel prepared for this new kind of self-regulation and they are

each Muslim country in its own context. Islam is a very heterogeneous set of cultures. It has its homogenous unifying faith but it is necessary to increase the level of enlightenment and knowledge in Europe about each individual Muslim society.

not willing to take over the self-responsibility that state actors now expect from them.

What kinds of social and political cleavages are resulting from this transformation of the state and, most importantly, from the changed relationship between state, market and society? The cleavage structures that characterize current European societies are not a new phenomenon. They are closely related to the emergence of the nation-state in the nineteenth century and the consequences of the process of industrialization at that time.

There are three cleavages that seemed to have been solved in the middle of last century, before they unexpectedly gained new relevance as a result of accelerated processes of globalization since the 1970s. These can be summed up as cleavages between centre-periphery, state-church and capital-labour.

The cleavage between centre and periphery is a cleavage at the territorial level. The nation-state in Europe was created by the political incorporation, cultural adoption and social and economic marginalization of regional peripheries. Conflicts that arose from this 'internal colonization' are, for instance, conflicts such as those between the state and territorial minorities in Scotland and in the Basque region. The establishment of supranational unions such as the European Union have made it possible for these formerly oppressed

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regions to assert their rights of autonomy. The weakening of the state at a national level creates new spaces, which enable them to redefine controversies between centre and periphery. At times these conflicts can be solved peacefully. For example, countries such as France and Spain have solved them through devolution and decentralization, by structuring their states in a more federal way. At other times these conflicts are expressed more violently, giving cause to terrorist movements and attacks. Supranational unions provide regions and territorial minorities with the political framework to claim more independence from the nation-states in which they are incorporated. Supranational agreements render regions economically more autonomous. In terms of security, they also become more independent, because nation-states are needed less as military protectors in a supranational framework. Now many regions prefer to refer to Brussels as the political centre for their particular claims and interests. Apart from the economic and security aspects, the cultural question has become a crucial one as regional identity has grown in the context of a general increase of collective identity-building and identity politics.

The second cleavage that characterizes European societies was supposed to have been solved by the end of the nineteenth century. It is the one between religious interests, predominantly those of Christian churches, on the one hand and secularist interests of states on the other. In France, for example, this was solved through laicism, that is, the strict separation between state and church. There, the articulation of religious identities has been clearly confined to the private sphere. In Germany, a concordat (treaty) which defines the role of the church, has solved the conflicts arising from this cleavage in so far as there is a clearly defined and institutionalized cooperation between state and church actors.

The cleavage of church versus state or secularism versus religious interests has been rearticulated in recent years in two paradox forms. One is characterized by a growing repression and privatization of religion in favour of the secular state. There has, for example, been a judgement by the German Federal Constitutional Court, which ruled on the question of whether it should be allowed to hang up crucifixes in school classrooms in the state of Bavaria as a symbol of Christianity. The Court reaffirmed the state character of schools, thus supporting the right of parents to have their children educated in a public realm that is free from an identifiable and dominant religious orientation.

Another controversy that is still current concerns the preamble of the European Convention. The question here is whether the European Union should profess to its Christian origin and so include a definite religious orientation. This debate appears to be a rearguard action of claims made by the churches in Europe and simultaneously a repression of secular forces.

However, the growing importance of the cleavage between religious interests and the secular state is, above all, a result of globalization processes in the form of international migration movements. Labour and refugee migration have led to the establishment of strong non-Christian ethnic minorities. Ethnic minority interests are often articulated in religious terms, such as the demand for wearing headscarves and the introduction of halal meat in schools, the building of mosques or, more generally, the equal treatment of Muslim and other non-Christian religious groups in society and state. Thus, contrary to the tendency within mainstream society to suppress religion in the state sector, immigrant communities are asking for an increased articulation of religious identities in the public sphere.

The third cleavage that was also supposed to have been more or less resolved is the one between capital and labour. During the 1970s and 1980s there were a lot of academic studies dealing with this topic. Ronald Inglehardt,¹ for example, argues that there has been a trend towards post-materialism since the late 1960s. New social movements have put new issues on the agenda that deal with questions of life politics or even lifestyle politics.

After 1945, the establishment of the welfare state and corporate arrangements between state, employers and trade unions in Germany lead to a decrease in social conflicts about employment conditions and social security. In the 1980s, it even seemed that these old issues had been successfully and permanently institutionalized in the bargaining process of the corporatist state. However, in the last decade it has become obvious that the old cleavage between capital and labour has been rearticulated in a new form. As a result of the reformulation of the relationship between state, market and society, the promise of the welfare state to offer institutionalized solutions for questions of social justice can no longer be kept and thus the corporatist arrangements are not working any more.

Altogether it seems that the position of trade unions in the process of negotiating, especially in Germany, is harmed. Social rights are reduced and globalization has become a central element in the public discourse, legitimating severe cuts in social benefits and a general reduction of social citizenship rights. Consequently, the reduction of social rights is externalized as being solely caused by globalization and the unhampered mechanism of the market. This has resulted in a strong anti-globalization movement, not only in France but in Germany too.

In this context, a fourth and new cleavage has to be introduced, a cleavage that specifically addresses the issue of globalization and that can be characterized by the dichotomy of universalism versus protectionism. Universalism is understood as the positive side of globalization: the possibility of the regulation of the market by supranational, transnational regimes, the establishment of a global civil society, the political participation of INGOs (international non-government organizations) and others – altogether forces which propagate global governance and a global world ethic. Contrary to this position are forces that support a protectionist opinion about globalization. Three positions of protectionism can be identified:

The first one is an attitude that can be found in most right-wing groups in Europe. This attitude propagates the ethnic homogeneity of nation-states. From this point of view, protectionism means the exclusion of foreigners and control of immigration.

