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Lili Yulyadi Arnakim, Moch Faisal Karim, Tirta N. Mursitama

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Aim and Scope

The Journal of ASEAN Studies (JAS) is an International peer-reviewed bi-annual journal that enriches understanding of the past, current, and future issues relevant to ASEAN and its circle of issues. The article shall address any research on theoretical and empirical questions about ASEAN. The Topics addressed within the journal include: diplomacy, political economy, trade, national development, security, geopolitics, social change, transnational movement, environment, law, business and industry, and other various related sub-fields.

Journal of ASEAN Studies expects the articles encourage debate, controversy, new understanding, solid theory, and reflection on ASEAN. The articles sent should have a sharp analysis and rigorous methodologies quantitative or qualitative as well as written in an engaging and analytical style. The JAS does publish original research, reviewing research, book review, opinion pieces of current affairs. However, JAS does not publish journalistic or investigative style of article. The JAS would not be responsible for any implied or written statements of articles published. Each author would be responsible for their own writing.

Journal of ASEAN Studies is an international multidisciplinary journal, covering various fields of research on ASEAN either as community, organization, process, and web of cooperation.

Journal of ASEAN Studies publishes the following types of manuscripts:

- **Scholarly articles:** The manuscripts should be approximately 5,000-8,000 words. The manuscripts must contain a review of the current state of knowledge on the research question(s) of interest, then share new information or new ideas that will impact the state of theory and/or practice in area of ASEAN Studies.
- **Review Article:** The manuscripts should be approximately 1,500-3,500. The manuscripts must contain the current state of understanding on a particular topic about ASEAN by analysing and discussing research previously published by others
- **Practice notes:** These are shorter manuscripts approximately 1,500-3,500 words that are of specific interest to practitioners. These manuscripts must present new development for the ASEAN.
- **Research notes:** Similar to practice notes, these are shorter manuscripts approximately 1,500-3,500 words that have specific implications for ASEAN. The manuscripts should employ rigorous methodology either qualitative or quantitative.
- **Book Review:** The manuscripts should be approximately 1,500-4,000. The manuscripts must contain a critical evaluation of book by making argument and commentary on the particular book discussed.

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Centre for Business and Diplomatic Studies (CBDS) is established as part of the International Relations Department, Bina Nusantara (BINUS) University. Our aims are to undertake and promote research and deliberation on diplomacy, business, international relations and developmental issues particularly in Indonesia, Southeast Asia and Asia Pacific.

We also commit to build, connect and share research and others kinds of knowledge generating activities for the betterment of life of the people and earth. Our immediate constituency is International Relations Department, BINUS University and the larger constituency is the broader academic community of the BINUS University and other universities and institutions both national and international as well as policy community.

CBDS publishes scholarly journal, working papers, commentaries and provides training and consultancies services in the areas of diplomatic training, negotiations, commercial diplomacy, conflict resolutions for business, business and government relations, promoting competitive local government in attracting foreign investment, and understanding impact of regional economic integration on development specifically toward ASEAN Community 2015.

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EDITORIAL

Revisiting ASEAN Legislation and Its Impact on Regional Governance

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Introduction

The founding Members of ASEAN signed The Treaty of Amity and Cooperation in Southeast Asia (TAC) in 1976 during the first ASEAN Summit Meeting in Bali. The Treaty contained some fundamental principles that reflect the peaceful coexistence and friendly cooperation among states in the region of Southeast Asia and beyond (Medina, 2020). Article 2 of the Treaty, for example, mentioned that all parties to the Treaty are guided by:

“...a. Mutual respect for the independence, sovereignty, equality, territorial integrity and national identity of all nations; b. The right of every State to lead its national existence free from external interference, subversion or coercion; c. Non-interference in the internal affairs of one another; d. Settlement of differences or disputes by peaceful means; e. Renunciation of the threat or use of force; f. Effective cooperation among themselves” (Secretary of State for Foreign and Commonwealth Affairs, 2012).

The Treaty further stated that conflicting parties shall refrain from using force when disputes arise and resort to friendly negotiations instead. Dispute settlement should be performed through mediation, inquiry or conciliation in order to prevent the dispute from worsening (Secretary of State for Foreign and Commonwealth Affairs, 2012). Despite its growing signatories, many argued that the TAC has been nothing but symbolic, as the region has not experienced any severe incident or dispute that could challenge its regional peace. In fact, ASEAN member states in the past had brought their disputes to the International Court of

Justice (ICJ) to reach a settlement (Yamakage, 2017). Furthermore, TAC was only seen suitable for political and security disputes (Naldi, 2014).

Meanwhile, the Vientiane Protocol on Enhanced Dispute Settlement Procedure 2004 or known as Enhanced Dispute Settlement Mechanism (ESDM), exists to settle disputes related to economic and trade agreements between member states. ESDM was strengthened as members of ASEAN embarked on deepening their economic integration under the ASEAN Economic Community (Naldi, 2014). ASEAN Member States may opt to request the Senior Economic Officials Meeting (SEOM), which acts as a panel to examine or assess a specific matter and then develop a binding report containing findings and recommendations. Nonetheless, this body has been proven ineffective and weak. The member states are still firmly upholding the ASEAN Way for protecting national sovereignty, the norms of non-criticism and non-interference that comes first before everything else. The nature of this mechanism is also optional or voluntary (Shah, 2017).

Since its establishment, ASEAN has adhered to the so-called “ASEAN way” to solve any differences between the member states, including those related to trade. Basic aspects of the ASEAN way includes: “Firstly, a desire to not lose face in public or to make other members lose face. Secondly, a preference for consensus rather than confrontation. Thirdly, a rejection of the notion without consent in the internal affairs of other states” (Koesrianti, 2016). Eventually, these principles of the ASEAN Way were included in the ASEAN Charter that ASEAN leaders adopted at the 13th ASEAN Summit in Singapore in November 2007. Article 20 of the ASEAN Charter states: “Decision-making shall be based on consultation and consensus. Where consensus cannot be achieved, the ASEAN Summit may decide how a specific decision can be made. In the case of a serious breach of the Charter or non-compliance, the matter shall be referred to the ASEAN Summit for decision” (ASEAN Charter, 2007). This shows that decisions shall be made based on consensus among member states, and any breach of the Charter shall be brought to the ASEAN Summit for settlement.

Dispute settlement shall be solved through the use of peaceful means such as dialogue, consultation and negotiation. As Article 22 mentions: “Member states shall endeavour to resolve peacefully all disputed in a timely manner through dialogue, consultation and negotiation” (ASEAN Charter, 2007). Furthermore, conflicting parties may refer to the Chairman or the Secretary-General of ASEAN to help resolve the conflict by providing them good offices, conciliation or mediation. As Article 23 states: “Parties to dispute may request the Chairman of ASEAN or the Secretary-General of ASEAN, acting in an ex-officio capacity, to provide good offices, conciliation or mediation.” (ASEAN Charter, 2007). Hence, it can be said that ASEAN Summit becomes a dispute settlement organ besides being the highest policy-making body of ASEAN.

As the region enters the era of digitalization, the internet has become widely accessible, and the number of social media users are increasing each day. This development has a price to pay, particularly the rise of fake news. Fake news or hoax is not only detrimental to society’s cohesiveness, but it may also destabilize the government. The ASEAN Ministers Responsible for Information (AMRI) held a roundtable discussion on 9 September 2017 to specifically

talk about the proliferation of fake news in the region. The Ministers agreed that there is a need for a multi-sectoral approach involving private sectors, media companies, and educational sectors to help combatting this problem (ASEAN, 2017). A year later, ASEAN adopted a Framework and Joint Declaration to Minimise the Harmful Effects of Fake News to promote cybersecurity awareness and better counter the spread of fake online information (ERIA, 2021).

In the Framework, the Leaders agreed that the member states shall take notice of several key points: Firstly, there is a need to improve digital literacy. Secondly, strengthen national capacity to detect and respond to fake news. Thirdly, encourage stakeholders to build on the existing anti-fake news norms and guides. Lastly, share best practices and experience among member states as being discussed by Smith, Perry, and Smith in this volume. All of these have to be carried out by observing national sovereignty.

The spread of fake news became more alarming during the Covid-19 outbreak. Southeast Asian countries have been challenged with press freedom and more rigid censorship (Mursitama, Karim, and Arnakim, 2021). The limited information from the government had urged the people to seek information from the media (both conventional and non-conventional) and civil society (Lee and Natalegawa, 2021). Many governments feel that the spread of fake news in the media is threatening public order, and thus they have to take down and limit the availability of information (Chairil, 2021).

ASEAN cooperation in the field of environment is envisioned in the ASCC Blueprint 2025 and further outlined in the ASEAN Strategic Plan on Environment (ASPEN). One of the key result areas is the “Conservation and Sustainable Management of Biodiversity and Natural Resources”. The organs to monitor the implementation of ASEAN cooperation on the environment include the ASEAN Ministerial Meeting on the Environment (AMME), ASEAN Senior Officials on the Environment (ASOEN), which are supported by several working groups (ASEAN, 2017b).

The haze problem in Southeast Asia has been in place for years, with the worst case occurring in 1997 and more recently in 2015. The origin of this toxic smog is Indonesia’s forests located mainly in Sumatra and Kalimantan. Illegal land clearing for palm plantations is common in Indonesia. This is no surprise as the country reigns as the world’s biggest palm oil producer (Index Mundi, as cited in Indonesia Investments, 2016). The huge forest fires have produced hazardous air pollutants that cross the national border, reaching Singapore and Malaysia almost yearly. Malaysia and Singapore reported the haze issue as one of the main external challenges to their national security (Guan, 2016; Er, 2016).

Following the transboundary haze problem, ASEAN formed an Agreement on Transboundary Haze Pollution (THP), containing areas of regional cooperation in “monitoring and assessment, prevention, preparedness, national and joint emergency response, procedures for deployment of people, materials and equipment across borders, and technical cooperation and scientific research” (ASEAN, 2015b). All of these have been further reiterated in a roadmap on regional cooperation to tackle the transboundary haze problem in Southeast Asia adopted by member

states of ASEAN to achieve a “haze-free region by 2020” (Hamdan, 2016). Some of the key strategies under the Roadmap include:

“1. Implementation of the ASEAN Agreement on Transboundary Haze Pollution (AATHP); 2. Sustainable Management of Peatlands for Peatland Fires Prevention.; 3. Sustainable Management of Agricultural Land and Forest for Large Scale Forest and/or Land Fires Prevention; 4 Strengthening Policies, Laws, Regulations, and their Implementations Including to Facilitate Exchange of Experience and Relevant Information among Enforcement Authorities of the Parties in Accordance with the AATHP Article 16 (f); 5. Enhancing Cooperation, Exchange of Information and Technology, and Strengthening of Capacity of Institutions at All Levels; 6. Enhancing Public Awareness and Cross-Sectoral and Stakeholders Participation; 7. Securing Adequate Resources from Multi-Stakeholders for Transboundary Haze Prevention; 8. Reducing Health and Environmental Risks and Protection of Global Environment.” (ASEAN, 2017b).

The ASEAN Way, which famously upholds the principle of state sovereignty and non-interference, has been accused of the ineffectiveness of regional cooperation on transboundary environmental issues (Dorman and Olsen, 2019). For instance, in 2016, Singapore requested six Indonesian companies to provide information related to the forest fires on their lands as the country acts in conformation with their national law on Transboundary Haze and Pollution Act 2014. Only a few answered the summons. Commenting on the failure of these companies to turn up for investigation, Indonesia’s Environment and Forestry Minister argued that Singapore has intervened in Indonesia’s domestic problem and that it hurt the state’s sovereignty (Channel News Asia, 2016a; Lian, 2016). As long as there is no legal basis and enforcement procedure for regional agreements, a country would always be able to defend itself under the principle of sovereignty and non-intervention.

As Indonesia has been considered the most frequent original country that causes the transboundary haze in Southeast Asia and a more reluctant country to deal with regional agreements, Indonesia needs to have more initiatives. As such, Indonesia, under SBY’s presidency, helped the country boost its prominence on the international stage, especially in the realm of democracy and human rights (Karim, 2020). SBY adopted his “million friends and zero enemies” foreign policy outlook and acted accordingly by freely exercising policies in all directions (Piccone & Yusman, 2014). Indonesia played a role as a regional leader, mediator, conflict manager among ASEAN member countries, and architect of ASEAN institutions and norms (Karim, 2021). He was actively engaged in matters related to ASEAN by being a mediator and conflict manager. During SBY’s leadership, Indonesia placed ASEAN within its innermost foreign policy circle (Anwar, as cited in Purnama & Mahyudin, 2018). Moreover, playing a role as a dialogue partner for Myanmar over its struggle for democratization amidst the strong pressure from two great powers, i.e. China and the United States, was one of the illustrations of Indonesia’s strong influence in Southeast Asia.

Indonesia's role as a mediator was also visible in the South China Sea (SCS) issue. Indonesia plays an important role in maintaining stability in the region and avoiding conflicts internally within the region and from outside power (Widiatmaja & Albab, 2019).

In the issue of terrorism, SBY promoted Indonesia as the world's largest Islamic country that is against acts of Terrorism and denounced all forms of extremism (Widiatmaja & Albab, 2019). He participated in many global anti-terrorism forums, became the chairman of the Asia-Pacific Economic Cooperation (APEC) Counter-Terrorism Task Force, and also established communication with non-Islamic countries to build trust in Islam (Widiatmaja & Albab, 2019). Furthermore, Indonesia was the one who "initiated the architecture of ASEAN's political and security cooperation". Indonesia was known to maintain close cooperation with its neighbouring countries. The country became a host to the annual Asia-Pacific forum in democracy, took part in the G-20 summits, co-chaired the UN Secretary General's 27 member High-Level Panel on the Post-2015 (Millennium Development Goals) Development Agenda, and many others (Piccone & Yusman, 2014).

As opposed to SBY, President Joko Widodo is seen to adopt an inward-looking policy style. Jokowi implements down-to-earth or pro-people diplomacy, which means that all foreign policies should act to represent the domestic interests or benefit the Indonesians. Indonesia under Joko Widodo is not too focused on shaping a positive image in the international arena like his predecessor. This was shown when the government performed a crackdown on illegal fishers or what some called the "shock therapy" campaign by capturing and "blowing up and sinking" illegal fishing vessels found in Indonesian waters (Weatherby, 2014). Under Jokowi, Indonesia is not as dominant in ASEAN as it was under SBY. There was an argument that claimed "Jokowi sees ASEAN only through profit logic," or in other words, Indonesia acts based on what profit will be obtained from its involvement in ASEAN related matters (Yahya, as cited in Rosyidin and Pattipeilohy, 2020).

