



## REPORT

Of the 6<sup>th</sup> Workshop of the Inter-Parliamentary Forum on  
Security Sector Governance (IPF-SSG) in Southeast Asia  
in cooperation with DCAF and FES

### **Police Governance in Southeast Asia: What Role for Parliaments?**

29-30 May 2009

Shangri-La's Tanjung Aru  
Kota Kinabalu, Sabah  
Malaysia



## Summary

The Inter-Parliamentary Forum on Security Sector Governance (IPF-SSG) in Southeast Asia aims to promote ongoing dialogue between Southeast Asian parliamentarians, with the intention of increasing civilian oversight and national parliamentary involvement in security sector governance. Supported by the Friedrich Ebert Foundation (FES) and the Geneva Centre for Democratic Control of Armed Forces (DCAF), the Forum features dialogue, publications and workshops. Its work is guided by a steering committee consisting of members of parliament of the six participating states: Cambodia, Indonesia, Malaysia, Philippines, Singapore and Thailand. The Forum's sixth workshop, held on 29-30 May 2009 at Kota Kinabalu, Malaysia, was attended by members of parliament and their staff, government officials, representatives of security institutions and civil society as well as international experts.

The workshop addressed the issue of police governance in Southeast Asia as the key topic. For the purposes of the workshop, the term "police governance" was defined as referring to the direction, control and oversight of the police by all concerned stakeholders. Accordingly, good police governance is indispensable to ensure that the police conduct their work in a manner that respects the rule of law and human rights, and that they are accountable to the population that they serve.

The quality of police governance differs across the Southeast Asian region. Policing in those countries presented at the workshop – Cambodia, Indonesia, Malaysia, Philippines and Thailand – often falls short of meeting various key criteria of democratic policing. Key challenges to police governance in these countries include: 1) political interference in policing; 2) discrepancies between law and enforcement; 3) poor accountability mechanisms; and 4) structural weaknesses. Recommendations and entry points from the workshop for enhancing police governance include: 1) developing parliamentary capacity in this area; 2) to develop an index for democratic policing; 3) regular multi-stakeholder consultation on police matters; 4) capacity-building for police staff; 5) decentralisation of the police in terms of authority and budget allocation; 6) depoliticisation of the police; and 6) civilianisation of the police.

Besides the issue of police governance, the workshop also looked at the ongoing development of the ASEAN Political and Security Community (APSC) and its relevance for security sector governance and reform in Southeast Asia as well as the issue of managing international migration within Southeast Asia.

The participation of individuals from diverse backgrounds (including politicians, police officials, members of oversight bodies, and representatives from academia and civil society) throughout Asia and Europe –provided for stimulating discussions at the workshop. Creative dialogue methods, such as the 'talk-show style' and 'world café' format enhanced the interaction and participation, and received positive feedback from the participants. Most participants considered the key note speech by Dame Nuala O'Loan as the highlight of the workshop. Her input, based on her first-hand experience as former Police Ombudsman of Northern Ireland, gave the audience deep insights into the topics of police governance and oversight mechanisms.

## **What is police governance?**

The police are instruments of the state and play a significant role in society. Being a law enforcement body, they are endowed with particular powers, including the use of force, to enter premises, to stop and search, to arrest and detain as well to question suspects and witnesses. Because of these powers, concerns exist that police may use these powers for violence, repression and corruption. While the police services are the most visible manifestation of government authority in terms of public security, their conduct vis-à-vis the public can also be seen as a key indicator of the quality of democracy in a country. What should the police stand for, what should they do and in what manner? These are the key questions in police governance.

### **Democratic policing**

In a democratic system, the main tasks of the police are to maintain public peace, security, and law and order; to protect and respect the individuals' fundamental rights; to prevent and combat crime; and to provide assistance and services to the public. However, police services worldwide are held responsible for various human rights violations. Some may argue in favour of the police given the often dangerous and difficult circumstances under which the police operate, especially with regard to serious organised crime and counter-terrorism. Nevertheless, universal policing standards exist, which apply regardless of the context in which the police operate.