The second is taken by most sectors of the trade unions but also by representatives of European labour parties and church actors. In their claims and demands, protectionism is mainly implied in order to maintain the welfare state as it is and protect national economies against global competition.

The third position of protectionism is one that is not recognized at first sight. Most conservatives and liberals plead for free trade, the World Trade Organization and others. However, strictly speaking, these are not universalistic positions. Their main objective is a protectionist one, namely to save the nation-state and the national economy by making it more able to compete successfully on an international level.

1. Ronald Inglehardt is Professor of Political Science and Program Director, Institute for Social Research, University of Michigan, USA.

The strength of protectionist positions compared to the still rather weak influence of universalistic actors leads us to the final question: Why do governments as well as the majority of the population prefer protectionist solutions over universalistic ones?

To my mind, the dominance of protectionist political positions can be explained by two arguments: The first one is the rational choice or self-interest of national actors. However, self-interest is rather complex in heterogeneous societies like those of Western Europe. There are losers as well as winners of globalization. For the winners it makes sense to pursue their self-interests in terms of protectionist policies that strengthen the competitiveness of their national economies.

The second argument refers more to the losers of processes of accelerated globalization. They support protectionist solutions and vote for conservative or even nationalistic parties because of growing

feelings of insecurity and fears of losing out on the globalized market. As social psychological reactions these fears can only be overcome by an increasing ability to accept risks and tolerate ambiguities, an ability to see open-ended situations as opportunities and not only threats since it is not yet known what impact globalization will have. What is needed is the favour of doubt, the openness to speak about the possible risks and advantages of globalization and to bear results that cannot yet be estimated.

In terms of social psychology, the main problem of globalization lies in the fact that, particularly in situations when tolerance of ambiguity is needed most, people tend to favour dogmatic solutions and other forms of closed thinking because of their feelings of insecurity. This actually means they remain closed to necessary changes and support conservative forces of perseverance over political forces of reform.

Javier Viúdez*

We could state that both the logic and dynamics of modernization met together at a certain point in Spanish history. Modernization was, for Spain, not only a political aim but also a social need, or, in other words, because it was a social necessity, modernization became our most important political aim, the symbol of our freedom. Changes in Spain were so necessary that nobody thought about the negative consequences of modernizing the country. No debate about globalization took place at that time in Spain.

Why did the process of modernization become an indispensable element, a necessity, in our recent history?

During the nineteenth and twentieth centuries, the history of Spain can be described as the story of an empire's decline – the decline of a country that missed the Industrial Revolution and did not know the meaning of liberal reforms; a country that was, in fact, underdeveloped. Through the nineteenth and twentieth centuries, Spain went from dictatorship to dictatorship until the Second Republic, a small period of time in which democracy was more appearance than reality and which ended in the final collective tragedy that was our civil war.

The dictatorship that followed under Franco had a tremendous impact on the daily lives

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of Spanish people over a period of 40 years. Spaniards were not free and they faced discrimination, in particular women and minorities. Discrimination against women was easily perceptible in the area of civil rights, family rights and commercial transactions. Women needed the permission of their husbands for almost every step they wanted to take. People's behaviour was scrutinized by the Catholic Church, which acted as an instrument of social cohesion. Spanish people did not pay taxes because the state – the dictator – decided on the level of social rights and social protection the population could enjoy. Paternalism was the essential character of the state. And there was no mercy for political dissidence. In 1975, despite being very ill and close to death, Franco ordered the execution of some young dissidents, ignoring appeals to commute their sentences that came from all over the world, including the Vatican.

With this brief description of the Spanish situation at the beginning of the 1970s it is easier to understand how strong the will to modernize the country was. Modernization meant at the same time the possibility of achieving a real democracy after so many years of dictatorship. At that time, no discussion of the advantages or disadvantages of modernization was on the table. Modernization was just considered necessary and there was a great belief that it would bring mostly progress to our country and a consolidated democracy. During the 1980s, when Spain joined NATO (the North Atlantic Treaty Organization) and became a member of the European Community, the opinion of all those who had worked so hard to bring this to fruition seemed to be confirmed.

In Spain, modernization and globalization have been considered a part of the dynamic process of our recent history. To the Spanish mentality, globalization does not automatically represent a danger. Although

social organizations, such as trade unions, and the rise of well known politicians started during the 1990s, there was no debate about the consequences of globalization, its challenges and its negative effects, the loss of jobs for instance. Globalization is perceived by the majority in Spain as more of a technological phenomenon than a social problem. The number of personal computers grows monthly and the connectivity of homes has increased to an incredible extent in the last few years. In my view, and taking into account that globalization also means an exchange of cultural influences, nobody in Spain seems to feel that we are losing our identity or that we are missing something in our lives. We are proud of our traditions but at the same time we do not forget that during the Franco era, only one political party was allowed – the Traditionalist Party – and that the name of tradition has often been used against the notion of democracy.

With regard to the influences of American culture on the 'Spanish way of life', in my opinion, the influence of computers or televisions as technological products that changes our lives is more important than the influence of the philosophical contents of American television series or websites, for example. In fact, we belong to the same cultural context and there is clear cultural interaction. Spain was present in America and America is present in Spain. For that reason I do not think that Spaniards support an anti-American position. I think we are anti-imperialistic. We do not like certain decisions taken by certain governments and in particular the vast majority of the Spanish population disagree with most of the decisions taken by the Bush Administration. On the contrary, President Clinton was very popular in Spain. In short, the majority of the people in my country might be against governments and the decisions of governments but not against other people or countries.