As the last volume of the editorial section examines the ASEAN's Challenges and Opportunities during the pandemic (Mursitama, Karim, and Arnakim, 2021), this volume revisits ASEAN legislation and its impact on regional governance. Coincided with the above phenomena, we are pleased to present volume 9 no. 2, 2021, which discusses several issues related to ASEAN legislation and its impact on regional governance from dispute settlement on trade and fake news to environmental issues, from ASEAN countries business governance to country studies on Indonesian leadership contestation in foreign policy. This volume is comprised of seven articles. The first part is on ASEAN legislation, especially on Dispute settlement mechanism, fake news management, and transboundary environmental issues. The first article by Intan Soeparna analyses whether the role of the ASEAN Summit can be a solution for the post-adjudication issue in the ASEAN EDSM. Intan Soeparna inserts that the intervention of the ASEAN Summit to the post-adjudication of ASEAN EDSM is likely to apply political solutions that would, in turn, make legal decisions subject to politically driven scrutiny. However, ASEAN commits that any economic disputes must be resolved to ensure economic stability in the ASEAN.

This has been followed on legal review based on the documentary research concept by comparing the development of legislative responses to fake news spread in Southeast Asia by Smith, Perry and Smith. They analyse anti-fake news legislation, which focuses on the transmission of information by electronic means than print media. The authors suggest it would be better to develop anti-fake news legislation as either a standalone statute or a specific amendment to existing legislation than include fake news in omnibus legislation. Except in the most severe cases, creating, publishing, or distributing fake news illegality should be reduced from a criminal offence to an administrative offence, where the police issue a fine. Given the documented publishing and spreading of disinformation by state actors, their servants and agents, there should be an explicit “fake news” offence associated with the action of such persons.

The third contribution was on transboundary environmental governance, especially contestation hybridity in the biofuels and palm oil regimes between the EU and ASEAN by Helena Varkkey. She argues that it has never been more important to take a transboundary approach to address complex environmental problems. However, it has been argued that hybrid transboundary environmental governance may undermine sustainable development and environmental justice objectives. This paper addresses the complexities of the European Union’s Renewable Energy Directives (EU RED and RED II), contextualizing them within the Southeast Asian palm oil sector. Palm oil is a significant source of biofuel, and the EU is the second-largest importer of palm oil in Southeast Asia. Helena concludes that this transboundary market approach to biofuels and palm oil should be regarded with caution, as it (1) lowers regulatory quality within the biofuels sustainability regime, (2) undermines the sustainable palm oil market, and (3) indirectly bolsters unsustainable practices outside the palm oil sector.

The second part of the volume discusses on good governance of the business. Jonathan, Moch. Doddy Ariefianto, and Rindang Widuri examine the role of financial structure, business drive, and business environment that resulted in external audit service adoption in small and medium-sized enterprises (SMEs) within ASEAN countries. The authors indicated a significant positive correlation between sales, ownership structure (partnership vs sole proprietorship), and external audit adoption for SMEs. From a country-of-origin perspective, they conclude that audit adoption is significantly higher in Malaysia and the Philippines than in Vietnam. However, AUDIT adoption in Indonesia is significantly lower than in Vietnam, both in terms of awareness and implementation. Other points of interest can be seen in the interaction regression between countries, which indicates the degree of complexity associated with audit adoption when Country of Origin is taken into account. One significant policy implication is that SME's can better leverage external auditor services to support their growth and, in turn, the economy of the corresponding country.

Moreover, Mohd Jaffri Abu Bakar, Nanthakumar Loganathan, Asan Ali Golam Hassan and Tirta Nugraha Mursitama examine this asymmetric effect between the interrelationship of the interbank rate on the external competitiveness purchasing power represented by the real effective exchange rate for Malaysia and Thailand using monthly data covering the period of 1994 until 2020. Their empirical findings confirmed an asymmetric effect between the

interbank rate and real effective exchange rate based on the nonlinear autoregressive distributed lag estimates. This study also found a unidirectional asymmetric causal relationship running from real effective exchange rate on interbank rate Thailand, which indicate the monetary policy has a direct relationship on interbank rate volatility. While in Malaysia, there is no causality between both variables since the country has proposed several soft monetary policies and concentrates more on short-term borrowing by improving the tight money supply circulation based on domestic inflation, global economic, and financial market volatility. Therefore, the authors recommend there is a specific need for a monetary stabilizer policy to stabilize both countries' currencies and put more effort to liberalize the foreign exchange rate system in a globalized economy.

The final part of the country study presents contested interpretations of Indonesia's international leadership in foreign policy between presidents Susilo Bambang Yudhoyono and Joko Widodo. Aleksius Jemadu and Floranesia Lantang examine Indonesia's international leadership on foreign policy throughout the period of President Susilo Bambang Yudhoyono and President Joko Widodo, who have developed different conceptualizations of foreign policy. The authors argue that while President Susilo Bambang Yudhoyono tends to make Indonesia's international leadership an essential part of his rigorous effort to build a post-authoritarian identity for a democratic and stable nation, President Joko Widodo prefers to make his foreign policy serve the accomplishment of his domestic priorities. As such, they argue that Indonesia's international leadership is much contingent upon the individual preferences of the presidents in both formulating their policies as well as the implementation. The last part of the country study analyses Indonesian President Joko Widodo's Public Speeches from 2017 to 2018 by Adam Tyson and Stanislaus Apresian. The authors examine the rhetorical style and political priorities in Indonesian President Joko Widodo's public speeches during his first term in office. Their analysis shows that the president's passion extends beyond bureaucratic reform and into contentious political topics, where selective attempts at disruptive truth-telling are made.

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Moch Faisal Karim
Tirta Nugraha Mursitama

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THE ROLE OF THE ASEAN SUMMIT IN THE ASEAN ECONOMIC DISPUTE SETTLEMENT

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ABSTRACT

Like the World Trade Organization (WTO) Dispute Settlement Mechanism, the Association of South-East Asian Nations Enhanced Dispute Settlement Mechanism (ASEAN EDSM) recognizes trade countermeasures in the event of non-compliance with rulings made by the Panel and Appellate Body. However, the injured party sometimes has to deal with stumbling blocks in requesting an authorized trade countermeasure. The pitfall highlights the consequences if the dispute is unresolved. Meanwhile, ASEAN recognizes a procedure to allow the disputant parties to render unresolved disputes to the ASEAN Summit according to Article 26 of the ASEAN Charter. Moreover, if the non-implementation of the ASEAN dispute settlement decision affects the injured party, this party can submit the issue to the ASEAN Summit according to Article 27(2) of the ASEAN Charter. This research investigates whether the role of the ASEAN Summit can be a solution for the post-adjudication issue in the ASEAN EDSM. The research methods consist of a literature review and close reading of the Article 26 and 27 of the ASEAN Charter. The result shows that the intervention of the ASEAN Summit to the post-adjudication of ASEAN EDSM is likely to apply political solutions that would, in turn, make legal decisions subject to politically driven scrutiny. However, ASEAN commits that any economic disputes must be resolved to ensure economic stability in the ASEAN.

Keywords: ASEAN Summit, ASEAN dispute settlement mechanism, unresolved disputes

INTRODUCTION

The creation of the ASEAN Enhanced Dispute Settlement Mechanism (EDSM) is intended to ensure expeditious and legally binding resolutions of economic disputes among ASEAN members. However, since it came into force in 2004, the mechanism has never been invoked and so has never been tested. Many scholars remain doubtful that ASEAN Members will use the ASEAN EDSM (Limenta, 2017; Ewing-Chow & Yusran, 2018; Beckman, et al., 2016). Nonetheless, although it has never been utilized, an economic dispute mechanism is essential for implementing ASEAN Economic Agreements. ASEAN requires a “rules-based” process to ensure the viability of ASEAN economic integration. Thus, the ASEAN EDSM is expected to reinforce ASEAN's legitimacy as a vehicle to bring about predictable, transparent, centralized, and rules-based dispute settlements.

At the 51st ASEAN Economic Ministers' (AEM) meeting on September 6, 2019, an agreement was reached to replace the 2004 Protocol on the ASEAN Enhanced Dispute Settlement Mechanism.¹ Given the importance of regional dispute settlement, the completion of the ASEAN EDSM 2019 represents a significant change from the existing ASEAN EDSM 2004. ASEAN Members are willing to reconstruct the mechanism so that it is more expeditious and transparent. Some additional provisions include the procedure of the Panel,² Special procedures for less developed countries,³ and equipping the ASEAN Secretariat with additional legal resources to assist ASEAN Members with dispute settlements.⁴ The efforts by AEM to improve ASEAN EDSM reflect members' prioritization of trade dispute settlements.

It is noteworthy that the ASEAN EDSM has features similar to the World Trade Organization (WTO) Dispute Settlement Mechanism (DSM). These include provisions allowing the suspension of concession or other obligations as a temporary measure in the event of non-compliance with the Panel's findings and recommendations and the Appellate Body or trade countermeasure. Unfortunately, learning from WTO DSM experiences, sometimes disputant parties encounter a stumbling block in implementing the provision of a trade countermeasure. The pitfall of trade countermeasure's authorization will lead to the dispute remaining unresolved due to the persistence of non-compliance with Panel and Appellate Body Decisions. Meanwhile, unlike WTO DSM, ASEAN recognizes a procedure to allow the disputant parties to render unresolved disputes to the ASEAN Summit according to Article 26 of the ASEAN Charter. Moreover, if the non-implementation of the ASEAN dispute settlement decision affects the injured party, this party can submit the issue to the ASEAN Summit according to Article 27(2) of the ASEAN Charter.

The main issue in this article is whether the pitfall of the implementation of trade countermeasures under the ASEAN EDSM constitute an unresolved dispute according to

¹ At the time of writing, the revised ASEAN EDSM has not yet entered into force.

² Article 8 of the ASEAN EDSM 2019 (not enforced yet).

³ Article 23 ASEAN EDSM 2019 (not enforced yet). Out of 10 ASEAN Member Countries, three are Low-Income Countries (LICs; Cambodia, Laos, and Myanmar). The special procedures for least-developed countries in the ASEAN EDSM may encourage recourse initiation by LICs using the ASEAN EDSM

⁴ Article 22(4) ASEAN EDSM 2019 (not enforced yet).

Article 26 of the ASEAN Charter, and whether the effect of non-compliance under the ASEAN EDSM could be submitted to the ASEAN Summit under Article 27 of the ASEAN Charter. Therefore, the research analysis focuses on the role of the ASEAN Summit in the ASEAN EDSM.

The commentary is divided into five sections. The first section consists of the background of the issue and the problem to solve in the research. The second section examines that in the event of non-compliance with the adopted Panel and Appellate Body decision under Article 16(2) ASEAN EDSM, ASEAN adopts trade countermeasure similar to the WTO DSM. The third section looks at whether Articles 26 and 27(2) of the ASEAN Charter provide solutions for unresolved disputes and the effect of non-compliance with the ASEAN EDSM Decision. This section also explains the ASEAN Summit's role in these matters, while the fourth section examines whether the ASEAN Summit can adjudicate over unresolved disputes or whether redressing a post-adjudication issue to the ASEAN Summit undermines the legitimacy of the ASEAN EDSM. The fifth section discusses the ASEAN Summit's role in the ASEAN EDSM to contain further trade imbalances between the disputant parties due to nullification and impairment of trade benefits.

ANALYTICAL FRAMEWORK

Non-compliance with the Panel and Appellate Body Adopted Decision

The purpose of the ASEAN EDSM in following the WTO DSM is to create an effective economic dispute mechanism. The prompt dispute settlement in the WTO maintains a proper balance between the disputant parties' rights and obligations. Article 16(2) of the ASEAN EDSM⁵ is similar to Article 22(2) of the WTO Dispute Settlement Understanding (DSU). For instance, in the event of non-implementation of the findings and recommendations of the Panel and Appellate Body, the ASEAN EDSM provides a "WTO-like" trade countermeasure.

Significantly, Article 16(2) of the ASEAN EDSM notes that any measures taken under the clause mandate the violating party to comply with the ASEAN Economic Agreements,⁶ noting that:

"If the Member State concerned fails to bring the measure found to be inconsistent with a covered agreement into compliance therewith or otherwise comply with the findings and recommendations of Panel and Appellate Body reports adopted by the Senior Economic Official Meeting (thereafter SEOM) within the period of sixty (60) days or the longer time period as agreed upon by the parties to the dispute as referred to in Article 15, such Member State shall, if so requested, and no later than the expiry of the period of sixty (60) days or the longer time period referred to in Article 15, enter into negotiations with any party having invoked the dispute settlement procedures, with a view to developing mutually acceptable compensation. If no satisfactory compensation has been

⁵ Article 18 under the new ASEAN EDSM 2019 (not yet in force)

⁶ ASEAN EDSM Article 1 para 1: "The rules and procedures of this Protocol shall apply to disputes brought under the consultation and dispute settlement provisions of the Agreement as well as the agreements listed in Appendix I and future ASEAN economic agreements (the covered agreements)."

agreed within twenty (20) days after the date of expiry of the period of sixty (60) days or the longer time period as agreed upon by the parties to the dispute as referred to in Article 15, any party having invoked the dispute settlement procedures may request authorization from the SEOM to suspend the application to the Member State concerned of concessions or other obligations under the covered agreements.”⁷

In this article, the phrase "to suspend the application to the Member State concerned of concession or other obligations" indicates the act of countermeasure. The act of countermeasure is that Member State could suspend concession or other obligations under ASEAN Economic Agreements due to non-compliance of the violating member. Although Article 16(2) does not mention “countermeasure”, the act of countermeasure is known as a form to retaliate the violating member. Moreover, the act is reminiscent of the law of the treaties.