*Democratic policing requires that the police*

- operate within the rule of law at all times, this requires that their actions are based on legislation that is clear, precise and accessible to the public;
- ensure that effective public security is provided in a manner that respects individual liberties and human rights;
- are responsive to public needs and expectations;
- use the authority of the state to serve the interests of the people;
- are impartial;
- are provided with adequate infrastructure, resources and training from the state to carry out their tasks in a efficient and effective manner;
- adhere to a code of professional conduct;
- be accountable to the citizens, the state and the law;
- and their activities – ranging from individual conduct to strategies for police operations and to appointment procedures and budgeting – are open to scrutiny through internal and external oversight mechanisms

*Accountability mechanisms include:*

- police-internal audit processes,
- prosecution,
- human rights commissions,
- anti-corruption institutions,
- media
- non-governmental and civil society organisations
- parliament,
- police ombudsman institutions

There are no universally applicable best practices for police governance. The criteria above may only serve as guiding principles for democratic policing that need to be translated into the local context. Given the normative and contested nature of policing, it is important that the actions of the police reflect the meaning and legitimacy which the public vests in state authority. Being one of the most powerful weapons of the political executive, the police must be subject to oversight.

### **Example of an oversight body: The Police Ombudsman**

A deep insight into the work of a police ombudsman in Northern Ireland was given by Dame Nuala O'Loan in her keynote speech. Following a public application process she was appointed by the Queen to be police ombudsman for Northern Ireland from 2000-2007. In Northern Ireland, the police ombudsman represents an independent, impartial police complaints service and investigation system for the people and police. He/she is responsible for the investigation of complaints of misconduct and criminality by police officers. In order to carry out independent investigations, the police ombudsman is among other things, authorised to access police premises at all times and to seize police documentation and equipment as evidence. As a result of an investigation process, the police ombudsman may put forward evidence-based recommendations. The recommendations may result in prosecution, disciplinary action, training of individual police officers or even policy changes. By conducting independent research, analysing statistics and examining the outcomes of complaints, the police ombudsman can identify systemic failings, training and equipment needs and can therefore contribute to improving policing through her/his recommendations. The police ombudsman produces an annual report on the complaints he/she has dealt with. The report goes directly to the secretary of state for the Northern Ireland who then reports to parliament. Hence, though the secretary of state, the police ombudsman is also accountable to parliament.

Northern Ireland poses an interesting example of the importance of such an independent and impartial police oversight body. During decades of ethno-political and religious conflict, the police existed side by side with anti-terrorist policing. In her keynote speech, Dame Nuala O'Loan reflected upon one complaint case filed by relatives of a protestant man who was murdered by a catholic paramilitary group. During her investigation she experienced intimidation and her search for evidence was often obstructed by those under scrutiny. Eventually, she discovered that police officers have created false statements in this murder case. Upon receipt of her report on the police's wrongdoings, the then Secretary of State for Northern Ireland announced disciplinary consequences for those police involved in the fraud. Dame Nuala O'Loan's experience reveals that the pursuit for independent investigation is not without risks to one's personal security. However, the benefits seem to outweigh the costs; during her term, all except one the recommendations made by her were accepted and implemented. According to a survey conducted in 2006, 85% of the survey police officers believed they have been treated fairly by the police ombudsman.

## **What are the main challenges to police governance in Southeast Asia?**

In Southeast Asia, various countries demonstrate features of repressive policing and/or so-called 'regime police.' Case studies on Cambodia, Indonesia, Malaysia, Philippines and Thailand demonstrate that the quality of police governance differs across the Southeast Asian region. Presentations and discussions at the workshop suggest that policing in all these countries fall short of meeting various key criteria of democratic policing.

