

Opinion: Lofty Asean Charter hangs in the balance

Monday, 14 January 2008 08:03AM

©New

Straits Times (Used by permission)

by Michael Vatikiotis

The Asean Charter set out to recalibrate Asean and make it more robust and active. Yet, instead of rushing to find ways to assert these norms, the charter remains just a piece of paper, its ratification in question, writes Michael Vatikiotis.

AFTER the fanfare with which Asean heralded the framing of its first charter at the end of last year, it looks like this year will be a year of disappointment for those who had hopes of a more robust and active role for the 40-year-old regional association. Not only does the new charter face ratification hurdles in a number of member states, it is also apparent that very little in the way of financial commitment has been made to prepare the Asean Secretariat in Jakarta for its new expanded role under the charter.

Unfortunately, this starts to look like another exercise in window dressing rather than substantial change, similar to the region's approach to creating a free trade area in the 1990s.

Asean leaders should show more commitment to a speedy implementation of the new charter, otherwise it would have been better not to raise expectations and simply reword the Treaty of Amity, which in itself is a fine expression of regional ideals. But the aim seemed to be to go beyond fine principles and create a body of rules for every member state to follow.

In case people have already forgotten, the new charter sets out to recalibrate Asean as a formal organisation, establish loftier principles to guide member states based on universal notions of democracy, freedom and human rights, and strengthen the institutional structure for implementing decisions and agreements.

Among other things, the charter provides for an Asean human rights body, twice-yearly summits, a more robust Asean Secretariat, including the appointment of permanent representatives from member states, as well as ambassadors sent by the association's dialogue partners.

Fine, but who will pay for the salaries and expenses of these new functions and posts? The secretariat is already woefully underfunded, with each of the 10 member states paying less than US\$1 million (RM3.26 million) annually. There has apparently been no move to increase mandatory funding, or any rush to create new positions called for under the charter.

Asean's new secretary-general Surin Pitsuwan from Thailand has already started work in Jakarta, but has no idea whether he has the funds to appoint staff for the new charter mandates.

Embarrassingly, Asean may now have to go cap in hand to donor countries like Japan and the United States to seek funding for its enhanced functions. Given the healthy states of some Asean economies, this isn't necessary.

The Singapore summit at which the charter was unveiled and blessed by all 10 leaders last November, highlighted the key political challenge facing Asean as an organisation, which is the continued reluctance to intervene in the domestic affairs of member states.

It is hard to imagine any of the charter's lofty principles ever being upheld if the wider interests of the region can be held hostage by the objection of a single member.

This is precisely what happened in Singapore when, over an opening dinner for heads of government, the prime minister of Myanmar objected to a briefing by the UN Secretary-General's Special Representative Ibrahim Gambari. Right there, as the charter was born, its fundamental weakness was exposed. There was no question of Myanmar being overruled by a majority, for the charter reaffirms as "a basic principle" decision-making by consultation and consensus.

As one head of government said at that fateful dinner: "One of our members is objecting."

That was all it took for Asean to step back from defending universal principles of democracy, freedom and human rights in a member state, as the Asean charter so stipulates in its Preamble, Purposes and Principles.

So what needs to be done to make the charter more meaningful? One immediate priority is to make sure that legislators don't allow the charter to become a domestic political football in the course of ratification. The process for all 10 countries to ratify the charter is set to take a year. But this is far too long and puts the Asean Secretariat in a bind since none of the new provisions can be implemented.

Singapore has taken the lead and already ratified the charter. But Philippine legislators have threatened to stall ratification unless the military junta in Myanmar takes genuine steps towards reform, such as freeing Aung San Suu Kyi.

In Jakarta, a feisty parliament could exploit ratification to gain more leverage over foreign policy, and therefore hold up the process. Myanmar is still in the process of designing an elected assembly, under the much criticised road map, and therefore cannot ratify the charter. Delayed ratification by some members makes it doubtful that the charter will be legally enforceable by the next Asean summit in Bangkok this year.

Next, there is the urgent issue of funding for the secretariat. Even with ratification, the essence of the new charter demands a stronger institutional base, logically centred on the Asean Secretariat in Jakarta. The problem for Asean is that while some member states can afford to underwrite regional diplomacy, others cannot. Rather than force equality where none exists, a quota system should be devised to ensure that those member states that can afford it, pay more -- similar to the UN system.

Finally, there needs to be more active determination to set up the human rights body mandated by the charter. There is already a working group and plans to have terms of reference for implementation of this key article of the charter by July. But left to government officials, there could be some foot-dragging since some of these same officials could be targets of investigation of human rights abuses.

It is vitally important to define an effective role for this human rights mechanism to prevent disappointment. It certainly isn't going to be able to enforce very much, since the best foundation for respect of human rights is from within a nation, not imposed from without. Perhaps the Asean Secretariat should initially tap into existing national human rights bodies within member states, establishing and strengthening a regional network that can then become institutionalised at the Asean level.

Here lies the heart of the problem. For in many ways, the Asean Charter sets standards far higher than what is achievable in many member states, where democracy is flawed or imperfectly developed, freedom is still constrained, and respect for human rights for many people a distant dream.

That's not to say the charter exercise is futile. The challenge is to find the best way to persuade governments to adhere to these lofty norms and principles. Some hoped to arm the charter with the threat of force or sanction. This approach has clearly been rejected as we saw in the case of Myanmar at the Singapore Summit.

A more creative way would be to follow the tradition of the United Nations, where it has become the role of the secretary-general, often using only the force of personal persuasion, to convince member states to adhere to the principles of the UN charter.

If the Asean Charter is to have any concrete impact on the behaviour of member states, then the Asean secretary-general needs empowering and his good offices endowed with more weight in the region. Doing so would also help boost Asean's capacity for peacemaking in a region still beset by protracted internal conflicts.

Yet, instead of rushing to find ways to assert these norms, the Asean Charter remains a piece of paper, its ratification in question by some member states, with no budget in sight for creating the new structures it calls for and therefore with little hope of its humane and liberating spirit being applied to a country like Myanmar anytime soon.

Michael Vatikiotis is Asia regional director for the Geneva-based Centre for Humanitarian Dialogue