Article 16(2) of the ASEAN EDSM focuses on three measures taken by parties to the dispute. The first measure is to end the violation committed by the violating party. In public international law, the measure is known as “cessation and non-repetition” and is generally considered the first remedy for a wrongful act.⁸ The second measure is negotiable compensation in the event of non-compliance. Article 36 of the International Law Commission of State Responsibility invokes compensation as a remedy that is usually denoted by a financial measure. Such compensation should cover any financially assessable damage, including loss of profits.⁹ However, in the WTO DSM, this compensation does not mean monetary payment, but instead refers to additional trade concessions, such as tariff reductions that the non-complying party must institute. The purpose is to ensure that the compensation does not restrict trade but opens it up, albeit temporarily, as long as the non-complying measure remains in place (Mercurio, 2009). It is challenging for countries to find and offer a compensatory reduction of trade restrictions since such compensation requires achieving a “mutually acceptable” settlement based on the principle of “full and fair addresses” (Cho, 2004). Both parties to the dispute must determine the assessable damages. The WTO record shows how problematic it is for members to achieve voluntary and mutually acceptable compensation since this affects other stakeholders in the dispute, such as exporters, importers, and producers. It is argued that "innocent bystanders in the importing country would oppose any proposal from their government to expose them to more foreign competition as a means of compensation." (Brokers & Van den Brock, 2006) However, since the ASEAN EDSM has never been invoked, it remains unclear whether the compensation procedure will be similar to the WTO DSM.

The third measure is the suspension of concessions or other obligations under the ASEAN Economic Agreements. The injured party can take this measure if both parties fail to

⁷ Article 16(2) of the ASEAN EDSM

⁸ Article 30, Cessation and Non-Repetition, the State responsibility for the internationally wrongful act is under an obligation, Articles on Responsibility of States for Internationally Wrongful Acts, 53 UN GAOR Supp. (No. 10) 43, U.N. Doc. A/56/83 (2001).

⁹ Article 36 (Compensation), (1) The State responsible for an internationally wrongful act is under an obligation to compensate for the damage caused thereby, insofar as such damage is not made good by restitution. (2) The compensation shall cover any financially assessable damage, including loss of profits insofar as it is established.

agree on compensation, and the violation remains in place after a specific period has elapsed. It must be noted that the measure is only applied by the injured party unilaterally and temporarily after authorization from the SEOM. The trade countermeasure has been widely accepted as restitution or a retrospective form of reparation under public international law.¹⁰

In certain situations, where it might be challenging for the parties to comply with the recommendations and findings of the Panel or Appellate Body, the violating government will have no choice but to leave the breach as it is (Capucio, 2016). Likewise, when the violating party has modified the trade policy in question, but another party declines the modification, the compliance measure is not fulfilled. A useful precedent was set in a WTO dispute between Thailand and the Philippines regarding custom and fiscal measures on cigarettes (Thailand - Customs and Fiscal Measures on Cigarettes from the Philippines, 2011). In this case, Thailand modified its policy to respond to the WTO Panel and the Appellate Body's reports. However, the Philippines found that the changes were insufficient, holding that Thailand's measures were still inconsistent with the Customs Valuation Agreement and General Agreement on Trade and Tariff (GATT) 1994. Hence, in 2018, the Philippines sought recourse from the WTO Panel under Article 21(5) of the DSU concerning Thailand's alleged failure to comply with the decision of the WTO Dispute Settlement Body (DSB) (Thailand - Customs and Fiscal Measures on Cigarettes from the Philippines: Recourse to Article 21.5 of the DSU by the Philippines, 2018) and again in 2019. The Philippines identified two different measures: the charges filed by the Public Prosecutor against PMTL and the revised Notice of Assessment, neither of which had any significant changes to comply with the WTO DSB's decision (Thailand – Customs and Fiscal Measures on Cigarettes from the Philippines: Second Recourse to Article 21.5 of the DSU by the Philippines, 2019).

Thailand's experience, in this case, reflects the complexity of achieving compliance under the WTO DSM. Significantly, the compliance measure requires a government to modify or entirely withdraw the policy related to the dispute. Besides, all interested parties must accommodate the government's compliance with the rulings and recommendations. Some countries will find it difficult to modify their policies, especially if national (or political) interests are at stake (Horlick, 2002).

In the WTO legal system, a right to impose a trade countermeasure is usually done by withdrawing tariff concessions, which raises tariffs for specific imports from the violating member. Although, in general, trade countermeasures are intended to prevent continued losses for the injured party in the future and to induce compliance with the DSB Decision, implementing the measures tends to have an adverse impact on both parties. The WTO countermeasure by raising tariff levels is particularly troublesome for small developing member countries, which lack the capacity to retaliate against non-compliance members (Guzman & Simmons, 2005; Shaffer, 2006). According to the WTO Panel in the US-Gambling Case, the economic costs of withdrawing concessions in the goods sectors would have a more significant adverse impact on a complainant developing country than on a defaulting developed

¹⁰ Article 35 (Restitution): "A state responsible for an internationally wrongful act is under an obligation to make restitution, that is, to re-establish the situation which existed before the wrongful act was committed,"

country. It is especially if the complaining party is dependent on imports from the defaulting country (United States-Measures Affecting the Cross-Border Supply of Gambling and Betting Service (US-Gambling), 2007).

Some developing countries have outlined the criticism of trade countermeasure in the WTO DSU review proposal. For example, India has outlined the tremendous imbalance of trade countermeasures between developed and developing countries. Trade imbalances have placed severe constraints on the developing countries' ability to exercise their rights under Article 22 of the WTO DSU. It would also deepen the imbalance that is already seriously undermined by the nullification and impairment of trade benefits.¹¹ In addition, trade countermeasures through the withdrawal of tariff concessions can have detrimental effects on the economic welfare for both the non-complying and the retaliating members. The developing and least-developed countries are not likely to have the capacity to impose trade countermeasures in a way that puts real pressure on non-complying members (Shanin, 2011). Trade countermeasures are ineffective in the hands of smaller players, with small and developing countries encountering challenges when they attempt to implement effective trade countermeasures (Mavroidis, Bagwell, & Staige, 2004; Mavroidis, 2000).

For ASEAN countries, the trade countermeasure will be more detrimental since most ASEAN firms are Small–Medium Enterprises (SMEs). The SMEs in the ASEAN represent around 88% to 99% of the enterprise population in most ASEAN Countries (The ASEAN Secretariat, 2018). Since the number of activities of the ASEAN SMEs to international trade is considered lower compared with a large firm, they often encounter resources constraints to a greater extent than large firms (Wignaraja, 2012); therefore, many ASEAN SMEs will suffer resources constraint if they have to pay a high punitive tariff to sell their products abroad.

Even if ASEAN countries attempt to do trade countermeasure, it may well damage their economies due to the high interdependency of intra-ASEAN exports and imports.¹² ASEAN members with small domestic markets such as Cambodia, Laos, and Myanmar cannot impose sufficient economic losses on the bigger members due to trade countermeasure.

Despite the controversial argument of trade countermeasure, in February 2020, the Philippines made a breakthrough in a trade dispute with its ASEAN counterpart under the WTO by requesting an authorized trade countermeasure to the DSB. The request was related to Thailand's alleged failure to implement the DSB decision in a cigarettes dispute between Thailand and the Philippines. The Philippines sought authorization from the DSB to impose

¹¹ WTO *Negotiation on the Dispute Settlement Understanding: Special and Differential Treatment for Developing Countries*, Proposal on DSU by Cuba, Honduras, India, Indonesia, Malaysia, Pakistan, Sri Lanka, Tanzania, Zimbabwe, DSB Special Session, TN/DS/W/19, (October 9, 2002).

¹² The trade-in goods in the ASEAN reached USD 2.574 billion in 2017, where intra-ASEAN trade accounted for the largest share of the ASEAN's total trade. Meanwhile, ASEAN trade in services reached USD 703 billion in 2017. Collectively, the intra-ASEAN is the largest market for ASEAN total trade since the interdependency of export and import within the intra-ASEAN is significantly high. The share of intra-ASEAN merchandise exports and imports in 2017 represented 23,5% and 22,3% of ASEAN total exports and imports, respectively (ADB, *ASIAN Development Outlook 2019: Strengthening Disaster Resilience XII*, 2019)

countermeasures on Thailand by suspending the concession or other obligations under the WTO Covered Agreements (Thailand - Customs and Fiscal Measures on Cigarettes from the Philippines: Recourse to Article 22.2 of the DSU, 2020). However, Thailand disputed the authorization's request, not on the substantive complaint, but on the basis of procedural hurdles in the WTO DSM (Thailand - Customs and Fiscal Measures on Cigarettes from the Philippines: Communication from Thailand, 2020).

Hypothetically, if the dispute between Thailand and the Philippines had been submitted to the ASEAN EDSM, but the non-compliance with the Panel and Appellate Body decision was the same, the Philippines could request an authorized trade countermeasure to the SEOM. However, if Thailand disputed the request due to the disagreement of the level of trade countermeasure or the principle and procedures regarding the trade field to be suspended, ASEAN EDSM provides Article 16(7) that the disagreement shall be referred to arbitration. Nevertheless, learning from the WTO experience, the pitfall of the request of trade countermeasure sometimes occurred due to procedural matters.¹³

Unlike the WTO, the stumbling block of implementing trade countermeasure under ASEAN EDSM would constitute unresolved disputes, according to the ASEAN Charter. The unresolved disputes would also generate the effect of non-compliance with ASEAN EDSM's judicial decision. This would invoke Articles 26 and 27 of the ASEAN Charter as Shimizu (Shimizu, 2011) posited that Article 26 of the ASEAN Charter is important for ASEAN's economic dispute settlement.

RESEARCH METHODS

The research implements a literature review methods by describing what has been ruled and defined as a trade countermeasure under the ASEAN EDSM. The main purpose is to provide legal analysis on the role of the ASEAN Summit in the ASEAN EDSM. The research finds the possible role of the ASEAN Summit in the ASEAN EDSM by analyzing and close reading of the Article 26 and 27 of ASEAN Charter.

¹³ For example, when Indonesia sought authorization from the WTO DSB to impose countermeasure against the United States due to non-compliance with this country over the Appellate Body Decision on the clove cigarette case, the European Union, as a third party, challenged the request. The European Union claimed that Indonesia disregards the ongoing compliance by the United States. Moreover, the European Union opposed Indonesia's decision to exclude the European Union as a third party in the arbitration proceedings under Article 21(5) of the DSU (Indonesia - Recourse to Article 22.2. of the DSU in the U.S. - Clove Cigarettes Dispute: Request for Consultation by the E.U., 2014).

ANALYSIS

Are Articles 26 and 27(2) of the ASEAN Charter a Solution for Unresolved Disputes and the Effect of Non-Compliance with ASEAN EDSM's Decision?

Article 26 of the ASEAN Charter says, “When a dispute remains unresolved, after applying the preceding provisions of this Chapter, this dispute shall be referred to the ASEAN Summit, for its decision.” This provision raises three points. The first is “when a dispute remains unresolved.” Referring to Article 1(e) of the Protocol to the ASEAN Charter on DSM (Protocol 2010), the definition of unresolved disputes means a dispute over the interpretation or the application of the ASEAN Charter or other ASEAN instruments that have not been resolved by mutual agreement. The meaning of “other ASEAN instruments” in this Protocol refers to all ASEAN Agreements, including ASEAN Economic Agreements. In the context of the ASEAN Economic Agreements, the term unresolved disputes must refer to the condition when the relevant ASEAN countries fail to comply with the adopted ASEAN EDSM judicial decision (Vergano, 2009). Furthermore, an unresolved dispute also refers to the condition when the injured party seeks an authorized trade countermeasure, but the request faces a stumbling block due to procedural disagreement. Accordingly, a violation and the trade impairment will persist due to the failure to request a trade countermeasure.

The second point relates to the specification “after the application of the preceding provisions of this Chapter.” This clause refers to all relevant disputes settlement mechanisms under the Chapter VIII of the ASEAN Charter, such as the ASEAN Treaty of Amity and Cooperation (TAC), the ASEAN EDSM (Protocol 2004) and the ASEAN DSM (Protocol 2010). The third issue is the directive that the matter “shall be referred to the ASEAN Summit for its decision.” This stipulates that the ASEAN Summit shall act as a final arbiter if a dispute remains unresolved after the parties have used all dispute settlement mechanisms available within the ASEAN framework (Tan, 2008).

The ASEAN Charter also provides a specific rule in Article 27(2) that says that “any Member State affected by non-compliance with the findings, recommendations, or decisions resulting from an ASEAN dispute settlement mechanism, may refer the matter to the ASEAN Summit for a decision.” This article allows an injured party affected by non-compliance of the other party to seek recourse from the ASEAN Summit. The non-compliance can be due to the violating party failing to comply with the ASEAN EDSM's judicial decisions. Although nothing in the ASEAN Charter expressly provides specific non-compliance with an award under the ASEAN EDSM, the natural expectation is that Article 27(2) will be followed despite the absence of explicit rules (Woon, 2016). Therefore, the ASEAN Summit could act as a final *de facto* arbitrator and enforcer of a decision that has been reached in any ASEAN dispute settlement mechanisms, including the ASEAN EDSM (Ewing-Chow & Yusran, 2018).

The possibility of redressing an unresolved dispute and the effect of non-compliance with ASEAN EDSM's judicial decision to the ASEAN Summit entails two different propositions. First, the ASEAN Summit could provide an avenue to seek a solution for the dispute if the specific remedies prove futile. Furthermore, the ASEAN Summit could provide

a political solution if unresolved disputes is due to the lack of the implementation of Article 16(2) of the ASEAN EDSM. Second, since it introduces an element of political discretion, the resort to the ASEAN Summit will conversely undermine the strength and legal certainty of the ASEAN EDSM as a system based on the rule of law.

The Role of the ASEAN Summit for Unresolved Disputes and the Effect of Non-Compliance with the ASEAN EDSM's Decisions

It is noteworthy that the function of the ASEAN Summit is to make a final decision in matters referred to it by the ASEAN Ministerial Bodies or the Secretary-General, along with acting as a final arbiter for dispute and non-compliance with all the ASEAN dispute settlement decisions. The crucial principle in the ASEAN Summit's decision-making is "consultation and consensus" (Wan, 1997). Article 20 of the ASEAN Charter empowers the ASEAN Summit to maintain the consultation and consensus rule as a form of decision-making. However, when consensus cannot be reached, the Charter allows the ASEAN Summit to utilize other decision-making approaches (Desierto, 2011).

The alternative way set up by Article 20 is essential for the ASEAN Summit to proceed with its decision, even if one of the parties (for example, the violating party in the issue of non-compliance) refuses to reach a consensus. The ASEAN Summit will make the final decision either through consensus or other ways. Consequently, the ASEAN Summit appears to have been vested with quasi-judicial oversight due to its role as a final arbiter (Desierto, 2011). Even so, the Summit is not, in fact, a judicial body but rather a supreme policy-making body of the ASEAN that presides over the entire gamut of ASEAN institutions (Ha & Chalermpanupap, 2018). In any event, the ASEAN Summit will give discretion to the disputant parties to accept or decline its decision since nothing in the Charter explicitly obliges the ASEAN Members to comply with the Summit's decision.