Police forces in across Southeast Asia have been accused of abuse power to various degrees. In Thailand, the police force is ranked one of the top agencies against which complaints have been filed with the Office of the Ombudsman. Similarly in Malaysia, roughly one quarter of all human rights related complaints received by the Human Rights Commission of Malaysia in 2008 related to the actions of the police. Here, the police are regularly accused of widespread offences including corruption, physical abuse of suspects and detainees, arbitrary use of force in handling public gathering of minorities, as well as human rights or opposition activists. The Malaysian police have also been criticised for the increasing number of deaths in custody. In Cambodia, the police are believed to be one of the most corrupt institutions. Instead of investigating cases of crime, police officers often broker deals outside the court in order to take commission. They do not only take but also pay bribes in exchange for promotion, and transfer to locations of their choice. The abuse of police power includes: demanding bribes; the use of excessive force to crack down upon demonstrations, deport asylum seekers, and to obtain forced confessions; and involvement in serious crime such as illegal logging, human trafficking and violent eviction for land deals. Studies in the Philippines show that police personnel are perceived to be often involved in criminal activities. All in all, police forces across these countries appear to be highly politicised, often corrupt, undermanned, poorly trained, and demoralised. As a result, public confidence in capacity of the police and other state law enforcement institutions to protect them is low. In countries, where the criminal justice system is weak and politicised, people tend to turn to mob justice, self-defence or private security firms.

In Southeast Asia, the democratic governance of the police is currently undermined by the following key factors: 1) political interference in policing, 2) discrepancy between law and reality, 3) poor accountability mechanisms, and 4) structural weaknesses within the police.

### **Political interference in policing**

The culture of patronage is deeply rooted at all levels of society in Southeast Asia and likewise pervades the way the police are governed. Following the rule of the patron-client relationship based on loyalty and mutual benefits, the police answer to the political executive and in return enjoy particular privileges. The political authorities use the police as a tool for their own interests by exercising vast control over the police service. Of particular importance is their power to appoint, transfer, promote police officers, especially police chiefs, and to carry out disciplinary actions. This practice is a distinctive feature of policing in Cambodia, and to a lesser extent in Malaysia, Indonesia, Thailand

and the Philippines. High ranking police officials are selected from the innermost circle of the ruling party. The entanglement between police and politics and nepotism is well illustrated by Cambodia's current police chief who is also member of the ruling party's standing committee and a close relative of the prime minister. Joining the governing party and showing loyalty to the prime minister are considered to be prerequisites for job security and promotion. Disloyal behaviour may result in discrimination within or exclusion from the police. As a consequence, the police have become highly demoralised and politicised. The culture of impunity, patronage and political interference as well as the resistance of the political executive to the establishment of independent watchdogs severely undermines the quality of leadership and management.

### **Discrepancy between law and reality**

The existence of a legal framework for the police is important in order to build a professional police service based on good governance. The case studies presented at the workshop, however, show that legislation on policing is not always sufficient. Cambodia for instance, has no specific law regulating the police. Instead policing is based on a governmental sub-decree and ministerial internal regulations. A draft of a police code is currently being reviewed, but it remains uncertain if and when it is going to be presented to and passed by parliament. As opposed to Cambodia, key principles of democratic policing are stipulated in the Thai constitution from which a police code for the Thai police force was derived. However, there is a huge gap between the existing laws and their implementation. On the other hand, the law fails to provide clear selection criteria for police chiefs in terms of procedure, duration of tenure, and reasons for removal. The Philippine Congress has drawn up legal frameworks to determine the principles and parameters to guide the police force. However, a lack of effective enforcement of laws was cited as a challenge to good governance of the Philippine National Police.

### **Poor accountability mechanisms**

Providing transparency in police operations is a prerequisite for gaining public trust and support. Police activities, ranging from the behaviour of individual police officers, to the strategies for police operations, appointment procedures and budget management, must therefore be open to scrutiny by various oversight mechanisms.

Cambodia does not have any system of external accountability. The draft anti-corruption law has been on the table for more than 10 years, and it is uncertain whether it will be enacted in the near future.

