

**Vision of a Blueprint  
for  
ASEAN Democracy, Free and Fair  
Elections**



Submitted to

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by

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In order to consolidate the successful outcome of **ASEAN Summit meeting** in Cha-am, Hua Hin, Thailand on Feb 25<sup>th</sup> and 26<sup>th</sup>, 2009, the Asian Network for Free Elections (ANFREL) Foundation underscores the need for further cooperation and collaboration between ASEAN Secretariat, ASEAN governments and the respective civil society in developing democracies besides free and fair elections in the region among its country members.

There are vast number of diversities in the ASEAN region and these are not only social, culture and economic, but the striking diversity lies in the outstanding political setup in each of the member states.

In a system of participatory democracy election however seems to be a crucial mechanism for people in handing power to the politicians and political parties

Yet, with the vast number of un-educated people in the ASEAN region, in ANFRELS understanding there continuous to exist doubts on:

- Whether the voters realize the value of elections in a one man one vote scheme of things where a vote cast means a step towards the process of self-empowerment?
- Even if they know how to cast the vote, is there adequate information for the voters on the candidates to be voted for before the voting to make an informed decision and choice? In other words development of political consciousness.
- Does the voter have any freedom during the whole process to vote without fear and intimidation? This would mean examining the effectiveness of the law and order machinery, policing and security system for managing elections. It would also bring to question the role of the Election Commission especially in so far as conducting a free and fair election process is concerned.
- Are all the stakeholders aware of their respective role in such a vital political exercise which is oriented towards making the political class accountable?

What percentage of the masses are aware that the election is an important part of democracy which could change their lives and create a well being for all?

The Universal Declaration of Human Rights (Article 21) projects “the will of the people” as the determinant factor which gives authority to the governments. However, it is also necessary to remember that the preceding articles 18 (right to freedom of thought, conscience and religion), 19 (freedom of opinion and expression) and 20 (freedom of peaceful assembly and association) are also equally important in order to achieve the goal of Article 21.<sup>1</sup>

The International Covenant on Civil and Political Rights (1966) also has laid out the legal basis for the principles of democracy under international law, particularly:

- freedom of expression (Article 19);
- the right of peaceful assembly (Article 21);
- the right to freedom of association with others (Article 22);
- the right and opportunity to take part in the conduct of public affairs, directly or through freely chosen representatives (Article 25); and
- the right to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors (Article 25).<sup>2</sup>

These laws assumes great significance as the ASEAN’s governments too are aware of the international political standards and the United Nation’s Principles in democracy<sup>3</sup> as most of them are also members<sup>4</sup> of IPU an

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<sup>1</sup> Universal Declaration of Human Rights, Article 18, 19, 20 and 21. Read at <http://www.un.org/Overview/rights.html#a21> [accessed March 24, 2009].

<sup>2</sup> See Democracy and the United Nations at <http://www.un.org/events/democracyday/demoun.shtml> [accessed March 24, 2009].

<sup>3</sup> Inter Parliamentary Union has played a pioneering role in the development of a number of standards and guidelines pertaining to democracy, elections and the working methods of parliaments. Areas of work include:

- Free and Fair Elections
- Universal Declaration on Democracy
- Rights and duties of the opposition in parliament
- Framework for good practice of democracy by parliaments;

For details please see <http://www.ipu.org/dem-e/standards.htm> [accessed March 24, 2009].

international body which develops these standards. Therefore, the governments de-facto subscribe to the international principles and standards developed and adopted thereof by the body.<sup>5</sup>

There is a need to adhere to the IPU standards as this would help to act as benchmarks in any whatsoever process of democracy building, be it elections or functioning of parliaments. What could be taken note of is that the IPU in its resolution on “Promoting diversity and equal rights for all through universal democratic and electoral standards” has emphasized that, “...as long as the principle of democracy is enshrined in laws that ensure respect for universal standards of equality in political and electoral rights, it may be applied differently, according to the culture, history and constitution of each nation”. It is on this basis that it has urged the governments and parliaments to implement in earnest the international treaties they have ratified with respect to promoting diversity and universal equality and also to pursue their efforts to fulfill the objectives as set out in the Universal Declaration on Democracy, in particular:

- Ensure that there is a genuine partnership between men and women in the conduct of public affairs; Discriminatory practices that continue to exist against women’s participation in public life must be abolished and in its place equal representation and participation of both genders must be encouraged.
- Fully respect human rights, as defined in the relevant international conventions;
- Ensure that parliament is representative of all components of society; This could be treated as an important aspect of democratization wherein political parties need to be sensitized and involved in activities which are ideologically oriented towards social benefits.

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<sup>4</sup> For details of the membership of Inter Parliamentary Union please see <http://www.ipu.org/english/membshp.htm> [accessed March 24, 2009].

<sup>5</sup> Universal Declaration on Democracy, adopted by the IPU Council at its 161<sup>st</sup> session, Cairo, 16 September 1997, for full text see <http://www.ipu.org/cnl-e/161-dem.htm> [accessed March 24, 2009]; Declaration on Criteria for Free and Fair Elections, unanimously adopted by the IPU Council, at its 154<sup>th</sup> session, Paris, 26 March 1994, for full text see <http://www.ipu.org/cnl-e/154-free.htm> [accessed March 24, 2009]; Additionally also read Guy S. Goodwin-Gill, Free and Fair Elections, IPU, Geneva 2006 available at <http://www.ipu.org/PDF/publications/Free&Fair06-e.pdf> [accessed March 24, 2009].