The Spanish language is not in danger either and neither does it represent a danger to other languages, despite the opinion of Huntington. Over 500 million people speak Spanish, many of them living in the United States. Here, the mutual influences between both English and Spanish are important, fruitful and inevitable. Spain is not on the edge of cultural disintegration. Spain is searching for new forms of cultural integration.

Through its membership of the European Union, Spain has attained high democratic standards and a reasonable level of prosperity. The increasing number of immigrants living in Spain – over two million nowadays, and it is said the country needs even more – indicates for us how important the growth of our economy has been in the last 25 years. But this new situation of reasonable prosperity cannot bring us to the conclusion that Spain has solved all its historical problems. On the contrary, some of them have reached alarming levels of tension in the last eight years, particularly in the last four under the absolute majority of the Partido Popular in the National Parliament. In my view, these political tensions together with the prepotency of the government are the main reasons for the defeat of the Partido Popular in the general elections on 14 March 2004. These tensions are firstly those between the central government and the Autonomous Communities, especially the Basque Country; secondly those that have arisen as a result of cuts in our nascent welfare state, which have caused a new form of social conflict, and thirdly those that have arisen once again over the role of religion and the church in our secular state.

On top of this, former Prime Minister Aznar's government put Spain in a very difficult position within the European Union, far removed from the decision-

making process of the European Constitution and furthermore, our traditionally good relationship with the United States of America has turned into a kind of submission, whose most important consequence has been that Spain found itself involved in a war that nobody wanted, losing by the stroke of Aznar's pen its traditional and well-known role of peace-maker in the international arena. Moreover, Aznar's government consciously used lies and manipulation as essential elements of the political debate, for example when they wanted Spaniards to believe the explanation about weapons of mass destruction for going to war in Iraq and also when they wanted Spaniards and the whole world to believe that the criminal organization ETA¹ was responsible for the terror attacks in Madrid on 11 March 2004. The government went so far on that terrible day, that many foreign and Spanish journalists were called by Spanish authorities to confirm ETA's responsibility, in spite of information to the contrary coming from the police and the secret services heading the investigation into Al-Qaeda and its commandos in Spain. In my opinion, these are reasons that better explain the outcome of the Spanish general elections on 14 March 2004. People voted against submission, confusion, lies and manipulation, they voted for freedom and not because of fear. Unfortunately Spain has been suffering from terrorism for almost 40 years. We are used to it, as hard as it sounds. So it is not fair or true to say it was fear that influenced their voting.

We hope the new socialist government under the leadership of Rodriguez Zapatero will be able to overcome the difficulties and cleavages that are creating tensions in our society today, to bring back transparency and dialogue to our political life, to return Spain to its traditional place in Europe and on the international scene, and to position

1. ETA: Euzkadi Ta Askatasuna (Basque Fatherland and Liberty)

Spain as an active participant in discussions about cooperation and development and peace and security in the world, and the future role of multilateral institutions such as the United Nations. In short, we want this new socialist government to make Spain a solitary country again, even the peace-maker it so recently was.

I would like to conclude by saying that with regard to Asia and our relationships with Asian countries, we are convinced that our new government is going to pay more attention to this increasingly important part of our foreign policy. Although the House of Asia, founded a few years ago in Barcelona, has developed interesting activities, Asia was never a priority on the

Spanish agenda, excluding perhaps our relationship with the Philippines. The former government worked out a project called the Asia-Pacific Programme, focusing much more on economic and financial aspects than on cultural exchange, but very little has been done from the institutional point of view. The new socialist government has already appointed a new special ambassador, the former director of the House of Asia, whose most important task will be to develop the Asia-Pacific Programme. We are sure our renewed interest in Asia and the efforts of our special ambassador will open a new phase for mutual understanding, so that Asian countries can find in Spain a reliable partner.

Cultural Difference, Citizenship and Global Cooperation

Thomas Meyer*

The Challenge of Today: The Politics of Cultural Identity

The 11 September attacks by Muslim fundamentalists on symbols of American world dominance in New York and Washington have massively revived the debate about the challenge of a world-wide clash of civilizations. The argument, as forwarded by Samuel Huntington, goes that we are facing an unavoidable clash between the civilizations of this world – particularly Islam and the West (Huntington 1996; Meyer 2001). As a crucial reason in support of this grim prospect, the hypothesis is offered that the different civilizations or cultures of today's world are unable to cross the barriers or fault-lines set by their divergent definitions of basic values for ways of living together.

This scenario of clashing civilizations – plausible in light of the atrocities that entire ethnic communities have inflicted on each

other in a crumbling Yugoslavia, or of the activities of Bin Laden's network of terror – seems to be gaining ground. It is becoming the paradigm for a new world-view, causing a stir world-wide in editorial offices and seminars, on planning boards and during political consulting sessions, and even in the minds of the powers-that-be who hope to gain politically from it.

Not surprisingly, many are beginning to act as though the model were valid; each party considers itself well advised to reckon with reality as described therein, and others for their part conduct themselves in line with the model's prognoses. In this way, the paradigm of fundamentalism threatens to spread beyond the boundaries of its true believers.