Malaysia has both internal disciplinary authorities (e.g. the Police Service Commission) and external oversight bodies (e.g. the Royal Commission on Human Rights, the Malaysian Anti-Corruption Commission). Yet, the in-house disciplinary body often covers up wrongdoing, and in common with its external counterparts, it lacks capacity to undertake its work. Currently, the Royal Human Rights Commission of Malaysia has the power to undertake an enquiry on human rights violations and make recommendations to the relevant agencies. However, in reality, the recommendations are mostly ignored and the commission is incapable of ensuring that the human rights violators are held accountable. Also, the annual report issued by the commission has never been discussed in parliament. Thus, accountability of the police to the parliament is non-existent. Early this year, a new bill on eliminating misconduct among enforcement officers was tabled in parliament. Should it gain parliament's approval, this bill will provide for the creation of an Enforcement Agency Integrity Commission which will serve as a complementary

external oversight body alongside the Royal Commission on Human Rights and the Malaysian Anti-Corruption Commission.

In Thailand, there are three institutions outside the parliament which play an important role: 1) the National Counter-Corruption Commission that plays an important role in reforming the police; 2) the Ombudsman which is a very strong institution with prosecuting power; 3) the National Human Rights Committee that also has strong investigative powers. These institutions could be utilised by parliament if it ever requests their services.

In the Philippines, police accountability is assured internally through the regulatory and disciplinary mandate of the National Police Commission and externally through the People's Law Enforcement Board. In addition, the Commission on Human Rights has the special mandate to look into complaints of abuse of police authority. All of these administrative bodies for police governance are important disciplinary institutions, but they suffer from a number of inadequacies. They are too dependent on personalised leadership, severely lack funds to carry out their work, and suffer from a shortage of human resources and expertise. The National Police Commission is criticised for its weak commitment to push for reforms in law enforcement.

### **Structural weaknesses**

The link between the police and the armed forces is still strong in Cambodia, Thailand, Philippines and Indonesia. Indeed, de-facto police personnel in these countries receive partial military training, have a military rank and adopt military culture. Many police officers were former soldiers and later transferred directly from the military to the police. Often, without proper training, these officers operate with a military attitude, which often leads to a lack of police professionalism and a shortage of knowledge of criminal laws and procedures.

Underpayment, poor equipment and a lack of professional training are reported in all country case studies. Underpaid, poorly equipped and insufficiently trained police forces are highly prone to bribery and unable to operate in line with the code of conduct. In the Philippines, 92% of the national police' annual budget goes to personnel services and salaries of police staff which leaves only a small percentage for training of the police and purchase of modern equipment. Studies in Malaysia suggest a close connection between abuse by the police and the limited competency of investigating police officers. In Cambodia, the establishment of the police academy and the training of the police by civil societal organisations is a positive development. However, their commitment to professional policing may quickly be halted by intimidation from corrupt colleagues and those in power.

## **Shaping the role of parliaments in police governance**

### **Parliamentary involvement in police governance:**

The parliament is only one of a number of actors involved in police governance and oversight. The role of parliament in police governance is disputed among academics and practitioners. It is widely acknowledged that the police needs a significant degree of independence from their political masters, particularly in operational matters. Hence, concerns about potential politicisation of policing by the parliament are legitimate. Yet,

there are a number of important roles that members of parliament can and must play in police governance. The most crucial functions are:

1. Legislative function: adopt legislation which establishes the framework for the work of the police and hence defines the mandate, powers and limitations of the police.
2. Budgetary function: evaluate and approve budget proposed by the executive; allocate sufficient budget to ensure professional education and training of the police.
3. Oversight function: make sure that the laws passed to regulate the police are upheld; question members of the executive responsible for the police; discuss policy aspects of the police budget.

### **Principal obstacles to parliamentary involvement in police governance:**

In various Southeast Asian states, in order to retain their position, elected members of parliament may be dependent on security forces, which constitute the most powerful forces in society. Parliaments in Southeast Asia have *de jure* the control of the purse, the right to conduct oversight and to check and balance the powers of the executive. However, in practice they are often powerless when it comes to exercising these powers. Among the major challenges to parliamentary oversight of the police are:

1. *party politics*: representatives of governing parties in parliament resist greater accountability and transparency of the police or military because they rely on the power of these institutions to protect their own interests.
2. *no regular meetings between police heads and members of parliament and subsequently lack of knowledge* among parliamentarians about the situation and problems in police services. An example is Cambodia, where the parliament shies away from meeting police as parliamentarians can only raise questions if they have evidence to present. Thus, a meeting is rather considered as confrontation rather than consultation or briefing. In the past 15 years, there has never been an inquiry by the parliament into the work of the police. The reason is that the parliament does not want to provoke conflict with the government.
3. *no discussion of reports produced by independent oversight bodies* in parliament: This is clearly the case in Malaysia where the annual report of the Human Rights Commission has never been subject to debate in parliamentary sessions. In Malaysia, there is no parliamentary committee structure where one committee deals with scrutinising the police. Members of parliament generally can and do ask questions pertaining to police governance; however, they lack adequate knowledge to serve as an effective watchdog. In Thailand, the political instability over the past few years has severely affected the work of the parliament more generally.
4. *the parliament does not initiate inquiries into police misconduct/police reform*: Many of the committee reports following investigations and inquiries failed to come up with anything substantial that could support legislation.
5. *approval of the budget for the police is only a formality*: There is no real scrutiny of the government's budget proposals.
6. *the lack of political will, dysfunctional parliament and excessive executive power* which hinders effective checks and balances. In various Southeast Asian countries, the parliament is considered only as strong as the government allows it to be.

## **Strengthening the police governance and the respective role of parliament:**

Drawing from cross-national discussions on strengthening police governance, the main recommendations that could be considered as entry points for police reform are:

1. *Building parliamentary capacity:*

It is widely acknowledged that parliamentarians need to be equipped with technical expertise and adequate knowledge of the legal context in order to better monitor and evaluate the quality of policing in their countries and make informed recommendations. Measures of capacity-building could include regular topic-specific briefings and exposure to civil society organisations working on police accountability. Capacity-building exercises should help to enhance the ability of parliamentarians to draft and amend police governance laws. The budgetary function of the parliament also needs to be improved; this should include an annual review of the budget. Furthermore, the oversight functions of parliaments could be enhanced; parliaments need to develop mechanisms of checks and balances on appointment and promotion and indices for performing oversight. However, capacity-building can only succeed if parliamentarians have the will to hold the government accountable and do not use policing to further party-political agendas. Ultimately, parliamentarians need the necessary authority, ability and attitude (“the magic AAA”).

2. *Indexation for democratic policing:*

Given the differences in culture and political systems across Southeast Asia, it is difficult to outline a common framework for democratic policing. However, there are minimum standards for police governance, which should be grounded upon universally agreed ethical and legal standards, including human rights (e.g. access to lawyer, safety in detention, no torture)

3. *Multi-stakeholder consultation:*

The stakeholders should include parliaments, civil society organisations, academia, police representatives, and independent watchdogs. Government should work with human rights-based civil society organisations and provide them with an opportunity for formal representation on critical issues and concerns affecting police governance and human rights. Special working group sessions in parliament could review fact-finding reports. Parliamentary research teams could liaise and network with civil society organisations. The police should view civil society organisations as a partner and provide some formal vehicle for feedback and dialogue. As the police should serve the interests of the community, it is desirable for the parliament to engage with civil society organisations when they draft or amend laws. An open and professional working relationship between the police and community groups and civil society, as well as with the army and intelligence services will contribute significantly to police accountability.

4. *Capacity-building for police*, such as education on new laws and training; training needs to be focussed on promoting respect for the rule of law and the principle of the minimum use of force; training should also incorporate teaching of democratic and ethical values, human rights, gender awareness and cultural sensitivity. Police organisations must be provided with adequate powers and proper funding, as well

as ample and regular training; this should help to ensure that that they are capable of immediate response to incidents, as well as of pro-active and reactive actions.