The ASEAN Summit could act as a final arbiter and enforcer to resolve the post-adjudication issue through a political solution (Ewing-Chow & Yusran, 2018). If the Summit is acting as a final arbiter, the decision could be overriding the legal power of the ASEAN EDSM. It is worth recalling that the ASEAN Summit is a political body. Therefore, when an issue is rendered to this body, the resolution will be more political than legal. Therefore, an intervention by the ASEAN Summit in a judicial decision would tend to erode the ASEAN's credibility (Piris & Woon, 2015) and undermine the rules-based ASEAN dispute settlement. Conversely, if the Summit is acting as an enforcer of the adopted Panel and Appellate Body's Rulings and Recommendations, it could be deemed to be extending the legal power.

There are two situations in which the ASEAN Summit is likely to seek a political solution in the event of non-compliance with ASEAN EDSM's judicial decisions. The first is when the violating member disregards the Panel and Appellate Body decision. The ASEAN leaders will discuss why the violating member is not complying with the decision and, if there is no specific reasonable reason, apply pressure to the member. The second situation is when the injured party refuses to accept the modification of the violating member's trade policy, even though the violating party has attempted to implement the judicial decisions. In that eventuality,

the leaders will pressure the injured party to accept the modification. For these situations, the ASEAN Summit is expected to be an enforcer of the ASEAN EDSM judicial decision.

Another possible outcome is that the ASEAN Summit will seek a win-win solution. For example, if an unresolved dispute occurred due to the condition when the injured party is seeking an authorized trade countermeasure, but the request is facing a stumbling block, the Summit can act as a final arbiter. It may suggest an alternative to trade countermeasure, such as monetary compensation (ASEAN Countries had experience giving compensation to settle the dispute (Toohey, 2011). Either way, the idea behind the ASEAN Summit's role is to build a strong economic community (Phan, 2013).

Ha and Chalermphanupap (2018) posit that "the presence and influence of the ASEAN Summit are to the effect that the parties concerned would choose a give-and-take approach and develop win-win solutions to their problems so as not to affect the ASEAN unity and credibility." For example, in 2006, when Thailand disagreed over the Malaysian import permit requirement, and Thailand maintained a 20% retaliatory import duty, the Malaysian Trade Minister downplayed the dispute as a mere interpretation and maintained the dispute as a bilateral issue at the Summit. Thus, the disagreement would not impact the significance of the ASEAN relationship (Siong, 2011).

Phan (2013) argues that in the context of unresolved dispute under Protocol 2010 if it reaches a high-level meeting among the ASEAN Members, this can have a "naming and shaming" effect, which may create pressure to comply with the adjudication's decision. However, in the context of ASEAN EDSM, the non-compliance with the ASEAN EDSM's decision would encourage trade countermeasures. Bearing this in mind, since the ASEAN countries have not determined if trade countermeasures or sanctions would be more effective than political pressure in fostering compliance, thus, when the disputant parties decide to avoid the adverse impact of trade countermeasure, perhaps they will accept a give-and-take solution.

The role of the ASEAN Summit in the ASEAN EDSM is to Rebalance the Trade between Disputant Parties

To date, it remains uncertain if ASEAN countries will use the ASEAN EDSM to settle their trade disputes. The reason is due to the ASEAN countries experiences that using non-ASEAN dispute settlement mechanisms could be seen as less confrontational. In fact, the ASEAN countries rely more on other dispute settlement mechanisms such as the WTO DSM. For example, the WTO DSM allows the participation of non-ASEAN third parties to elevate the dispute settlement from an ASEAN regional dispute subject to review by ASEAN peers (Inama & Sim, 2015; Soeparna, 2019). WTO DSM also allows the DSB that consists of non-ASEAN members to make a decision regarding the authorization of trade countermeasure. Accordingly, the role of the ASEAN political body in maintaining ultimate political control over the ASEAN trade dispute settlement system will pose the most significant challenge (Puig & Tat, 2015; Udomjitpittaya & Fitriana, 2019).

Reviewing the ASEAN experiences in political disputes such as territorial sovereignty, the ASEAN Summit had little influence in bilateral disputes unless the parties involved were willing to allow it (Jenne, 2017). For example, in the Sabah dispute between the Philippines and Malaysia, these countries agreed not to raise the matter in any ASEAN forum. In the same way, Indonesia and Malaysia preferred to discuss the Ambalat conflict bilaterally during the 19th ASEAN Summit in Bali (Druce & Baikoeni, 2016). It was probably because the ASEAN countries would have been more discomfited politically if they had ASEAN peers reviewing and determining their territories' sovereignty due to the political susceptibility of territorial issues (Sim, 2014). When a political dispute was raised in the ASEAN Summit, most ASEAN countries were reluctant to even admit to that disagreement at the meeting (Jenne, 2017). For example, when the Indonesian leader brought up the issue over the border dispute surrounding the Preah Vihear Temple between Cambodia and Thailand at the 18th ASEAN Summit, the Summit failed to achieve an amicable solution (Chachavalpongpun, 2013). Another issue is the dispute on the South China Sea between the People's Republic of China (PRC), Taiwan and five ASEAN's Members (Indonesia, Brunei, Malaysia, Vietnam, and the Philippines). The role of the ASEAN Summit to manage this dispute has been questioned. Although the Summit has issued a Declaration on the Conduct of Parties in the South China Sea (DOC) (ASEAN, 2004), the DOC did not design to resolve the dispute but rather maintain the peace and prevent a potential conflict. Furthermore, the DOC encourages ASEAN members to conduct direct negotiations with PRC to solve the dispute. It shows that the ASEAN maintains its non-intervention principle. This principle somehow respects the territorial integrity of each member. The key strategic of this principle allows the member to resolve jurisdictional disputes bilaterally. Nevertheless, until today the South China Sea dispute is still unresolved.

An economic or trade dispute does not raise political issues such as sovereignty. Trade disputes usually involve more technical issues with a resolution to rebalance trade relations between disputant parties. Trade disagreements are more likely to have an impact on both disputant parties and ASEAN countries that are not involved. This is because the interdependency of export and import within the intra-ASEAN is significantly high, and most ASEAN trade occurs within the bloc (Asian Development Bank, 2019). Any unresolved trade disputes will eventually undermine the trade balance among the ASEAN countries. Therefore, it would not be surprising to see the pressure from other ASEAN counterparts to settle any trade disputes. For example, in the early implementation of the ASEAN Free Trade Area (AFTA), when Malaysia delayed the implementation of the automobile tariff under the Common Effective Preferential Tariff Agreement, the delay brought an outraged response from ASEAN Members such as Thailand and Indonesia. Malaysia's halting entry into AFTA by lowering its automotive tariff impeded AFTA and inhibited the automotive trade balance among the ASEAN countries. Eventually, Malaysia sought a bilateral discussion with Thailand to settle the dispute following the AFTA Framework Agreement on dispute settlement (Lau, 2006). Likewise, in the cigarettes dispute, before elevating the dispute to the WTO DSM, the Philippines Government had raised the issue first within the ASEAN. The Philippines used diplomatic ways to talk to Thailand bilaterally to avoid the tax dispute from further escalation. Unfortunately, the official meeting between these countries over the Cigarettes dispute failed to reach an amicable result. Despite the fruitless solution, the Philippines adhered to the

principle that bilateral trade disputes in the ASEAN should be solved first within the ASEAN (“P.H. has legal options at WTO”, 2016).

Understandably, an economic or trade dispute should eventually be resolved to prevent trade imbalances among ASEAN members. Learning from the previous dispute under AFTA, trade imbalance affected ASEAN economic relations. Likewise, the impact of unresolved disputes will extend to the economic players. When unresolved disputes occur due to the violating party challenges the implementation of Article 16 of ASEAN EDSM, the trade nullification or impairment still exists and deprives trade benefit of the injured parties. Furthermore, although a trade countermeasure is a last resort to induce the compliance with Panel and Appellate Body decision, its pitfall will also prolong the trade damage that occurs to the injured party. The situation will restrain the trade balance between disputant parties. Hence, the role of the ASEAN Summit in the ASEAN EDSM is expected to avoid unresolved disputes and rebalance the trade between the disputant parties. Although the role of the ASEAN Summit in the ASEAN EDSM contravenes ASEAN non-intervention's principle, the members are willing to tolerate the role of the ASEAN Summit in the economic disputes. The reason is to secure economic or trade relations among the ASEAN members. A strong economic relation within ASEAN is a major objective of the ASEAN Economic Community. Therefore, any trade dispute should be resolved to maintain economic growth in ASEAN.

CONCLUSIONS

It seems that Articles 26 and 27(2) of the ASEAN Charter do not leave alone the ASEAN Dispute Settlement Mechanism to the rule of law, since the role of the heads of states and governments as final arbiter and enforcer denies any separation of power and is incompatible with a politically neutral dispute resolution. However, the role of the ASEAN Summit in the ASEAN EDSM is to resolve the post-adjudication issue. The intention is to find a solution for the pitfall of ASEAN EDSM's mechanism. First, the role of the ASEAN Summit is to resolve the disagreement of trade countermeasure's request under Article 16 of ASEAN EDSM. The disagreement of the request will eventually lead to the dispute being unresolved. Second, unresolved disputes will cause the extended effect of non-compliance with the ASEAN EDSM decision that is trade imbalance or injury toward the economic actors. For such reason, the role of the ASEAN Summit is preferable to enforce the Panel and Appellate Body Decision, where the political will is supporting the judicial decision. Meanwhile, the act of ASEAN Summit as a final arbiter will provide an alternative solution for disputant parties. If the disputant parties decide to avoid the adverse impact of trade countermeasure, perhaps they will accept a give-and-take solution such as monetary compensation. The intervention of the ASEAN Summit to the post-adjudication of ASEAN EDSM might be seen as an advantageous measure to settle trade disputes among ASEAN members. The idea behind the role of the ASEAN Summit in the ASEAN EDSM is that the trade dispute must be resolved to retain further damage of trade.

However, unlike Protocol 2010 Annex 5 (Rules for Reference of Unresolved Disputes to the ASEAS Summit), the ASEAN EDSM does not provide a procedure to submit the post-

adjudication issue to the ASEAN Summit. It appears that the role of ASEAN Summit as the enforcer and final arbiter in the ASEAN EDSM needs a specific mechanism. Ultimately, although Article 26 and 27(2) of the ASEAN Charter may provide political reassurance to the ASEAN Members over the post-adjudication issue from all dispute settlements available within the ASEAN framework, nothing in the Charter prescribes any mechanism enabling the function of the ASEAN Summit to the post-adjudication issues. Therefore, it is advisable that further research elaborate on the possible mechanisms to implement Article 26 and 27(2) of the ASEAN Charter to the economic disputes.

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'FAKE NEWS' IN ASEAN: LEGISLATIVE RESPONSES

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ABSTRACT

The research is a legal review based on the documentary research concept by comparing the development of legislative responses to fake news spread in Southeast Asia. Anti-fake news legislation focuses on the transmission of information by electronic means than print media. The analysis is carried out for each of the member states by including a clause-by-clause examination of the legislation and subsequent cases addressing legal issues associated with the laws. Several common factors should be addressed to provide a fairer and more transparent approach, including developing a clear-cut definition of fake news. Two key elements should be met in the definition of spreading of fake news: it should be the intentional spreading of misinformation or disinformation by design. The research suggests it would be better to develop anti-fake news legislation as either a standalone statute or a specific amendment to existing legislation than include fake news in omnibus legislation. Except in the most serious cases, creating, publishing, or distributing fake news illegality should be reduced from a criminal offence to an administrative offence, where the police issue a fine. Given the documented publishing and spreading of disinformation by state actors, their servants and agents, there should be an explicit "fake news" offence associated with the action of such persons.

Keywords: ASEAN, defamation, disinformation, fake news, hate speech, hoax news, legislation, misinformation, social media

INTRODUCTION

A recent paper research in *Science* argues that the rise of fake news shows the “erosion of long-standing institutional bulwarks against misinformation in the internet age”, with the concern of being global (Lazer et al., 2018). In response to the impact of fake news in their member states, the Association of Southeast Asian Nations (ASEAN) signed a *Joint Declaration on the Framework to Minimise the Harmful Effects of Fake News*. This research describes the diverse systems of government and legal systems of the ASEAN members as they may have a bearing on the governmental response with anti-fake news legislation and how it is used to prosecute offenders.

After addressing the issue of fake news as a modern internet attenuated issue, the research analyses the various approaches taken in the legislative responses to fake news as introduced by ASEAN members. In some cases, the legislation is fake news specific, whilst in other cases, it is part of a more general cybercrime law or amendment to the existing legal code. The key focus will be on the scope of the legislation, particularly the varying definitions of fake news, the control of the promulgation of fake news by state actors, the penalties attached to the violation of the new laws, and commentary in the media. The focus of anti-fake news legislation is material that is processed through electronic systems, which does not cover print media.

The *Joint Declaration on the Framework to Minimise the Harmful Effects of Fake News*, as its name suggests, is a framework only. As stated in its preamble, the parties acknowledge that online and social media improve information access and facilitate communication. They recognise that the propagation of fake news is a challenge that needed to be addressed to allow social media to be a reliable source of information and a safe space for all users. To assist this process, they agree to share best practices to educate citizens on the dangers of fake news. Under the founding philosophy of ASEAN, the countermeasures must respect national sovereignty, and be implemented nationally according to the requirements of the individual ASEAN member states. Key articles of the agreement include: 1) improve digital literacy (Item 3 and 4); 2) strengthen national capacity to detect and respond to fake news (Item 5); 3) encourage stakeholders to build on the existing industry anti-fake news norms and guides (Item 6), and 4) share best practices and experience (Item 7). The Declaration, however, does not propose a definition of fake news.

There is no agreed definition of fake news. At its most basic, in the post-Trump current COVID-19 era, “truth” and “facts” have become the victims of political identities where the view of your opponents becomes “fake” news (Tong et al., 2020). Wang (2020) has identified a series of words similar to “fake news”, namely “news satire, yellow journalism, junk news, pseudo-news, hoax news, propaganda news, advertorial, fake information, false information, misinformation, disinformation, rumour, mal-information, post-truth, and alternative fact”. To assist the identification of “fake news”, Molina et al. (2021) develop a detailed taxonomy. They consider that misinformation is essentially the spreading of incorrect information. Disinformation, on the other hand, is the spreading of incorrect messages to harm others

deliberately. It occurs that the terms “disinformation” and “mal-information” are used interchangeably.