On closer scrutiny, Huntington's clash-of-civilizations scenario reveals all the classic features of those very enticing ideologies

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whose end it actually wishes to proclaim. Picking out some select facts from the world of real events according to its own needs, the theory binds these into a concluding statement on the occurrence as a whole, leaving aside what does not automatically fit into this deliberately evolved picture. Constructed in this form, the theory can be used to justify interests relating to power and supremacy, which a fair and impartial look at the world cannot defend with any degree of conviction. Huntington treats different civilizations as though they all consisted of nothing but fundamentalism.

However, fundamentalism everywhere is just one among various available options for understanding and practising a cultural tradition (Marty and Appleby 1993-1995). As an extreme form of the politicization of cultural differences, fundamentalism is neither confined to the civilization of the West, which produced the term, nor is it essentially characteristic of, or for that matter, reserved for, certain civilizations such as Islam, widespread views to the contrary notwithstanding. Neither is it merely a Western instrument of analysis for which examples may be found in other cultures, but which has simply been imposed on alien cultures through Western perspectives.

Contrarily, all cultures of today's world prove to be social discourse spaces which are intrinsically highly diverse and dynamic. In all of them, in varying measure, fundamentalism occurs; in none of them is fundamentalism the unchallenged expression of a culture's identity as a whole. Empirical comparison spanning all cultures shows that under certain conditions every culture generates currents of fundamentalism alongside the omnipresent modernizing and traditionalist ones. Despite the wide differences between cultural environments, the fundamentalist stream in its structural features and functions reveals the same characteristics

everywhere and caters to similar political and psychological needs in all cultures: the needs of certainty, identity and recognition of those who feel themselves excluded or threatened by superior forces or trends of development (Tibi 2000).

In each of these cultures, fundamentalism declares war on the two rival currents of modernism and traditionalism, unswervingly defending the goal of redeeming the real identity of the traditional culture from its sullied state and resurrecting it by taking over the reins of political power and achieving absolute supremacy, so that society is once and for all rid of the tortuous contradictions of modernization.

All brands of fundamentalism – be they Christian, Jewish, Islamist, Hindu or Buddhist – tend to establish a closed system of thinking that artificially excludes differences, doubts, alternatives and openness (Meyer 1989). Thus they aim at providing security, assurance of orientation, firm identity and absolute truth. Thereby they arrive at some self-manufactured certainty of their belief system immunized against doubt. Modern-day fundamentalism serves in its militant forms as legitimization for intellectual, religious and political claims to power and supremacy over those who differ.

The politicization of cultural differences constitutes a threat in foreign policy and a temptation in the domestic. In many cases, challenges on both fronts automatically extend into each other, as exemplified with classic clarity in South Asia where the same cultural differences between the two nuclear powers, India and Pakistan, dominate both external relations and domestic politics within the two societies, proving equally explosive in both cases once politicized with the intention of creating antagonisms. Nevertheless it is almost never cultural differences *per se*, but almost always their

political exploitation which often enough follows in the wake of economic conflicts.

Negative Globalization and Fundamentalism

Fundamentalism is reinforced and in some cases even created by a variety of factors that are closely connected to the process of globalization (Barber 1995; Castells 1997). In many cases it emerges and gains strength as a counter strategy to real or perceived threats to local cultural identities from the cultural and economic dominance of the great Western, particularly American-based players on the world market. Be it a counter-ideology in the described sense, or a convenient tool for mass mobilization in situations of socio-economic crisis and political alienation, in all cases fundamentalism is a political ideology of the twentieth century that recruits members based on their shared ethno-religious characteristics.

Combining elements of the late modern age in an ambiguously pragmatic manner with aspects drawn from the dogmatized stock of pre-modern traditions, fundamentalism seeks to attack not only illegitimate bids of foreign cultural domination but the very structures and consequences of the culture of the modern era – which do not find favour with it – all the more effectively using modern means and in a modern way. Fundamentalism projects itself as a political ideology which poses a – for the most part – religious and – less frequently – secular-ideological ethic as a politically absolute answer to the crises of modernization and globalization. It does not, however, in any of its many varieties, offer positive solutions to the crises of modernization and globalization to which it reacts – neither in social nor in economic or political terms.

Cultural Differences and the Common Ground for Democracy and Global Cooperation

Research data show that the cultures of this world are by no means distinguished from each other by sharp or even well demarcated differences in the validity of core fundamental values that are at the basis of ways of living together. It is indeed true that individual cultures are, to a limited degree, characterized by special regard for particular basic political values, such as individualism, equality and desire for more or less regulations of social life.

But at the same time, there is also a considerable overlap with regard to the full profile of relevant basic values between all present day cultures. The historical experiences of individual countries and the level of their socio-economic development on the whole obviously have a greater impact on their respective value profile than religious-cultural roots. Cultural differences do not serve as a barrier to similarities and overlaps in the value profile. Cultural commonalities, on the other hand, are no guarantee for similarities or overlaps in the value profile. To give just two examples: with respect to the political values of individualism, equality and avoidance of uncertainty, Portugal and Britain, belonging to the same civilization, find themselves at opposite ends of the scale, whereas Portugal and Turkey, belonging to very different cultural traditions, share the same value profile.

Thus empirical data do not validate the ideology of a clash of civilizations on the grounds of irreconcilable differences among their basic social and political values. Rather, overarching similarities and overlaps may be identified among all the cultures that were surveyed. The actual lines of conflict instead run within the civilizations.

This complies with the outcome of an attempt to arrive at a common understanding of the values of living together recently made by representatives of practically all relevant religions of today, as laid down in the 'Declaration on the World Ethos': the right of every individual to humane treatment, the principle of freedom from violence and respect for life, solidarity between people all over the world and advocacy of a just world economic order, tolerance for other religions, opinions and cultures, equal rights for all men and partnership based on equality between men and women. There is a common basis for understanding and coexistence in all of the world's civilizations.