The following table contains possible entry points at the national level, as suggested by country-specific working groups during the workshop:

*Table 1: Entry points for police reform in Southeast Asia according to participants of the workshop*

<b>Country</b>	<b>How can parliamentary oversight be improved?</b>	<b>How can police governance be improved beyond parliamentary involvement?</b>
Cambodia	<ul style="list-style-type: none"> <li>- create laws that makes promotion and appointment within the police transparent and independent from party politics</li> <li>- pass the Police Code</li> <li>- regular and extraordinary meetings between parliament and police chiefs</li> <li>- dialogue should not only take place when the parliament wants to confront the police but also to allow for regular updates and exchanges of views</li> <li>- regular consultation with civil society organisations</li> </ul>	<ul style="list-style-type: none"> <li>- strengthen the political neutrality of the police: police must not be involved in political campaigns or in making financial contributions to any party</li> <li>- administrative reform: reform and strengthen the police disciplinary commission, reform the recruitment procedure and review staff policy</li> <li>- create codes of conduct</li> <li>- update training curriculum at police academies</li> <li>- move away from military policing to civilian policing</li> <li>- change the mindset of police officers from 'order-enforcement' to law enforcement</li> <li>- increase the salary of the police to reduce corruption and strengthen police discipline</li> </ul>
Indonesia	<ul style="list-style-type: none"> <li>- create an index for police oversight performance</li> <li>- be open to consultation with other stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>- police should be integrated into the ministry of interior and not be under the direct control of the president</li> <li>- create comprehensive oversight mechanisms at national, regional, local levels, as well as independent bodies</li> </ul>
Malaysia	<ul style="list-style-type: none"> <li>- during an upcoming session of parliament, to convene a meeting to discuss the minimum standards of policing based on the most recent report of the Human Rights Commission</li> <li>- push forward legislative reform with regards to specific areas which are currently curtailing the exercise of democracy such as the Police Act, the Emergency Ordinance and the Criminal Procedure Code</li> <li>- establish a specific permanent committee to review reports and inquiry findings pertaining to policing</li> <li>- create policy research task forces at parliamentary level to identify needs for new legislation</li> </ul>	<ul style="list-style-type: none"> <li>- promote political will to create a policy framework to push forward police reform and good governance</li> <li>- make additional resources available to the police to enhance capability and capacity among police personnel and to promote compliance with human rights law</li> <li>- identify and establish minimum standards for policing through multi-stakeholder consultation processes</li> <li>- improve the professional methods of investigation</li> <li>- enhance the professional standing of the police.</li> </ul>
Philippines	<ul style="list-style-type: none"> <li>- establish a system of checks and balances in appointing the chiefs of the police</li> </ul>	<ul style="list-style-type: none"> <li>- improve the internal appointments and promotion system of the police through a</li> </ul>

	<ul style="list-style-type: none"> <li>- address gaps in existing laws, e.g. the Penal Code; clarify the ambiguity in police authority in the existing legislation;</li> <li>- strengthen human rights protection: give more investigating powers to the human rights commission</li> <li>- strengthen the parliament's budgetary function, in order to check the sufficiency and efficiency of resources; and to review how the previous year's budget was spent</li> <li>- scrutinise the police force's problems and challenges and push for needed reforms</li> </ul>	better system of checks and balances
Thailand	<ul style="list-style-type: none"> <li>- the relevant committee in parliament should become more active</li> <li>- increase the authority of this committee: enable the committee to hold hearings and undertake investigations</li> <li>- parliament should cooperate more closely with CSOs</li> <li>- use the three independent institutions for the oversight of police governance more effectively</li> <li>- hold consultations with civil society organisation and media</li> </ul>	<ul style="list-style-type: none"> <li>-</li> <li>- increase authority of independent control bodies such as the anti-corruption ombudsman</li> <li>- decentralise the police force</li> <li>- depoliticise the police force</li> <li>- civilianise the police and law enforcement officers</li> </ul>

## **ASEAN Political and Security Community:**

The new Charter of the Association of Southeast Asian Nations (ASEAN) entered into force in December 2008, following the submission of the instruments of ratification by the final member state, the government of Indonesia. The Charter formalises the establishment of an ASEAN Community – an objective whose origins can be traced to the ASEAN Vision 2020 which projected the eventual evolution of ASEAN into a “community of caring societies.” Enshrined in the concept of an ASEAN Community are three pillars: an ASEAN Economic Community, an ASEAN Socio-Cultural Community, and an ASEAN Political-Security Community. Of these three, the last has received the most attention both within and outside of ASEAN as it has generated debates over what its establishment would mean for the Association as a whole, and for its individual members. As an Association which has exercised a significant amount of influence over the security discourse and processes of security management in the Asia Pacific region, the establishment of an ASEAN Political-Security Community (APSC) would inevitably have implications for the security of the region and the mechanisms that sustain it. This comes at a time when the very concept of what constitutes security is under debate – a debate that also brings into the open the question of the nature and role of those actors responsible for the security of a state.