A more utilitarian matrix that has gained traction has been developed by Wardle (2017). The matrix has been adopted by the Australian Communications and Media Authority (ACMA) in developing their position paper on the development to guide the industry as they develop their codes on the management of online misinformation and news quality in Australia (“Online misinformation and news”, 2020). Wardle’s “fake news” matrix consists of seven types of misinformation and disinformation (Wardle, 2017):

- a) Satire or parody — no intention to cause harm but with potential to fool;
- b) Misleading content — misleading use of information to frame an issue or individual;
- c) Imposter content — where genuine sources are impersonated;
- d) Fabricated content — content is 100% false and designed to deceive and harm;
- e) False connection — headlines, visuals, or captions do not support the content;
- f) False context — genuine content is shared with false contextual information; and
- g) Manipulated content — genuine information or imagery is manipulated to deceive.

Smith and Perry (2021) propose a modification of Wardle’s (2017) matrix in their suggestion to define the crime of spreading fake news. They recommend that satire or parody are not a crime. They furtherly recommend that spreading of “fake news” can only be an offence if it is deliberate.

In some jurisdictions, the definition of defamation is so broad that it can also be used to prosecute those who post or transmit what the authorities consider to be fake news. For instance, s. 326 of the Thai Criminal Code states:

“Whoever imputes anything to the other person before a third person in a manner likely to impair the reputation of such other person or to expose such other person to be hated or scorned is said to commit defamation and shall be punished with imprisonment not exceeding one year or fined not exceeding twenty thousand Baht, or both (*italics added*).”

Such legislation can be significantly effective in silencing critics when a juristic person can initiate a case of criminal “defamation” against an individual. The use of defamation legislation and *lèse-majesté* laws to silence critics is discussed by Smith and Perry (2020). However, the research focus on legislative responses to fake news, and not further consider defamation legislation.

RESEARCH METHODS

The research is a legal review based on the documentary research concept. It compares and contrasts the development of legislative responses to the spread of fake news in Southeast Asia. Analysis of the legislation in a multi-language region such as ASEAN faces two immediate challenges. Complications may occur when it comes to translating laws from one language to another since language constructs are attached to each of its culture and

understanding, which is explained in studies discussing the Thai laws (Smith & Perry, 2020). Moreover, court decisions are often unavailable, and researchers have to depend on “English language secondary sources such as news services and newspapers and their reporting of government press conferences, police press conferences, and court decisions”.

The research analysis includes a clause-by-clause examination of the legislation and subsequent cases addressing legal issues associated with the laws. The analysis is carried out for each of the member states. States of Emergency concerning the COVID-19 pandemic have only been discussed where they impose additional constraints on spreading fake news to those of the primary legislation. In most cases, English versions of the laws and judgments are available in English. In Brunei Darussalam, Malaysia, the Philippines, and Singapore, English is the official language of the law. In other jurisdictions, the English translations are considered unofficial despite being prepared within the government, so the national language version takes precedence.

LEGISLATIVE RESPONSES TO FAKE NEWS

Some ASEAN jurisdictions have fake-news specific legislation or cybercrime legislation, and others adapt their existing legislation. In addition, defamation laws, both criminal and civil, are sometimes misused to silence critics who have been accused of spreading “fake news”. When citing the specific legislation, the research uses the word that has been in the relevant translation.

Brunei Darussalam

Spreading fake news is covered by the *Public Order Act*. There are two offences:

- (a) Spreading false reports or false statements ‘likely to cause public alarm or despondency’ (s. 34);
- (b) Publishing or giving any person information known to be false ‘and which tends to give rise to apprehension for the safety of any person or property’ (s. 35(1)). In this case, where it is proved that the person published or gave false information, the onus is on the person charged to prove that they do not know such information is false (s. 35(2)).

Cambodia

A draft of cybercrime law has been under discussion for several years (Sovuthy, 2019). If the draft is adopted, offences under the law will include: 1) publishing contents deemed to hinder sovereignty and integrity of Cambodia (“Draft Cybercrime Law,” art. 28(1)); 2) publications deemed to incite or instigate the general population to anarchism (art. 28(2)); 3) publications deemed to generate insecurity, instability or political cohesiveness (art. 28(3)); or 4) publications “deemed to be non-factual which slanders or undermined the integrity of any governmental agencies, ministries, not limited to departments, federal or local levels” (art. 28(4)). In the meantime, prosecutions against posting fake news have been undertaken under

the Criminal Code. With the increasing impact of the COVID-19 pandemic, the Parliament approves a law on emergency management which further strengthens criminal sanctions against posting fake news once a State of Emergency has been declared ("Law on Emergencies," art. 5).

False information is covered by art. 425 of the Criminal Code and is used to prosecute those who communicate or disclose false information, and is punishable by imprisonment and a fine. As seen from the English translation, the use of this section is problematic:

[T]he communication or disclosure of any false information with a view to inducing a belief that a destruction, defacement or damage dangerous to other persons will be carried out shall be punishable by imprisonment from one to two years and a fine . . .

Between late January and April 2020, and before the law on the state of emergency had been enacted, there were 30 documented cases of arbitrary arrests under art. 494 and art. 495 on incitement to commit offences or to disturb social security (Human Rights Watch, 2020) using the same methods of offending as for defamation and insult ("Cambodian Criminal Code," 2009 art. 305 & art. 307).

In this case, the penalty is more severe, which includes imprisonment and a fine where the incitement has been ineffective (art. 495). If the incitement is 'to discriminate, to be malicious, or be violent against a person or a group because of their membership or non-membership of a particular ethnicity, nationality, race or religion' and has been ineffective, a longer prison term and a higher level of fine applies (art. 496). It is claimed that the legislation is being used to crack down on opposition supporters and critics whilst the population is distracted by the COVID-19 pandemic ("Cambodia: COVID-19 spurs", 2020; "Cambodia: State of Emergency Bill", 2020).

The Law on Emergencies is much more explicit, which takes precedence over any law that contradicts it. It includes "bans or limits on distributing or broadcasting information that can cause public panic or turmoil, damage to national security, or confusion about the situation under the State of Emergency' (art. 5). The penalty for intentionally failing to respect such measures is imprisonment and a fine (art. 8). A much heavier penalty applies if it causes public turmoil (art. 8). A State of Emergency may last no longer than three months, and may be extended by a further Royal Decree (art.3). In this case, the state of emergency is specific to the COVID-19 pandemic.

Indonesia

Indonesia has enacted the Law on Electronic Information and Transactions as amended in 2016 and Government Regulation on Trading Through Electronic Systems. In summary, the relevant offences under art. 27 of the Act are to knowingly and without authority distribute and/or transmit and/or cause to be accessible electronic content which offends against propriety (art. 27(1)), and/or affronts [sic] or defames (art. 27(3)), and/or extorts and/or threatens' (art.

27(4)). There is no clarification as to what constitutes an offence against propriety or what constitutes the offence of affronting. It is left open to the courts to decide.

Hate speech is the subject of Article 27(2) of the amended Electronic Information and Transactions Law. Despite the apparent widespread backlash at the time of enactment of the Law (Tapsell, 2019), only one application for review was lodged with the Constitutional Court ("Judicial Review of Law No. 11 of 2008,"). The review concerned Article 31(4), which provides for further provisions or procedures for interception of electronic information by law enforcement officials to be regulated by government regulation. The court found this to be unconstitutional (s. 5). Under the GR 80 2019, platform service providers are not held responsible for negative content if they are only conduits of information, only store the data/information, or act as a search engine (art. 22(3)-(4)). Article 207 of the Criminal Code is problematic (Gomez & Ramcharan, 2020). It is an offence for a person with deliberate intent to insult 'in public, orally or in writing an authority or public body set up in Indonesia' (art. 207). This article could easily be applied to anyone who makes a false claim against a public authority.

Kusumawardhani (2020) review the application of Electronic Information and Transactions Law during the 2019 election. She finds no substantial public support for eliminating the law. Changes are suggested, such as amending the law to focus on actual hate speech rather than cracking down on constructive criticism of corrupt officials. She considers that the Constitutional Court should review the law and void aspects liable to misuse. Sawitri and Wiratmaja (2019) consider that the difference between truth and falsehood, and between information and disinformation must be defined and included in the law. They suggest that there should be a "specific penal code for the producer and circulator of hoaxes."

Further, Al-Fatih and Aditya (2019) argues that Article 28(2) of the Law does not provide an explanation of the three elements that must be met, as seen in the statement: the spreading of fake news is intentional, without right, and causes hatred and hostility. They argue that many judges ignore the element of intent deliberately. Regardless of the origins of the fake news and conspiracy theories, they have 'clearly reduced trust between Indonesian citizens of different political, cultural, and religious affiliations, and between the government and its constituency' (Hui, 2018).

Lao PDR

Publication and spreading of fake news are regulated by the Law on Resistance and Prevention of Cybercrime. The official English translation of the law states that it is an offence to enter into a computer system. Moreover, offences includes: 1) words that are slanderous, insulting or impolite; 2) data that are violent in character, false, cheating or untrue; 3) data which impacts national security, peace, social orderliness, culture, and tradition; and 4) data that persuades, exhorts, or encourages resistance to the Government or solidarity (art. 13).

Platform service providers and their users are subject to the Decree on Internet Information Management with the users responsible "for the content and information that are

developed, exchanged, sent, or forwarded through the website, online social media, or other forms on the Internet”. During the first quarter of 2020, the government was taking action against fake news under the Law on Media and the Cybercrime Law.

Malaysia

The Communications and Multimedia Act regulates, amongst other actions, the transmission of false information (s. 233). The Act was complemented by the Anti-fake News Act of 2018. The latter Act was subsequently repealed in 2019 after a change of government (“Malaysia Parliament scraps law”, 2019). As the Communications and Multimedia Act was not repealed, it is still in force and used to prosecute purveyors of fake news (“Content sharing on social”, 2019). It is an offence to transmit a comment which is false with the intention to “annoy, abuse, threaten or harass another person” (s. 233(1)-(2)).

There is no definition as to what constitutes false information. Based on its consideration of Section 233 of the Act, the courts have set a three-part test that must be met in full for a successful prosecution: 1) Did the accused make the communication through a network facility?; Was the communication “obscene, indecent, false, menacing or offensive?”; 3) Was the communication intended “to annoy, abuse, threaten or harass another person” (“Rutinin Suhaimin v PP,” para. 10)?

On 12 March 2021, the Emergency (Essential Powers) (No. 2) Ordinance entered into operation. The Ordinance addressed the spreading of fake news concerning COVID-19. Fake news “includes any news, information, data and reports, which is or are wholly or partly false relating to COVID-19 or the proclamation of emergency, whether in the forms of features, visuals or audio recordings or in any other form capable of suggesting words or ideas” (s. 2). The Ordinance has extra-territorial application regardless of the nationality or citizenship (s. 3(1)) provided it concerns Malaysia or “the person affected by the commission of the offence is a Malaysian citizen” (s. 3(2)). In summary, the offences under the ordinance include: 1) creating, offering and publishing fake news, including a publication containing fake news (s. 4); 2) providing financial assistance to those committing an offence under section 4 (s. 5); and 3) failing to remove a publication containing fake news (s. 6). Comparing the Ordinance with the repealed Anti-fake News Act shows that the only difference is the addition of the phrase “relating to COVID-19 or the proclamation of emergency” to the definition of fake news. It does not, however, include examples as were included in the repealed Act.

Myanmar

The fragility of democracy became apparent on 1 February 2021 when the Tatmadaw (Myanmar Defence Forces) arrested civilian leaders of the national and regional/state legislatures and declared a one-year state of emergency (“Myanmar: Military coup kills”, 2021).

Myanmar's overall anti-cybercrime legislation is relatively rudimentary and largely dependent on its Telecommunications Law of 2013. The offences are: '[e]xtorting, coercing, restraining wrongfully, defaming, disturbing, causing undue influence or threatening to any person by using any Telecommunications Network' (art. 66(d)), and 'communications, reception, transmission, distribution, or conveyance of incorrect information with dishonesty or participation' (art. 68(a)). The provisions have been criticised for being exceedingly broad and lacking legal certainty as they are "near-infinite in scope and hinge upon highly subjective terms that are open to a broad range of interpretation" ("Myanmar: Telecommunications law", 2017). Two further laws are used to prosecute offences, including criminal defamation and arguably posters of fake news ("Myanmar: Briefing paper", 2015). The Electronic Transaction Law specifies the offence of "creating, modifying, or altering of information or distributing of information created, modified or altered by electronic technology to be detrimental to the interest of or to lower the dignity of any organization or any person" (s. 34(d)). It is considered a truly loose and imprecise definition.

The role of social media in civil unrest in Myanmar incited by both the Tatmadaw and extremist Buddhist organizations is well-documented but denied by the various protagonists (Ibrahim, 2018; Irving, 2018; Wade, 2017). This is particularly the case of the continuing persecution of Muslims in Rakhine State, as reported by the Independent International Fact-Finding Mission on Myanmar ("Report of the detailed findings", 2018). The Mission had "no doubt" that the prevalence of hate speech, including that on Facebook "significantly contributed to increased tension and a climate in which individuals and groups may become more receptive to incitement and calls for violence" (para. 1354).

Myanmar is unique amongst its ASEAN peers in that there is significant evidence that fake news is used by the Tatmadaw as a weapon against its enemies using Facebook as its medium (Douek, 2018; Gleicher, 2020; Mozur, 2018; Stecklow, 2018). A New York Times investigation found that the Tatmadaw was turning Facebook "into a tool for ethnic cleansing, according to former military officials, researchers, and civil officials in the country" (Mozur, 2018). In 2018 Facebook removed a large number of Facebook and Instagram accounts belonging to Tatmadaw for coordinated inauthentic behaviour (Gleicher, 2018). The sites were removed based on the behaviour of the actors due to false identity than on the contents of the posts. On 1 February 2021, following the *coup d'état*, the Tatmadaw quickly recognized that its opponents could also use the power of social media and blocked Facebook, at least temporarily (Potkin, 2021). After the action failed to deter protests, other social media platforms were blocked, and following widespread protests on 6 February, the entire internet was shut down ("Myanmar protesters take", 2021).