Thus the basic values determined reveal some average data characteristic of the various cultural groups. Of greater significance, however, is the heterogeneity within cultures on the one hand and an extensive congruity in the value profile of countries belonging to very different cultures on the other. On the basis of this data, one may logically arrive at a number of cautious yet clear and well founded conclusions:

- The cultures of this world are by no means distinguished from each other by sharp or even well demarcated differences in the validity of core fundamental values.
- It is indeed true that individual cultures are characterized by special regard for one or two of the basic values, but at the same time there is also considerable overlapping with other basic values.
- Even where characteristic differences in some basic values may be ascertained between the cultures, these differences are comparatively limited in extent.
- Even where culture-specific emphases are observable in the average findings with regard to some basic values, the differences that emerge are still comparatively narrow in extent.

- Some of the countries with the most marked value profile differences belong to the same cultural groups, others with the largest degree of congruity belong to completely different cultures.
- The experiences of countries and the level of their socio-economic development on the whole obviously have a greater impact on their individual value profile than religious-cultural roots.
- Cultural differences do not serve as a barrier to similarities and overlaps in the value profile.
- Cultural commonalities, on the other hand, are no guarantee for similarities or overlaps in the value profile.

Thus the empirical data do not validate the ideology of a clash of civilizations on the grounds of irreconcilable differences among their basic social values. Rather, overarching similarities and overlaps may be identified among all the cultures that were surveyed. The lines of conflict instead run within civilizations. Thus the fundamentalist argument is refuted by the available empirical data. Fundamentalism is not, as is claimed by both the fundamentalists themselves and by Huntington, the purest expression of a cultural tradition but rather a particular way to make use of it in order to gain dominance among the various contenders of that tradition. It is, in that sense, a form of politicization of cultural difference that thwarts civic cooperation both within societies and globally.

Cultural Difference and Global Citizenship

Citizenship in a democratic polity requires that all citizens are ready and able to transcend the horizon of their cultural-religious identity in their role as citizens of that polity (Kymlicka 2000:35). They need to develop a certain sense of political identity as members of one and the same polity that is strong enough to pave the way

for a sufficient degree of solidarity and cooperation. Comparative studies in the political culture of stable and fragile democracies since the 1950s have demonstrated that in order to make a democracy sustainable, citizenship needs to be embedded in a shared political culture (Almond and Verba 1963). In order to sustain democracy, such a democratic political culture needs, according to Galston, to encompass such core elements as independence and openness, loyalty, respect of the rights of others, recognition of cultural difference, political judgement and readiness to engage in political activities (Galston 1991: 221 ff).

From the point of view of empirical research in democratic political culture some additional features are required: trust in fellow citizens, cognitive knowledge of the political systems citizens belong to and a sufficient degree of affective identification with it and with their own role as citizens, active tolerance, the competence to balance limited political conflict with basic democratic consensus, the capability of realizing a clear-cut difference between political conflict with fellow citizens and their recognition as human beings (Almond and Verba 1963); and, last but not least, a sufficient command of the language that is the medium of public life in their polity. Though all this is seldom the *status quo* in a given culturally diverse society, it needs to serve at least as the hallmark for the direction in which that society and its political culture is moving. If the opposite is the case, the gradual destabilization of that polity would become more probable than not.

It is obvious that there can be no place for outright fundamentalists in the framework of a democratic polity under the rule of

law. A prerequisite for the coexistence of different ethno-cultural or cultural religious identities is rather a process of 'de-fundamentalization' of those who are still inclining towards a fundamentalist identity. The very meaning of a democratic polity under the rule of law is to make only that minimum set of norms and rules binding for all that are necessary to guarantee the maximum of liberties for all individuals and groups to autonomously decide on their own ways of believing and living. Thus, all citizens are obligated to define and practise their own cultural identities within these frameworks of rights, norms and rules.

We have seen earlier that this is by no means in contradiction to divergent cultural identities. Due to the process of internal differentiation, each of the cultural traditions in the world today materializes its contents and claims at three clearly distinct levels:

1. The metaphysical level of believing, where the 'last' questions about the meaning of life and death are answered;
2. The level of individual or group ways of life, where the ethics, aesthetics and pragmatics of everyday life find sometimes temporary answers; and
3. The level of social and political basic values that establish ways of living together.

The ideal of citizenship and the shared orientations of political culture are entirely situated on level 3. There is, as the empirical evidence has shown, nothing in the core of any of the world's religions or cultures that would in principle stand in the way of convergence on level 3. Overlapping here creates and protects the space for as much divergence as any of the cultural traditions needs to take in order to define and live up to the standards of what it understands as its genuine identity.¹

1. For the idea and theory of overlapping consensus see Rawls 1993.

The potentiality of such convergence at level 3 is enshrined in all the different cultures, and in many societies it is actualized and working well. To accept it is, so to speak, the admittance ticket of any cultural identity to a democratic polity under the rule of law. It is a fact that the idea of democracy under the rule of law today finds broad-based and strong support within each of the great cultural traditions (Meyer 2002: ch.VIII; Merkel 2002). This does not come as a surprise as it became evident in the course of the twentieth century that as soon as unanimity in the interpretation of a shared tradition is lost there is no other peaceful and mutually acceptable way left to different currents and identities for living together but to seek refuge in democracy and the rule of law.