- Provide parliament with the requisite means to express the will of the people by legislating and overseeing government action;
- Hold fair elections at regular intervals, on the basis of universal, equal and secret suffrage, thus enabling the people's will to be expressed;
- Ensure compliance with civil and political rights, such as the rights to vote and to be elected, the rights to freedom of expression and assembly, the right to have access to information and the right to organize political parties and carry out political activities;
- Regulate party activities, funding and ethics in an impartial manner;
- Regulate individual participation in democratic processes and public life impartially, in order to avoid any discrimination or the risk of intimidation by State and non-State actors;
- Ensure access by all to administrative and judicial remedies and guarantee respect for administrative and judicial decisions;
- Pledge to satisfy the economic and social needs of society's most disadvantaged, thus ensuring their full integration in the democratic process;
- Accommodate the participation of all people in order to safeguard diversity, pluralism and the right to be different in a climate of tolerance;
- Foster decentralized government and administration;<sup>6</sup>

*Leveling ASEAN' countries from the above factors and its political aspect, we can place them into 4 categories:*

1. *Progressive democratizing countries i.e. Philippines, Indonesia and Thailand*
2. *Dominant One-party rule countries i.e. Singapore, Malaysia, Brunei and Cambodia.*
3. *Socialist countries i.e. Vietnam and Laos.*

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<sup>6</sup> The resolution was adopted unanimously by the 116th Assembly (Nusa Dua, Bali, 4 May 2007) see full text at <http://www.ipu.org/conf-e/116/116-3.htm> [accessed March 24, 2009].

#### *4. Militarized state i.e. Burma/ Myanmar.*

**The ASEAN blueprint** is summarized from ANFRELs experiences and 10 years of observation of elections, electoral processes, standards in ASEAN region apart from the other Asian countries.

The Main Universal Legal Instruments for Elections are namely the:

- Article 21 of Universal Declaration of Human Rights (UDHR) and
- Article 25 International Covenant for Civil and Political Rights (ICCPR)

Currently Indonesia, Philippines, Thailand, Cambodia and Vietnam have ratified the ICCPR, while the others have not signed or ratified some or most of the International Bill of Rights. Other related rights<sup>7</sup> from the two legal instruments are scrutinized i.e. freedom of opinion, expression, association, movement and peaceful assembly, freedom from discrimination and the right to an effective legal remedy.

All ASEAN members should step further beyond its traditional rule and belief which the governments have no tolerance and hardly permit people to direct participating in politics. The system of check and balance is almost not possible for most countries and not many independent bodies are instituted.

#### **ANFREL's proposed ASEAN road map for free and fair elections**

The following message is aimed to promote democracy through direct vote and credible elections.

#### **Call for**

- All ASEAN nations to un-conditionally ratify the ICCPR and develop internationally acceptable mechanisms at national levels

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<sup>77</sup> UDHR: Article 2, 8, 13, 19, 20 and ICCPR: Article 2, 3, 12, 19, 21, 22

therein. A general awareness needs to be created for adaptability of international mechanisms in a national framework.

- To make people's participation more flexible and open in Vietnam and Laos so as to enable people to take part in government as direct voters or coopt themselves a political actors either as candidates or political party workers without any hindrance or restriction.
- All country to establish independent bodies to organize elections in a free, fair and transparent manner.
- Military and its subsidiary institutions to stay away from election domination and allow civilian rule to evolve freely. The electoral systems should not allow any military representatives to take seat in any of the houses of the parliament. All representatives must come from the electoral processes of free and fair election only. Reviewing undemocratic constitutions, laws and regulations.
- Proper population census and registration.
- Respecting secrecy and equality of eligible voters.
- All government officers and administration bodies to stay neutral and impartial during the elections.
- Require comprehensive and consistent voter education and civic education.
- Women participation at all political levels, where need be, set up quota for women, minorities or indigenous people.
- Right to vote for all people, including military personnel, prisoners and religious heads and monks.
- Equal opportunity in campaigning of all candidates and parties.

### **Eliminate**

- Some provision and acts that prevent people to exercise their rights accordingly i.e. International Security Act (ISA), State Emergency Act etc.

- Any provision in the constitution or otherwise the illegal power of the armed forces and provision for coup d' etat.
- Discrimination against women, disabled and elderly people in all electoral processes and participation.
- Electoral impunity

### **Electoral atmosphere free from**

- Violence and fear
- Vote buying and money politics.
- Underage voters
- Relative voters

### **Enforce**

- Law and regulations that provide for action, security and promote democracy

### **Remove**

- Undemocratic laws, regulations and practices which hinder progressive participation.

### **Promote**

- Freedom of expression, peaceful assembly, freedom of movement.
- Ability to access full information of all stakeholders in a balance manner.
- Freedom of media and reporters.
- Freedom of choice.
- High voter turnout in all areas.

### **Strengthening**

- Civil society to participate in democracy, check and balance.

### **Encourage**

- First time voters and female voters to vote for the candidate and party of their own choosing

### **Prevent**

- Children playing a direct role in conflict situation, political campaign and risky rallies.

### **Establish**

- Overseas voters or postal votes
- Complain mechanism and effective response for voters

### **Allow**

- Local observers in monitoring the electoral process comprehensively
- Accreditation of international observers to observe the elections unhindered.

The suggestions are specifically made keeping election or electoral democracy as the focus for strengthening the process of democratization in the ASEAN region. These suggestions hopefully can add to towards establishing structural mechanisms for promoting free and fair elections as a vital and significant component of democracy in ASEAN countries.

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