Philippines

It has been widely reported that the Philippines National Police (Caliwan, 2020), especially during the COVID-19 crisis, are charging persons suspected of propagating fake news under s 4(c)4 of the Cybercrime Prevention Act and art.154 of the Revised Penal Code. Article 154(4)(1) of the Revised Penal Code states that it is a crime for a person "to publish or

cause to be published as news any false news which may endanger the public order, or cause damage to the interest or credit of the State”.

The Cybercrime Prevention Act refers explicitly to online libel as a crime under the Revised Penal Code (s. 4(c)(4)). The provisions of the Act concerning libel complement the provisions in the Code. With limited exceptions, every defamatory imputation is presumed to be malicious even if it is true (art. 354). Finally, libel can be committed by “writings or other means” (art.355). The offence of libel in the Act can be “committed through a computer or any other similar means which may be devised in the future” (s. 4(c)(4)). Penalties are one degree higher than provided for in the Revised Penal Code ‘as amended, or special laws’ (s. 6). No statute of limitations was included in the Cybercrime Prevention Act. The Department of Justice has determined (Buan, 2019) that the Cybercrime Prevention Act is a special law and therefore subject to the provisions of a 1926 Act. This results in a statute of limitations of 12 years (“Act to Establish Periods of Prescription for Violations,” 1926 s. 1(d)).

The provisions of the Act were appealed to the Supreme Court (“Disni et al. v Secretariat of Justice,” 2014). The Court ruled that s 4(c)(4) is valid and constitutional in relation to the original author of the post but not for those who only receive the post and react to it (para. 48 Declaration 1). The offence of aiding and abetting under (s. 4(c)(4) and s. 4(c)(3)) was found to be void and unconstitutional (para. 48 Declaration 2). Furthermore, charging an offender under s 4(c)(4) of the Act as well as Section 353 of the Revised Penal Code violates the proscription against double jeopardy, and was therefore void and unconstitutional (para. 48-49).

Singapore

In January 2018, the Singapore Government tabled a Green Paper in Parliament recommending that a Select Committee be appointed to consider options to address the problem of online falsehoods (Ministry of Communications and Information and the Ministry of Law, 2018, para. 83-85). The Committee was specifically asked to address how Singapore could “prevent and control online falsehoods”, including guiding principles and specific measures such as legislation (para. 84(d)). The Committee recommended that the approach should include nurturing an informed public, reinforcing social adhesion and trust, disrupting online falsehoods, and dealing with threats to national security and sovereignty (Select Committee, 2018, para. 540). The Government responded with the Protection from Online Falsehoods and Manipulation Act 2019 (POFMA).

Three important concepts are underpinning the Act, namely:

- s 2(2)(a) a *statement of fact* is a statement which a reasonable person seeing, hearing or otherwise perceiving it would consider to be a representation of fact; and
- s 2(2)(b) a statement is false if it is false or misleading, whether wholly or in part, and whether on its own or in the context in which it appears (s. 2(2)).
- s 2(3)[A] person has *editorial control* over an online location if the person is able to decide one or both of the following:

- (a) whether any statement may be included or excluded on the online location;
- (b) where to place any statement on the online location (s. 2(3)).

The purpose of the Act is to prevent communications of false statements (s. 5(a)); suppress the operations of repeat offenders (s. 5(b)); detect, control and safeguard against coordinated actions and misuse of online accounts and bots (s. 5(c)); and enhance disclosure of paid political content (s. 5(d)). The law also covers providers of services that are used for communication of false statements of fact, whether in or outside Singapore (s. 9). Penalties for contravening the Act are heavy fines and/or imprisonment for individuals. For judicial persons, the maximum fine is at least ten times higher than for a natural person (ss. 7-9). Any Minister may instruct the Competent Authority to issue directives dealing with the communication of false statements of fact (pt. 3) and internet intermediaries (pt. 4). Action can be taken against declared online locations which contravene the Act by posting at least three false statements within the previous six months (pt. 5).

The Regulations name the prescribed internet intermediaries (s. 3); prescribed holders of press permits, broadcasting licenses, and telecommunications licenses (s. 4); and digital advertising intermediaries (s. 5) who are subject to the reporting provisions of the Act and are obliged to abide by associated Codes of Practice. An appeal under the penalty provisions of the Act is by way of a “rehearing” (“Protection from Online Falsehoods and Manipulation Rules,” s. 5(1)).

Jayakumar, Ang, and Anwar (2021) note that major social media platforms had reservations but would abide by the Law. One group of objections saw POFMA as threatening civil liberties, particularly freedom of speech. The second group interpreted the law as giving the Minister the power to determine what is false. Jayakumar, Ang, and Anwar point out that this was not the case as the decisions can be challenged in court. Howe (2019) argues, however, that there were issues in relation to the appeals provision under s 17 of the Act. She considers that uncertainty “lies with s. 17(5)(b), on whether ‘the subject statement is not a statement of fact, or is a true statement of fact’” (Howe, 2019). Whilst an expedited appeals process significantly reduces the costs to the applicant in bringing a case to court, the applicant still deals with the costs of an appeal. In the result of the appeal failing, the applicant will have to meet the costs of the respondent unless it is a serious question of constitutional law, in which case costs may not apply.

As of 19 August 2020, there had been one appeal only that provides the basis of jurisprudence for future cases and is discussed below (“Singapore Democratic Party v Attorney-General,”). In brief, the Minister had found that the Singapore Democratic Party had posted misinformation on three occasions. Furthermore, Control Directives were issued. A request to the Minister to cancel the Directives was rejected (para. 2-7). The judge found that the assertion that there was a rising proportion of persons getting retrenched was a factual statement because no supporting data was cited or referenced (para. 27-32). He also found that the burden of proof to show that the statements subject to the Declarations arise and whether they are true or false rested with the respondent (i.e. the Attorney-General) (para. 44), and the standard of proof is on the balance of probabilities (para. 49). [Hyperlinking to a previous article may, depending on the](#)

circumstances, constitute re-publication of the main article (para. 51-56). The Act “necessitates an objective approach based on the wording of the material in question” (para. 128).

As of 1 July 2020, the Act had been used 55 times (Meyer, 2020). According to data reported by Meyer, the bulk of the orders under the Act aim at “political-oriented nongovernmental forces”, with less than 12% being ordinary social network users. Most of these posts (around 85%) cover criticism of the government, whilst the orders against social media posts were to tackle modest inaccuracies. During the nine-day June/July 2020 election campaign, won by the governing People’s Action Party, with 83 of the 93 seats and 61,23% of the total vote (GE2020, 2020), there were six referrals under the Act (Jaipragas, 2020). While the opposition parties had varying opinions of the Act's impact on their campaigns, there was one significant action resulting from the Act. Google decided in December 2019 that it would not accept political advertising regulated by the Political Advertisements Code (Baker, 2019).

Thailand

Thailand regulates fake news under the Computer Crime Act, as amended, and the Criminal Code. The relevant section under Computer Crime Act (No. 2) states that it is an offence to bring into a computer system data “which is false, in such a manner likely to cause damage to the maintenance of national security, public safety, national economic security, or infrastructure for the common good of the nation, or to cause panic amongst the public” (s. 14 (1)(2)). It is also an offence to forward “computer data, with the knowledge that it is the computer data that is false” (s. 14 (2)).

There is no definition in either the Act or its amendment as to what constitutes data which are false. The application of the Act is discussed in detail by Anansaringkarn and Neo (2021) and Smith and Perry (2020). These articles also contain descriptions of several cases of the application of the Computer Crime Act and associated laws by Thai authorities.

Vietnam

Law 24 on Cybersecurity Law is wide-ranging in its application. There are a number of articles in the law that can be used to prosecute those who are considered to be communicating fake news. The Law also included prosecutions for those violating the principles of cybersecurity, including ‘ensuring the interest of the State and the lawful rights and interest of agencies, organizations, and individuals’ (art.4(1)), and ‘[l]eadership by the Vietnamese Communist Party and uniform administration by the State’ (art.4(2)). Strictly prohibited conduct under the Law includes: 1) undertaking activities to cause people to oppose the State; 2) distorting history and denying revolutionary achievements; and 3) providing false information causing confusion or harm (art. 8(1)(b) to (d)).

Depending on the seriousness of the breach, it could lead to an administrative offence or criminal prosecution and compensation (art. 9). In addition, the false, misleading, or violating information must be removed (art. 10(3)).

ANALYSIS

There is a wide range of political structures in ASEAN member states. The next task is to ascertain whether their legislation is as diverse. The information is summarized in Table 1. As the legislation is often broad in coverage with relatively ill-defined offences, it is sometimes difficult to determine the actual scope of the law. In that case, some cells in the table is filled with a “?”.

Table 1. Comparison of Fake News Legislation across ASEAN

	Brunei Darussalam	Cambodia	Indonesia	Lao PDR	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam
System of government										
Absolute monarchy	✓									
Communist state				✓						✓
Parliamentary democracy		✓			✓			✓	✓	
Presidential democracy			✓			✓	✓			
Legal system										
Civil code		✓	✓	✓					✓	✓
Common law	✓				✓	✓	✓	✓		
Legislative approach to fake news										
Fake news specific legislation								✓		
Definition of fake news in legislation								✓		
Cybercrime/telecommunications legislation	✓	✓	✓	✓	✓	✓	✓		✓	✓
Criminal offence	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Administrative offence										✓
Safe-harbour provision for platform service providers			✓							
Platform service providers specifically liable for content		✓		✓			✓	✓	✓	✓
Broad definitions of offences open to wide interpretation	✓	✓	✓	✓	✓	✓	✓		✓	✓
Prescribed fake news offences										
Spreading false information likely to cause confusion, public harm, or panic	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Publishing or giving false information causing concern about safety of a person or property	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Inciting to commit offences or disturb social cohesion or damage to national security	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Publishing or spreading information believing it to be true is a defence	✓	?	?	?	✓	✓	?	✓	?	

* fake-news specific legislation is in place either in a standalone document or explicitly included in other legislation.

Source: The authors.

Legislative Approach to Fake News

Essentially there have been two approaches to fake news. In all cases bar of Singapore, the jurisdictions have enacted cybercrime laws or have enacted or amended omnibus telecommunications legislation. The potential issue associated with adopting omnibus legislation is that it becomes quite complex as it tries to cover a plethora of issues and offences. Neither the system of government nor the legal system appears to have impacted the type of legislation used to prosecute publishers or distributors of fake news.

Criminal or Administrative Offence

In nine jurisdictions, spreading fake news is a criminal offence that can be punished by fines and/or imprisonment. Vietnam is the exception, although it has rigorous laws, the offences are treated as an administrative offence with police issuing a fine. There is a significant advantage in the Vietnamese approach that administrative fines are issued by the police and paid without the need for a court attendance, saving time, and costs for both parties.

In reality, the focus should be on removing the potentially dangerous fake news with legal action as a secondary consideration. In addition, there should be a lower threshold for the application of criminal sanctions.

Liability of platform service providers

One pressing issue associated with publishing and distributing “fake news” is the level of responsibility placed on the social media platform providers. Currently, they are primarily protected under safe harbour provisions. One of the most prominent examples of a safe harbour provision is the so-called Section 230 of Chapter 47 of the U.S. Code, which deals with the protection for private blocking and screening of offensive material. There is an interesting dichotomy in the United States with the Trump Republicans wanting it repealed so that action can be taken against the platforms removing content and the Democrats wanting it repealed so that the platforms are responsible for “fake news” posted on their sites (Siripurapu, 2020).

Indonesia is the only jurisdiction where safe harbour provisions explicitly apply. Four jurisdictions: Cambodia, Lao PDR, Philippines, and Singapore, explicitly mandate that platform providers are liable for the content on their platforms. The remainder has legislation that empowers the government with authority to order platform providers to remove content that is contrary to the law.

All major social media platforms have their own standards for users to post on their platforms. The user must accept them before using the platform. Whether or not those are actually read or understood, especially when the mother language is not English, is questionable. It is highly likely that very few users are actually cognizant of the requirements (“Community standards”, 2020; “The twitter rules”, 2021).

Prescribed Fake News Offences

In Singapore there is an explicit definition of fake news. This means that the police and prosecutors in the other jurisdictions have broad discretion in “defining” the offence and prosecuting offenders. The emphasis should be on the prompt removal of fake news than on charging offenders. Of particular concern is those who inadvertently publish or share information that they thought was true. There is an issue with the definition of “believing something to be true”. It can be overcome by setting a series of tests that must be met before such defence is accepted. The test could include questions such as: 1) Did the accused see something first-hand and misinterpreted it?; 2) Did the person do any fact-checking before the information was published?; and 3) Is the offence trivial and was not meant to cause offence? In the four former British colonies or protectorates (Brunei, Malaysia, Myanmar, and Singapore), publishing or spreading information believing it to be true is a defence. In the other jurisdictions, it is unclear.

Except for Singapore, no jurisdiction has attempted to regulate serious acts of misinformation or disinformation specifically published and spread by political parties. None of the jurisdictions has addressed the possible role of state actors in publishing and spreading misinformation or disinformation as a weapon to promote civil dissension against, for instance, minorities in the case of the Tatmadaw in Myanmar. It is considered that state actors should be held to higher account, especially in cases where they use fake news to promote communal unrest. More severe penalties should apply than in other cases.

Comparison between ASEAN Declaration and Legislation of ASEAN Member States

The key articles of the agreement include: 1) improve digital literacy; 2) strengthen national capacity to detect and respond to fake news; 3) encourage stakeholders to build on the existing industry anti-fake news norms and guides; and 4) share best practices and experience. The legislation of the member states address these factors in many practices.

In improving digital literacy, none of the State parties addressed this issue in their legislative response to fake news. In strengthening national capacity to detect and respond to fake news, each set of legislation has addressed the response, i.e. criminal sanctions and removal of offending material. The specific legislation does not include strengthened capacity to detect fake news. Meanwhile, most parties have adapted cybercrime or telecommunications than specific fake news legislation. The latter is covered by other legislative instruments and is outside the scope of the research.

To encourage stakeholders to build anti-fake news norms and guides, the legislation of each state party addresses this by defining the legislative framework through which fake news offences will be prosecuted rather than providing a positive guide as to how stakeholders should operate.

Regarding best practices and experience, only the Philippines has included a section on international cooperation in their legislation (s. 22). Undoubtedly it is because they are the only ASEAN member state that is a party to the Convention on Cybercrime.