In order to help the overlapping consensus at level 3 to gain strength it is not only helpful but, under normal conditions, a necessity that different identity cultures do not encapsulate in parallel societies without civic and everyday life interaction with each other. A political culture that incorporates bridging social capital (Putnam 2000) and trust is built through civil society activities. It is a must for culturally diverse societies. Culturally, ethnically and communally overlapping organizations and initiatives in civil society are necessary to build this kind of social orientation. Such are the foundations that make transcultural dialogue the necessary basis for social and political cooperation both possible and meaningful within every multicultural society or within the multicultural world as a whole.

Dialogue, Recognition and Cooperation

Detailed sociological studies on Islamic fundamentalism in Iran and Protestant fundamentalism in the USA have clearly indicated that traditionalistic milieus, in particular, react to the danger of their own disintegration as a result of urban modernization, often caused by

globalization, by withdrawing into fundamentalist isolation. Fundamentalists in these two countries tend to seek refuge with like-minded compatriots for three reasons. They may fear that social recognition for their accustomed lifestyles will gradually diminish; they resent having their socially acquired identity devalued; or they may worry that their children will embrace more modern, open ways of life. The latter would of course pose a threat to their whole existence as a separate community.

The fundamentalist impulse can grow strongly especially where unexpected socio-cultural humiliation combines with the experience or threat of downward mobility and economic insecurity. Cultural-economic double crises of this sort offer the most fertile breeding grounds for the rapid growth of fundamentalist movements. Outstanding examples of this are German national socialism with the tremendous fascination it held for the masses against the backdrop of cultural collapse, break with tradition and economic crisis, and Islamic fundamentalism in Iran, which emerged out of modernization imposed from above, accompanied by official contempt and ridicule for traditional socio-cultural identities. Present-day Algeria demonstrates that there is a dramatic rise in the feeling that the future holds no prospects when the political leadership élites prove themselves to be corrupt and incapable of reform.

A fundamentalism with mass appeal works through powerful organizations, charismatic leaders, effective communication techniques and populist slogans, which combine a superficially plausible description of the situation with their political promises of salvation. The credibility of the offer is in many cases considerably enhanced by the fact that fundamentalist organizations offer practical help in the living environments of the groups being wooed.

Furthermore, all these examples show that fundamentalist leaders and their organizations often bide their time over a long period without any broad response until their hour strikes in a crisis. As Gilles Kepel has observed, it is no coincidence that fundamentalism has gained in influence and appeal world-wide since the mid-seventies (Kepel 1991). This period marks the point where the crisis in the cultural model of the modern age, particularly in its Marxist alternative, coincides with a manifest socio-economic stagnation and the experience of growing inequality as a result of globalization. Real experiences of crisis, unfulfilled promises of progress and near apocalyptic fears of being threatened have varying impacts in individual countries, although all of them have in some measure strengthened fundamentalism.

Depending on the groups affected and the situation that triggers the fundamentalist impulse, experiences of cultural humiliation or socio-economic fears could act as the rallying point at which cultural, social and economic crisis-experience combines with political alienation to generate fundamentalism. Even in this respect fundamentalism reveals many facets.

Thus, a purely cultural counter-strategy will hardly prove successful, as the above explanation for the growing strength of fundamentalism brings home to us. At the same time we need to fight the tangible causes of fundamentalism with credible policies, lest people be driven into its embrace.

In that sense, political fundamentalism and the terrorist strategies sometimes derived from it require a two-dimensional political context, one dimension being the triggers from outside – the perceived threats to the respective collective identity – and the other being the emergence of a wider milieu of relevant supporters. The first context is usually created by the perception of a

variety of threats, such as humiliation or threats to the self-esteem of the respective group's identity; the perception of refused recognition by the threatening other; or a massive destabilization of the socio-economic status of that collective in combination with a lack of confidence that the incumbent political leaders will be able or ready to redress the perceived degradation. As we can see from their discourses with respect to Islamic fundamentalism in the world of today, three experiences seem to be of crucial importance:

1. The Middle East Conflict and the way it is dealt with by the West, especially the USA;
2. The world-wide increase in the inequality of life chances; and
3. The hegemony of a tiny group of (non-Islamic) big powers, especially the superpower USA.

The second context, in our case the fundamentalist Islamic milieu, is construed, held together and energized by the shared perception of what happens in these three crucial fields of experience that are seen as the main source of identity threats. Presently it seems very much that the way the USA and some of its allies deal with both the terrorism that has been perpetrated against them and the three aforementioned identity issues fuels the fundamentalist milieu rather than discouraging them.

Our analysis of the experience of denied recognition as the main source of fundamentalist politics of identity suggests that any counter-strategy aimed at sustainable success must also contain a strong, visible and credible component of the politics of recognition, not, of course of terrorism and its underlying ideology, but of the wider cultural identity which it claims to represent and the legitimate social, political and economic interests of

the people who share it. Given the deep structure and the role of fundamentalism, neither the refutation of the ideological aspirations of fundamentalism, however cogent they may appear, nor successes in the military fight against terrorist activists, however sweeping they may seem at any given point of time, form a coherent counter-strategy. A credible and thus potentially successful strategy can only be a comprehensive politics of recognition. It needs to be three-pronged:

1. At the political level: multilateralism as a strategy of mutual recognition;
2. At the socio-cultural level: absence of any form of humiliation or non-recognition of the identity of the other;
3. At the socio-economic level: non-exclusion, giving all a fair share of the world's resources and life chances.