This workshop session discussed the importance of the APSC for regional security, and its relevance for security sector governance and reform in Southeast Asia. In particular, the following questions were addressed:

1. What has been achieved to date? What is the way ahead? (with special emphasis on the APSC Blueprint)

2. To what extent does the APSC include a security sector governance agenda? Are there "entry points" for the development of a regional approach to security sector reform?
3. What role for parliaments in the development of the APSC, particularly related to the inclusion of security sector governance/reform concerns?

ASEAN's long-standing experience of cooperation has proved that the threat of the use of and the actual use of force is not a primary option. The ASEAN Charter provides, among others, for principles of democracy, the rule of law, good governance and respect for and protection of human rights and fundamental freedom. The APSC can be seen as part of the ASEAN states' search for increased levels of institutionalised cooperation. The APSC Blueprint, approved by ASEAN in February 2009, includes the following main provisions:

1. creation of a rules-based community of shared norms and values:
  - to strengthen democracy
  - to enhance good governance and rule of law
2. commitment to shared-responsibility for comprehensive security:
  - to promote peace and stability in the region
  - to contribute to conflict resolution and pacific settlement of disputes
3. Post-conflict peace-building
4. Non-traditional security issues

Entry points for the furthering of a security sector governance agenda can be found in the APSC Blueprint. However, it is easier to develop an approach to security sector reform at the national level and then promote it in cooperation with those countries committed at the regional level. A region-wide common approach is difficult to achieve at this moment. Parliamentarians can contribute to the development of the APSC through greater involvement in ASEAN. They can achieve so through the strengthening of inter-parliamentary groups and fora, improving knowledge and capacity to engage with ASEAN, conducting parliamentary hearings on ASEAN, identifying what kinds of legislation are needed to align national aspirations with ASEAN.

## **Managing Migration in Southeast Asia**

While the effects of the current global financial crisis are still unfolding, it is becoming increasingly clear that there will be a substantial impact on migration flows in Southeast Asia and the wider Asian region. Destination countries worldwide are increasingly revising their migration policies in response to the economic crisis, and in Southeast Asia, Thailand and Malaysia have already restricted migrant entry and permit renewals in order to reduce the number of migrant workers. Some origin countries, notably the Philippines, are already taking measures to deal with increased numbers of returned migrant workers.

At the same time, we have to keep in mind, that the transnational character of migration means that no state can effectively manage its migration policy without cooperation at a bilateral or multilateral level. There are a number of bilateral agreements on migration between ASEAN member states, and ASEAN has added migration and related issues such as human trafficking to its agenda for regional cooperation in the expanding non-traditional security area. This clearly shows that migration has become a key feature of domestic and regional politics in Southeast Asia and, therefore, should be an area of

parliamentary scrutiny. The workshop session on “Managing Migration in Southeast Asia” was aimed at discussing the following questions:

- 1) What are the key issues and challenges of managing international migration in Southeast Asia?
- 2) How can international migration be better managed by destination and origin countries in line with international law and good practice?
- 3) What role can parliament and civil society play in shaping these policies on the national and regional level?
- 4) How can enhanced police governance contribute to better management of migration?

### **Key issues and challenges**

Migration within Southeast Asia is mainly driven by the existing gaps in terms of economic development and political freedom between the countries. The major sending countries in the region are the Philippines and Indonesia and Burma whose citizens mainly head to the neighbouring countries such as Singapore and Malaysia or Thailand. Immigrants can take various forms such as low- and high-skilled migrant workers, asylum seekers or even refugees from areas affected by natural catastrophes. From the point of view of the sending countries, the money earned by migrant workers and remitted back to the home country is a significant source of income. The receiving countries on the other hand have been benefiting greatly from the migrant workers’ contribution to their industrial expansion.