The varying approaches taken by the ASEAN member states is not unexpected. Two of the overriding principles of ASEAN, as stated in its Charter, are: non-interference in the internal affairs of the other members (Charter of the Association of Southeast Asian Nations, 2007 art. 2(e)) and the right for every member to be free from external interference, subversion, and coercion (art. 2(f)).

CONCLUSIONS

From the overview of the legislative tools used by ASEAN member states to act against publishers and spreaders of misinformation and disinformation, it is clear that there are a number of common factors that should be addressed to provide a fairer and more transparent approach, namely: 1) Develop a concise definition as to what constitutes fake news; 2) Develop anti-fake news legislation as either a standalone statute or as a specific amendment to existing legislation; 3) Explicitly legislating that publishing or spreading information believing it to be true is a defence; 4) Except in the most serious cases, downgrade the offence from a criminal to an administrative offence where the police issue a fine; 5) Explicitly create the offence under the relevant fake news legislation of publishing and spreading of disinformation by state actors, their servants or agents. Such an approach will lead to a more transparent system focused on protecting the community from the malicious impacts of fake news.

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TRANSBOUNDARY ENVIRONMENTAL GOVERNANCE IN THE EU AND SOUTHEAST ASIA: CONTESTING HYBRIDITY IN THE BIOFUELS AND PALM OIL REGIMES

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ABSTRACT

The research addresses the complexities of the European Union's Renewable Energy Directives (EU RED and RED II), contextualising them within the palm oil sector in Southeast Asia, in which Indonesia and Malaysia are known to be the two largest producers and exporters of palm oil. It aims to question the effect of this expanding role of markets on power dynamics and political processes. Examining these developments at different organisational scales highlights the asymmetrical power relations that circulate through such transboundary networks to shape patterns of resource access and the distribution of environmental risks. Employing a qualitative approach, the research uses case study method to reflect on how market forces and broad political dynamics establish the hybrid environmental governance regime of biofuels. The research concludes that this transboundary market approach to biofuels and palm oil should be regarded with caution, as it (1) lowers regulatory quality within the biofuels sustainability regime, (2) undermines the sustainable palm oil market, and (3) indirectly bolsters unsustainable practices outside the palm oil sector.

Keywords: *transboundary, environmental governance, palm oil, European Union, Renewable Energy Directives*

INTRODUCTION

Hybridity may undermine sustainable development and environmental justice objectives, and increase economic hardship by leaving too much room for decision-making and

coercive tactics by powerful private actors (Miller et al., 2020; Stattman et al., 2018). Such hybrid transboundary governance regimes may not be equally well-designed. Environmental conditions may get worse if they produce contradictory directives resulting in operational confusion. Therefore, such regimes should be considered carefully. Miller et al. (2020) argue for the need to understand how such “hybrid governance regimes are being enacted across borders, including in legally flexible ways that span formal and informal spheres, to improve the efficacy and inclusiveness of existing transboundary governance arrangements to sustain transboundary resources and mitigate cross-border environmental threats and crises”. An example of a transboundary complex environmental issue extending beyond jurisdictions is the global market for biofuels.

Miller et al. (2020) have argued for the potentially productive role of markets in mitigating such ecological issues. Accordingly, various states developed national (and in the case of the EU, regional) regulations, subsidy systems, and directives to uphold production, trade, and use of biofuels against standardised sustainability requirements. This came alongside the development of national and transnational private and multi-stakeholder sustainability certification schemes, both directly and indirectly focused on biofuel sustainability. Such elements characterise the hybrid transnational governance of sustainable biofuels: 1) institutionally co-existing alongside intergovernmental regimes and complex overlaps and 2) interactions between national and transnational elements (Ponte & Daugbjerg, 2015).

The application of state authority to such private certification schemes, like in the case of the European Union Regional Energy Directive (EU RED), has been assumed to “harden” accountability towards more sustainable production. As the state can set legally binding requirements, this is expected to be able to coerce corporate entities into submission (Moser & Leipold, 2019). However, Kemper and Partzch (2018), Larsen et al. (2014), Moser and Leipold (2019), and Stattman et al. (2018) have argued that “instead of yielding an increasingly stringent sustainability framework, the hybrid EU governance arrangements resulted in a proliferation of relatively lax, industry-driven sustainability standards”. Hence, there is still an ongoing debate in the literature about whether a hybrid approach can strengthen or weaken sustainability objectives (Stattman et al., 2018).

METHODS

The research centres the academic debate around the EU RED in Southeast Asia, where Indonesia and Malaysia are the largest producers and exporters of palm oil, a type of biofuel. Considering the latest developments under EU RED II and responses from both countries, the research takes a qualitative approach and uses the case study method to reflect on how market forces and broad political dynamics can shape the hybrid environmental governance regime of biofuels. The research employs the researcher’s own knowledge and understanding of the selected case study combined with an extensive review of the academic literature on both the biofuels and palm oil sustainability regimes. Furthermore, it also provides detailed content analysis of recent official documents and statements from major stakeholders to reflect on the sustainability outcomes of transboundary market approach to biofuels and palm oil. Miller et

al. (2020) point out that “understanding hybrid environmental governance through this fluid register of (market and political) power relations afford heightened visibility of the differentiated beneficiaries of environmental benefits” within such regimes.

The research follows Miller et al. (2020) who argue that the market’s considerable role in environmental governance can be seen as less about economic activities and more about power dynamics and political processes. Miller et al. (2020) consider how “power relations circulate through transboundary geographies of hybrid governance to allow or block access to the benefits of particular resources, resulting in (redistributive) inclusions and exclusions, with implications for environmental (in)justice”. They argue that both state and private actors engage transboundary networks at the national and translational scales to increase their respective power positions and ecological agendas. Through such processes, hybrid environmental governance regimes become sites of political contestation. Powerful states may attempt to design and broker arrangements that reinforce unequal power relations to maintain their hegemonic values in lieu of actual ecological reforms, while weaker actors may try to mobilise to resist attempts at enclosure and resource capture by more powerful states.

The research offers a conceptual discussion of transboundary environmental governance and locates hybrid forms of the same within the literature. It is followed by elaboration on the market-based sustainable governance regimes of both biofuels (in the EU) and palm oil (based in Southeast Asia). The research then describes the interplay of these hybrid instruments as sites of political contestation, focusing on how power dynamics have influenced outcomes within these regimes. Finally, it discusses how these market, political, and power dynamics affect sustainability trajectories within both of these sectors and regions.

RESULTS AND DISCUSSIONS

Hybrid Forms of Transboundary Environmental Governance

The United Nations Development Programme (UNDP) (in Haque, 2018) defines governance as “the exercise of one’s political, economic, and administrative powers or authorities at various levels”. This includes procedural and institutional mechanisms that actors can use to actualise their rights and interests, fulfil obligations, and negotiate differences. Badenoch (2001) defines environmental governance as encompassing the range of “processes and structures that underlie the decision-making processes that affect the environment, however unintentionally”. An environmental view of governance thus includes examining the “rules of the game” and “who gets to play” in ecological issues and encompasses more than just the environmental sector. Thus it refers to how the debate is held, decisions are made, and authority is exercised over the environment (Woods, 2003).

Traditional types of state-led environmental governance have often been inadequate to solve transboundary environmental problems. Such complex environmental problems often extend beyond individual property regimes and jurisdictions, and generate cascading and far-reaching impacts such as market fluctuations, livelihood transformations and human displacement and resettlement. They cannot be resolved at a single scale of decision making

within the boundaries of administrations or individual countries (Miller et al., 2020). For example, in Southeast Asia, ASEAN member states agree to adopt a collective approach to regional transboundary haze governance after national efforts proved inadequate to address this complex air pollution problem involving transnational capital, state-to-state relations, and global commodity markets (Varkkey, 2016). In the scope of marine pollution management, the Mediterranean Action Plan materialised due to the inability of Mediterranean states to adequately govern the movement of marine pollution across borders in the Mediterranean basin, which negatively affects environmental health and tourism in the region (Thacher, 1977). Formal state-level institutional structures, especially in the developing world, tend to have weak implementation which limits environmental governance effectiveness (Larsen et al., 2014). Badenoch (2001) offers transboundary environmental governance as an alternative approach, which involves “the interaction of many actors along two axes: vertically through the various levels of government administration and inter-governmental cooperation, and horizontally among the range of state-market-community actors”.

Transboundary environmental governance can mean many things, among them “private” and “non-state, market-driven” transnational governance (Ponte & Daugbjerg, 2015). However, while scholars have acknowledged the shift of such state to non-state types of authority, there is also an understanding that this has not weakened the state. Such a condition is known as hybrid governance defined by Ponte and Daugbjerg (2015) as “a form of governance where public and private come together in complex configurations that include civil society, business, and a plethora of nontraditional actors”. Hence, hybrid means more than a varied combination of public and private governance components. It denotes their “mutual dependence and deep interrelation, characterised by polyarchic and overlapping governance arenas, where interactions between a variety of mutually dependent private and public actors give rise to hybrid regulatory features, and where collective orders and individuals engage in cross-border rulemaking, implementation, and enforcement activities” (Ponte & Daugbjerg, 2015). Miller et al. (2020) have further refined this definition as “deliberative, multisector (co-governance, public-private, and private-societal) partnerships that collaboratively produce, synthesise, and mobilise knowledge from diverse sources and through flexible institutional arrangements”.

Such hybrid models serve as an appealing alternative to the often piecemeal and inflexible traditional forms of environmental governance. Some scholars have argued that hybrid governance should increase the capacity of governments to fulfil sustainability objectives, including environmental protection, social advancement, and economic prosperity. This is mainly linked to the belief that state-led initiatives that include private governance efforts will technically promote stricter criteria and best practices towards a race to the top (Stattman et al., 2018).

However, when competition is created between private schemes due to multiple governance options, the resulting fragmentation can weaken sustainability through a race to the bottom (Stattman et al., 2018). Miller et al. (2020) point out that hybrid governance regimes furthermore tend to validate “democratic environmental collaborations, usually with the support of market incentives, without fully understanding the trajectories of different

combinations of hybrid regimes or their interplay at specific scales of governance”. Hence, such hybrid intervention can produce suboptimal environmental outcomes if major stakeholders cannot resolve coordination issues, adapt to change, overcome trust issues, or confront power asymmetries. Furthermore, failing to systematically organise and exchange information needed for transboundary decision making can undermine such hybrid arrangements right from the planning stage. This process is rarely straightforward or smooth, involving coordination across often contrasting political dynamics and ideologies (Miller et al., 2020). Therefore, perceiving the political dynamics of hybrid environmental governance arrangements is vital in understanding the complex and contradictory development in environmental governance.

Creating A Market for Sustainable Biofuels in the EU

While biofuels have been put forward as a viable alternative to fossil fuels, doubts have been cast on the impact of biofuel production on greenhouse gas (GHG) emission reductions. Biofuels have been blamed for causing serious food price increases as it removes water and land from food production. Further climate justice issues include inequitable land investments, limited local benefits and participation in decision-making, and ecological degradation (Ponte & Daugbjerg, 2015; Pye, 2010).

Transnational governance focusing on markets can be potentially productive in addressing sustainability issues (Miller et al., 2020). Larsen et al. (2014) argue that incorporating sustainability standards into government regulations in importer countries and regions can improve the accountability of market actors. In the context of biofuels, they argue that voluntary multi-stakeholder sustainability standards can complement weaker public regimes and, by extension, improve accountability in international markets of biofuel products. However, this must be couched against existing hybrid sustainability regimes and market incentives for palm oil, a major type of biofuel. Hence, it is important to understand the trajectories of both the EU biofuel regime and the Southeast Asia-based palm oil regime and their interplay at specific scales of governance.

The EU biofuels governance regime has succeeded in creating an important market for biofuels (Oosterveer, 2020) and stimulating global demands for vegetable oil (Larsen et al., 2014). Indeed, without the policy, there would be no market for feedstock-based biofuels in the EU (Oosterveer, 2020). The EU started to develop its own biofuels policy in 2001 (Wahid, 2008). The first EU biofuels directive entered into force in 2003 to promote biofuels and other renewable fuels for transport. It set a voluntary blending target of 2% renewable energy in the transport sector in 2005 and a binding target of 5,75% in 2010.

It resulted in a growth in imported sugarcane bioethanol from Brazil and soybean biodiesel from the United States due to lower production costs (Stattman et al., 2018). Imports of palm oil from Southeast Asia also continued growing to serve the new biofuel market (Oosterveer, 2020). While the EU officially reported a GHG emissions savings of 14.0 Mt in 2007, lobbyists, environmental organisations, and scientists began positing that the EU-driven increase in international trade of biofuels led to increased emissions overseas due to indirect

land-use change (ILUC) there. The much-discussed link between palm oil and deforestation at the time quickly spotlighted land-use change in palm oil-producing countries as a primary concern. The 2007-2008 food price crisis also raised concerns that biofuels were taking land and water away from food crops, and thus driving food prices up. It was proposed that these indirect adverse effects should be considered risks to be mitigated in EU biofuels policies (Stattman et al., 2018).

In response to this, the EU came up with a follow-up directive, the EU RED, in 2009. The EU RED required that at least 20% of the EU's total energy needs should come from renewables by 2020, of which at least 10% should come from renewable transportation fuels. To qualify, biofuels should meet these sustainability criteria: (1) It should achieve GHG savings of at least 35% compared to fossil fuels; (2) It cannot be cultivated on previously high carbon stock land like wetlands or forests; and (3) It cannot be produced from raw materials obtained from high biodiversity land like primary forests or high biodiversity grasslands (Stattman et al., 2018).

In this way, the EU set a “meta-standard” (basic, minimum sustainability requirements) for biofuels which could be counted towards national renewable energy targets (Ponte & Daugbjerg, 2015). However, the World Trade Organization (WTO) regulations limited the ability of states to impose product requirements and regulations on other members (Stattman et al., 2018). Furthermore, imported biofuels' sustainability criteria are based on production-level attributes, with production centres often located outside the EU. Therefore, Ponte and Djauberg (2015) argue that the EU “needed private certification schemes to extend its authority and capacity to implement the environmental sustainability criteria beyond its territorial borders”. Many private certification schemes were created in response to this demand, leaning on the RED incentives to establish themselves as a legitimate market-based instrument for sustainability governance. Some schemes are limited to a specific national scope, while others could potentially be applicable worldwide. Some cover specific crops or specific parts of the production chain, while others cover all crops and the whole production chain. Seven private schemes were first accepted (on five-year terms) by the EU in 2011, which increased to 19 in 2016 (Stattman et al., 2018).