There need not and cannot be, of course, a great jump into a new world characterized by such ambitious hallmarks. A visible development in that direction, clear and non-ambivalent, would, however, seem to be the crucial starting point for a counter strategy to fundamentalism and terrorism that has the potentiality of long-term success. Fundamentalism shared by large socio-cultural milieus is a new threat to security in the globalized world of today that requires new ways to counter it.

Obviously it is in the first place social experiences and life-situations, and the proximity to cultural modernization determined by them that prove decisive in

defining the cultural ways of life of groups in terms of their affiliation to a great religious-cultural tradition. Included in these formative experiences are crises, ruptures and deprivations, as the case of fundamentalism reveals. However, social values regarding ways of living together that are shared by all the existent cultures create space for the coexistence of different cultural identities as ways of believing and living.

Today, however, against the actually given opportunities for mutual understanding, the risk is imminent that the politicization of cultures is becoming a self-sustaining process. Those who are pursuing it from within and those who are working on it from outside are playing into each other's hands, their explanations and prognoses corroborating each other deceptively, their energy being mutually reinforcing.

Like any society, the emerging global order requires some common values and norms of living together. Such basic commonalities exist in the heart of all cultures, although they are expressed in different languages, symbols and images. More often than not they are hardly obvious but need to be discovered and brought into the full light of day. It requires purposeful efforts to recognize, develop and bring those elements in the various cultures close to each other to facilitate understanding and common action, particularly since they almost always manifest themselves in diverse forms. This is the real challenge after 11 September.

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Asia-Europe Dialogue of Cultures – Conference Summary

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A two-day international conference entitled 'Bridging Tensions between Traditions and Modernization in the Era of Globalization' took place in Berlin from 23 to 24 March 2004.

It was the second Asia-Europe Dialogue of Cultures the Friedrich-Ebert-Stiftung (FES) Office for Regional Cooperation in Southeast Asia (Singapore) had organized since November 2002, when a similar group of concerned people met in Singapore.¹

For about 50 representatives of different institutions from Asian and European countries,² such as politicians, academics, representatives of international organizations and non-governmental organizations, the conference served as a platform for an open and constructive dialogue with two basic objectives:

1. to overcome cultural misunderstandings between the different civilizations in Asia and Europe and to deepen mutual understanding about problems and conflicts on both sides, their multiple cultural, political, socio-psychological, social and economic causes, as well as their anti-democratic, xenophobic, aggressive and violent expressions;
2. to try to define common ground which allows civilizations in the East and the

West to live together peacefully and at the same time enable them to remain 'different'; in other words, to think about how to avoid clashes within civilizations and clashes between civilizations on the basis of common values, such as democracy, pluralism, equality, trust and responsibility.

Terrorist attacks, such as the ones in Madrid and Bali, make it clear that Asians and Europeans have to fight side by side in the battle against international terrorism. National solutions alone are not effective. The classical measures of protecting the nation-state no longer provide cover against new, present-day risks. Furthermore, globalization processes have a deep impact on the economic, social and, increasingly, cultural fabric of societies world-wide.

The discussion started with a closer look at the relationship between tradition and modernity in Asia and in Europe. Jürgen Habermas, the German philosopher, once said that modernization is the first experiment in the history of mankind. As long as culture has existed there have been tensions between tradition and modernity. Or, as one participant said, 'Tensions between tradition and modernity are essential for development'. Questions which arose then were: Have these conflicts and tensions changed due to globalization?;

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1. Details regarding the first dialogue were published in *Dialogue + Cooperation* 1/2003, which can be found under <http://www.fesspore.org>
2. Participants came from India, Indonesia, Korea, Pakistan, the Philippines, Singapore, Thailand, Austria, Belgium, France, Germany, Great Britain, Spain and the Netherlands.

What do we mean by 'tradition'?; What do we understand by 'modernity'?

If tradition could be understood as heritage, than who determinates heritage? Many of the Asian participants found that it is the West who determinates the heritage of countries in the East.

There was the argument that modernity is never questioned, but always taken for granted: To be for change is good and it is a positive value, while to promote tradition needs to be justified. To be against change and for tradition always requires some sort of justification.

Modernity was defined in many different ways: as the free market economy, capitalism, Americanization, globalization, and as development in general. After the Franco regime, the people of Spain saw modernity as equal to democracy and human rights. It was agreed that modernity has many dimensions: economic, cultural, social and political. All these dimensions are characterized by different speeds of development and this could be one of the roots of the tensions. Modernity itself could not be sustained without tradition, but modernity is a prerequisite for development. Modernization is a condition and not a programme or a plan. Being able to make choices can be seen as one the main characteristics of modernity.

In this context, the relationship between religion and churches on one side and the state on the other came into discussion as a result of the perception that religion has something to do with tradition while the state is always connected with the idea of modernity. Contrary to this thesis, some participants saw religions as bridges to overcome the tensions between tradition and modernity, denying the general perception that Christianity is modern while Islam is traditional. World religions could be seen as positive agents of globalization.

From a European perspective, religions that have gone through a period of enlightenment are most likely to find it easier to cope with modernity.

Many of the Asian participants saw modernity as part of the struggle for independence, the struggle for nation-building, the struggle for development: modernity is equal to development. The colonial powers could only be overcome by using modern, Western tactics. Tradition therefore had to give a way to modernity in Asia. Modernity was adapted without asking what it would finally mean. There was the opinion that Asian countries adapt to modernity at a higher speed than European countries. Many leaders of developing countries in Asia thought that they could take a short cut to modernity by importing models from countries with completely different cultural and historical backgrounds – again without questioning the final cost.