Despite their importance to the economic wellbeing, many migrants do not receive adequate social recognition and legal protection. Most migrants in this region are part of a bigger migration industry which often operates on the fringes of the law. Consequently, migration is increasingly associated with the issue of human trafficking, national criminality and trans-national security. The high number of undocumented or illegal migrants is a striking phenomenon. In Malaysia, for example, fifty percent of the estimated 500,000 Burmese migrant workers do not possess valid documents. Undocumented migrants are vulnerable to abuse by traffickers, agencies, employers or state authorities and have very limited recourse to legal action in order to challenge abuses. At the same time, migrants are very often perceived as a security threat and therefore discriminated against by the citizens in the receiving country. Actions by the authorities in the receiving country vis-à-vis migrants often take the form of restricting, constraining, restraining, and discriminating against migrants rather than protecting and managing them. As the migration business is lucrative, authorities in countries with widespread corruption have little interest in changing the situation. The capture of illegal migrants and their detention in camps could result in deportation followed by return through trafficking and a return to their illegal status. The numerous actors involved in this circle include traffickers, paramilitary forces, police and immigration authorities. Those who are in possession of legal documents when they arrive are often entirely dependent upon their employers who confiscate migrants’ documents to prevent them from escaping, or simply to control them.

As migration is considered to touch the question of sovereignty, states tend to shy away from an open bi- or multi-lateral discourse on this issue. The absence of coherent policies, henceforth, poses a major challenge to the management of migration in Southeast Asia.

## **Better management of migration**

As migration continues to rise, there is a strong need for more coordinated inter-state and multi-stakeholder attempts to address the issue of migration in order to overcome the challenges confronting both the sending and receiving countries. Managing migration today requires the need to shift from the enforcement of law and order to rights-based approaches.

There is an urgent need of information on migration. The lack of data has obstructed the efforts to manage migration properly. Here, the role of the civil society organisations is of importance as they can obtain direct access to the migrant community. Media can also contribute by increasing the awareness of the people, for example by advertising the plight of migrants. Both sending and receiving countries should be more committed to put an end to the rent-seeking mechanisms related to migration. Policymakers need to be compelled to talk openly at the regional level in order to break the migration chain. Governments should ratify all international conventions for the protection of migrant workers. Memoranda of understanding should be signed between sending and receiving countries to protect migrants and monitor migration processes. As an effort to enhance the protection of emigrants, Indonesia has established the so-called ‘citizen services’ or the labour attachés in their embassies in destination countries. This motivating initiative is facing a number of constraints as there is a huge imbalance between the number of migrants and the embassies’ capacity to uphold an effective monitoring system. No mechanism has been developed so far to protect undocumented migrants.

Parliaments in major sending and receiving countries can also contribute to better management of migration. At the regional level, parliamentarians should visit other countries where problems related to migrants from their countries occur and engage in inter-parliamentary dialogues with their fellow parliamentarians from other countries. Engagement with governments of countries concerned, as well as multilateral institutions such as the UN in various forums could also be a good channel for lobby work. At the national level parliamentarians may follow the example of the Philippine Congress in setting up a special committee for overseas workers which discusses laws such as anti-trafficking laws and other necessary laws that provide for the protection of migrants.

Given the current challenges, there should be a reform of the national framework on migration management in receiving countries. The reform process should be based on consultation with migrants and civil society. Ultimately, there must be a political will to change. This requires a change of mindset which does not perceive migrants as a threat to jobs or law and order, but as contributors to the wellbeing of both the economy of the sending as well as the receiving country.

## **The way ahead for IPF-SSG**

Given participants’ high level of interest in the main topic of the workshop and their wish to expand the exchange of knowledge and experience of the different countries, it was agreed to further explore the issue of police governance at the next IPF-SSG workshop by looking at various approaches to police reform in Southeast Asia and the role of the parliament therein. A second theme to be addressed at the 7<sup>th</sup> workshop is the role of private security actors in security sector governance in Southeast Asia. The next workshop is scheduled to take place on 13-14 November in the Philippines.