Asia and Europe share similar problems with regard to tensions between tradition and modernity, but the dimensions are different. The European participants found the relationship between tradition and modernity in Europe far less controversial since the process of modernization took place at a much slower pace. The Nordic European countries are a good example of how tradition and modernity can exist together – many northern European states are simultaneously well established modern social democracies with monarchies and Protestantism as the state religion.

Dialogue is the only suitable way of resolving tensions and conflicts between tradition and modernity, but it is dialogue with a pre-condition: the social, political and economic participation of all parties concerned is essential. Without such all-embracing participation dialogue is useless.

The second part of the conference dealt with the impact of globalization. All participants agreed that globalization is a matter of fact. The question therefore is how to manage it or, as one participant put it, 'how to tame the beast'. Is globalization responsible for growing violence, for growing terror? Is the decline of traditional structures in our societies linked to globalization? Is globalization a new form of colonization? Who promotes globalization and who benefits from it?

Globalization was defined as the lifting of all types of borders. It removes all forms of existing boundaries and controls without the setting-up of new rules and regulations. The process of globalization was and is neither organized nor consistent. No doubt, certain groups benefit from it, but it would be far too simple to conclude that some nations or whole continents are winners while others are losing out. In every state in the world, parts of society benefit from it while others do not.

The fear of uncertainty among populations and the impact globalization has on ordinary people was discussed. The main problem seemed to be that changes are taking place too fast – much faster than in the past. Examples raised during the discussion were the dislocation of people, massive migration, the separation of people from their traditional environments, the growing income disparity within societies and the growing competition of national economies, and also the fear that industries are moving to other continents and unemployment is rising.

Why is the majority of people against globalization? One answer to that question is that there is a lack of openness and transparency in the process. Nevertheless,

there are also positive developments in globalization, such as much easier and faster access to information and the improved possibility of documentation.

Globalization should not be understood simply as economic globalization. There are also forms of political globalization as well as a socio-cultural globalization, which do proceed more slowly than economic globalization. These different speeds in globalization, as mentioned in the case of modernization, are reasons for tensions which have led to gaps or divides between social classes, between rich and poor countries and between ethnic groups. Many conflicts might be old, but they have to be newly defined in this era of globalization.

Discussing the actors in the globalization process, the United States of America and the Bretton Woods Institutions were named, as well as private sector multinational corporations that are only responsible to shareholders, not states and people. Globalization is largely shaped by the United States because it dominates the world economically, politically and militarily. Most participants considered it impossible to manage globalization against the interests of the United States.

A demand shared by all was that the world's population should be represented in a fairer and more equal way within both the United Nations and the Bretton Woods Institutions. A politics of recognition – accepting the equality of all cultures – is necessary to overcome the problem of exclusion and non-participation.

In this context, the increasingly positive impact of global civil society groups, such as the Association for the Taxation of Financial Transactions for the Aid of

Citizens (ATTAC),³ was mentioned, but also the problems inherent in such groups, such as the lack of internal democracy, transparency, accountability and the problem of external funding.

What is the role of the actor 'state' in globalization? Some participant saw the role of the state declining after 11 September, while others saw the strength of the state growing. No common position on how states should manage globalization was reached.

European states see themselves as under growing pressure from two opposite sides: globalization on the one side and the demand for more decentralization on the other.

In Asia, many states have assumed control of more or less all spheres of their citizens' lives. This was found to be necessary in the cause of nation- and identity-building. With regard to the European suggestion that regionalism provides one answer to globalization, the Asian participants replied that it is not easy to surrender sovereignty to multilateral institutions when states are still in the process of developing. Therefore, Asian participants demanded that tensions resulting from globalization have to be dealt with by each country in its own national context.

All participants agreed that states should be mediators and protectors of cultural diversity.

In relation to the impact of globalization on culture, four points were raised:

1. The dominance of commercialized American (and in parts of Asia also Chinese) culture;
2. Legitimated local cultural reforms and the revitalization of local culture;
3. The un-legitimate fundamentalist formulation of culture as a tool to gain power; and
4. The necessity of a global dialogue with all cultures as a basis for international cooperation.

Culture has to be understood as something fluid and constantly changing. Culture is also shaped by trade which is an important part of globalization.

Asian participants talked about growing cultural disintegration. Asia has borrowed too many instruments and cultural values from outside; it has to tap more from its own resources in order to reconcile with its people. A very important way to tackle globalization and indeed to live with it is through education.

In conclusion, optimism, openness and transparency are needed to tackle the negative aspects of modernization and globalization. Democracy is the decisive bridge between tradition and modernity.

Participants found that managing globalization and bridging tensions between tradition and modernity are possible – despite the fact that concrete plans are largely missing. The report of the World Commission on the Social Dimension of Globalization, entitled 'A Fair Globalization – Creating Opportunities for All',⁴ was seen as one right step forward.

3. ATTAC was founded in France in 1998, and now has over 80,000 members world-wide. It is an international network of independent national and local groups in 33 countries. It promotes the idea of an international tax on currency speculation (the Tobin Tax) and campaigns to outlaw tax havens, replace pension funds with state pensions, cancel Third World debt, reform or abolish the World Trade Organization (WTO) and, more generally, recapture the democratic space that has been lost to the financial world. (Quoted from <http://www.attac.org.uk>).

4. Geneva: International Labour Organization, 2004. See also <http://www.ilo.org/wcsdg>

The conference ended with a unanimous call for the continuation of the dialogue. Several participants suggested as a possible

topic for a fourth Asian-Europe Dialogue of Cultures 'The Concept of Justice in Asian and European Cultures'.