However, the EU RED criteria continued to be challenged, especially on the absence in the policy of GHG impacts from ILUC caused by biofuel feedstock production and social impacts, including consequences for food security. However, palm oil imports for biofuel continued to grow and replaced soybean oil as the most imported biofuel feedstock by 2015 (Oosterveer, 2020). In response to citizen concerns over palm oil, the EU RED II was introduced as an updated policy framework for 2021-2030. Under this iteration, the target for agricultural feedstock-based biofuels was reduced to 7% from 10%, so countries could introduce tax incentives and quota measures to achieve this. Some existing sustainability measures were tightened, such as an increase in the requirements for GHG savings from 35% to 65%, with palm oil clocking in at only 45% of savings (Oosterveer, 2020).

Thus, EU RED and RED II have increasingly complex transnational and hybrid features (Ponte & Daugbjerg, 2015), with the hybridity of the system being based on deep public-private

interdependence and interconnection (Pacheco et al., 2020). This integration of private initiatives created a hybrid biofuel governance landscape consisting of public standards and private certification initiatives to govern access to the EU biofuels market (Stattman et al., 2018). At the same time, and evolving quite independently from the EU biofuels regime, a complex governance regime for palm oil, which has in recent years replaced soybean oil as the main imported feedstock for biodiesel into the EU, has developed in response to its own unique sustainability issues (Pacheco et al., 2020).

Parallels with the Palm Oil Sustainability Regime

Due to its production efficiency, low price point, and usage versatility, palm oil has become the world's leading vegetable oil, representing more than 35% of the global vegetable oil market. It is also a highly tradeable commodity, with around 70% of its production traded internationally. India is currently the largest importer of palm oil, followed by the EU and China. In the EU, palm oil is becoming an increasingly important input in the processing and food industries in Europe (Oosterveer, 2020). However, the expansion of oil palm, especially when on peatlands, produces significant amounts of emissions and drives biodiversity loss when on primary forests (Pacheco et al., 2020). Consumer concerns over these sustainability issues, particularly in Europe and North America, have resulted in bad publicity for the commodity and inspired boycotts against producers using palm oil (Oosterveer, 2020). To address these sustainability issues, various state and non-state regulatory initiatives have been developed, resulting in regime complexity characterised by “parallel or overlapping and competing initiatives [that] are not combined into a single hierarchical system” (Overdevest & Zeitlin, 2012 in Pacheco et al., 2020).

The Roundtable for Sustainable Palm Oil (RSPO) is the most widely adopted private standard within the palm oil sustainability regime. RSPO was set up in 2004 which involves third-party compliance monitoring of adherence to the RSPO standard, primarily addressing palm oil-specific land and environmental performance issues (Pacheco et al., 2020). Several loose coalitions, including the Palm Oil Innovation Group (POIG – NGOs and corporations) and the Indonesian Palm Oil Pledge (IPOP – Indonesia's “big five producers), pushed for additional standards related to deforestation, planting on peat, and social exploitation (“No Deforestation, No Peat, No Exploitation” or NDPE) beyond RSPO's existing standards. Responding to this, an enhanced voluntary standard, termed “RSPO NEXT”, was introduced in 2015, incorporating NDPE norms (Nesadurai, 2018). RSPO has also developed the short-lived RSPO-RED, which attempts to comply with the EU RED sustainability criteria (Stattman et al., 2018),

As the largest and second-largest palm oil producers worldwide, respectively, the Indonesian and Malaysian governments also have developed their own certification schemes. The Indonesian Sustainable Palm Oil (ISPO) mandatory certification scheme was launched in 2011, and the Malaysian Sustainable Palm Oil (MSPO) was launched as a voluntary scheme in 2014, which became mandatory in 2017. Unlike RSPO, which relies on voluntary participation, ISPO and MSPO rely on national government regulations (Oosterveer, 2020). Furthermore,

while all these schemes claim to be sustainable, they all differ slightly in their principles in criteria, reflecting the malleability of this concept (Lélé, 1991). The MSPO and ISPO have applied to be recognised under the EU RED criteria but failed. While the creation of the EU biofuel regime has indeed created an expanded role for markets in biofuel sustainability governance. The research provides elaboration that this must be understood as less about economic activities and more about power dynamics and political processes.

The EU as a Normative Environmental Power?

The EU is considered a powerful and influential actor due to its wealth, political competencies, legal personality, and power to bind members, which feed into its ability to exert leverage and develop complex policy (Vogler & Stephan, 2007). It is also recognised as a considerable ‘normative power’, first described by Manners (2002, in Afionis & Stringer, 2012) as “a distinct actor that is guided by and seeks to advance in the wider world the values and ideas on which it is founded upon, including democracy, the role of law, human rights and fundamental freedoms”. Sustainable development was explicitly identified as a fundamental objective of the EU’s relations with the outside world in its 1997 Amsterdam Treaty and successors. It has become a core norm within the EU’s normative outlook, which it promotes through enlargement, environmental, trade, foreign and development policies (Afionis & Stringer, 2012).

The EU has been recognised as a normative international leader of sustainable development at least since the late 1980s. It played significant roles in promoting the 1989 Basel Convention on hazardous waste, strengthening the 1989 Montreal Protocol, providing leadership during the 1992 Rio Conference, creating the 1995 Intergovernmental Panel on Forests, supporting the 2000 Cartagena Protocol on Biosafety, influencing the 2001 Stockholm Convention on Persistent Organic Pollution, developing the UN Framework Convention on Climate Change (most significantly through the 2005 Kyoto Protocol), and ‘greening’ the WTO (Afionis & Stringer, 2012; Bretherton & Vogler, 2000; Delreux, 2009; Vogler & Stephan, 2007). It chose to use its platform at the 2002 Johannesburg Summit to communicate its ‘Europe 2020 Strategy’ for smart, sustainable, and inclusive growth. It pushes to keep sustainable development on the agenda of important international organisations and processes such as the G8, G20, World Bank, UN Security Council and General Assembly, and the World Health Organization (Afionis & Stringer, 2012). Promoting a global sustainability agenda in these manners has been seen as evidence of the EU genuinely attempting to fulfil its normative role successfully and credibly. On these grounds, it could be understood that the EU’s normative leadership departs from the *realpolitik* tradition by promoting the global common good, arguably over and above the national interest (Falkner, 2007 in Afionis & Stringer, 2012).

However, the concept of sustainable development is highly malleable (Lélé, 1991), and scholars have noted how the EU upholds its normative environmental leadership position based on its own narrow interpretations of the concept even while it pursues unsustainable trade strategies (Afionis & Stringer, 2012; Bretherton & Vogler, 2000). Cracks became visible in

this façade when the EU played an active role in inserting text into the UNCED's Agenda 21, but without insisting on the inclusion of trade, an issue area where it would have had a substantial influence based on the size of its single market (Vogler & Stephan, 2007). Following this, several notable cases have highlighted the divergences between the EU's trade interests and its environmental policies, including the EU's refusal to ban the import of furs from important trading countries obtained through inhumane methods and its refusal to take a stance on Genetically Modified Organisms for fear of souring transatlantic trade relations (Bretherton & Vogler, 2000).

By viewing EU's normative environmental leadership through a political economy lens, it can be argued that economic and trade interests are the key motivators for EU's leadership in international ecological policymaking, while normative aspirations maintain a subsidiary role (Kelemen, 2020 in Afionis & Stringer, 2012). While Vogler and Stephan (2007) argue that "there is no necessary contradiction between the promotion of European values, the pursuit of economic interests, and the strong support for a more ambitious agenda of global regulation", the research argues that the EU's position as a normative environmental power augments its own power position and sustains its own hegemonic values *vis-à-vis* other countries. In this manner, the research argues that the EU biofuels governance regime has become a site of political contestation.

Political Economy of EU Biofuel Governance

The rapid development of the EU biofuels policy can be linked to both a normative concern for the environment and *realpolitik* considerations. Before the biofuels policy, the EU's transport system was almost completely reliant on oil from Russia and the politically unstable Middle East and Central. Furthermore, the EU was not on track to meet its Kyoto Protocol emissions reduction targets (Afionis & Stringer, 2012). Under the Kyoto Protocol, the EU committed to an 8% GHG reduction by 2012 and 20% by 2020 (Kemper & Partzsch, 2018). Failure to achieve these targets would deliver a major blow to the EU's position as a global environmental leader (Afionis & Stringer, 2012). Therefore, taking advantage of the malleability of the concept of sustainable development, the EU focused its biofuels sustainability criteria on GHG reductions to effectively contribute to its commitments under the UN Framework Convention on Climate Change (UNFCCC). This pragmatic determination of sustainability criteria to fulfil international commitments has ignored other equally important aspects of sustainability. For example, Kemper and Partzsch (2018) and Larsen et al. (2014) determine that the EU RED standards does not promote water sustainability at production sites on the ground.

A major criterion to the EU RED was that biofuels may only be counted towards the 10% renewable transport fuels requirement if they achieved GHG savings of at least 35% over fossil fuels. There is, however, no specific scientific consensus pointing towards the necessity of this figure. Rather, it conveniently ensures that the heavily subsidised domestic rapeseed oil will qualify by a small margin, but the default GHG savings of palm oil and soybean biodiesel would not (Erixon & Abbott, 2009; Meredity, 2012). This attempt to limit future market

expansion for the EU's main biofuel competitors fulfils the demands of local vegetable oil producers arguing that their products should be preferred over imported vegetable oils (Firrisa et al., 2014 in Oosterveer, 2020) and connecting to the EU's earlier geopolitical concerns of reducing the dependence of imported sources of energy. The EU works through the transboundary network to augment its own power position and interests (Miller et al., 2020).

Positioned as a powerful global actor in more ways than one, it is implicitly understood that when the EU adopts a standard, other countries will adopt similar standards or comply with the EU standard in other ways to prevent being locked out of the EU market. Hence, the EU can use its market power to incentivise other countries to behave in an acceptable manner according to the EU's view (Erixon & Abbott, 2009). Hence, several certification schemes were quickly established and modified in the attempt to be recognised under EU RED to gain market access. One example is the German-based International Sustainability and Carbon Certification (ISCC), established in 2010 specifically to certify biofuel feedstock, including crude palm oil (CPO) for the EU biodiesel market (Pacheco et al., 2020), and was among the first set of schemes recognised by the EU RED in 2010. RSPO, certifying a large chunk of the Southeast Asian market, introduces RSPO-RED, a voluntary add-on to the generic RSPO Standards and Criteria. RSPO-RED used methane capture to meet the 35% GHG reduction requirement. In November 2012, RSPO-RED was accredited under EU RED. The accreditation expired in 2016 (Stattman et al., 2018) and was renewed in 2019 until 2021. However, the EU indicated that the scheme would not be renewed after 2021 as the scheme did not adhere to the EU's narrow interpretations of biofuel sustainability.

This was followed by another European Parliament decision in 2018 to phase out palm oil as a feedstock for biofuels by 2021 (Stattman et al., 2018). However, explicitly excluding palm oil would raise legality issues as it would not comply with WTO requirements (Oosterveer, 2020). Therefore, a slightly softened version of the EU RED II went ahead at the end of 2018. In this iteration, a distinction was made between high-risk and low-risk ILUC biofuels. High-risk biofuels were defined as those produced from a feedstock for which there has been observed a significant expansion of the production area into land with high carbon stock. These types of biofuels would need to peak at 2019 levels and be phased out by 2030 unless specific batches could be certified as low-risk. In the operationalisation of this criterion, the expansion into high carbon forest for palm oil was calculated as 45%, and 9% for soybean. Under these calculations, even though palm oil was not specifically identified, it was almost automatically considered a high-risk ILUC biofuel feedstock (Oosterveer, 2020). This would render palm oil "virtually unmarketable" within the EU member states as palm oil would be more expensive than both fossil fuels and domestically produced biofuels without the RED tax benefit (Meredity, 2012).

Hence, by erecting barriers aimed at shielding its own inefficient domestic biofuels production, the EU is placing trade competitiveness and economic growth above normative environmental protection, thus permitting sustainability concerns to be addressed only in part. The EU's selective interpretation of sustainable development has not compelled EU-based actors to radically change existing developmental practices while forcing external actors to adapt to their own narrow interpretation of sustainability. It is indeed ironic that a powerful

normative actor, so keen on promoting environmental sustainability, is so openly impeding palm oil imports based on its own questionable and limited sustainability criteria. Palm oil is not only more energy-efficient than its heavily subsidised domestic counterparts (Afionis & Stringer, 2012) but also has a robust sustainability regime of its own. Despite this, the EU, leveraging upon its normative and market power, brokered a settlement designed to reinforce unequal power relations between itself and palm oil-producing states that sustain narrowly defined ‘European’ sustainability values and assign benefits to local agro-industry at the expense of genuine environmental reforms (Oosterveer, 2020).

Market-Based Resistance and Cooperation Among Producer States

The outcomes of these arrangements effectively attempt to block access of less powerful states (palm oil producers) to the benefits of trade with the EU, with implications for environmental and trade (in)justice which has been described as “green protectionism” Afionis and Stringer (2012), Arief et al. (2020), Erixon & Abbott (2009), Meredity (2012), and Ponte and Daugbjerg (2015). In response to such developments, weaker states will often try to mobilise to resist resource capture and enclosure by these more powerful actors (Miller et al., 2020). Indeed, the two main palm oil-producing states, Indonesia and Malaysia, have tried to mobilise to resist the market-limiting efforts at the EU, primarily through collaborative, market-based mechanisms.

Palm oil and biofuels aside, the Southeast Asian, or ASEAN, region remains an important trading partner for the EU (Mazur, 2017). European exporters have tried to increase access to Southeast Asian markets through EU trade agreements (Meredity, 2012). The EU kick-started negotiations with ASEAN towards a region-to-region Free Trade Agreement (FTA) in 2006. While 2010 saw the redirection of negotiations to state-to-regional (EU) FTAs, the EU reaffirmed that its ultimate objective was to reach an agreement with ASEAN (Mazur, 2017). Soon after, Singapore and Vietnam concluded bilateral FTAs with the EU (Tham, 2012). However, bilateral negotiations with Malaysia and Indonesia are still ongoing. Both countries have expressed that continued barriers to palm oil trade *vis-à-vis* the EU RED II would be a “deal-breaker” for these bilateral FTAs (Lim, 2018; Tham, 2012). In context, palm oil only contributes 4,4% of the total EU-Malaysia trade, where only 1,4% of it is used for biofuels that fall under RED II limits (Varkkey, 2020). However, the national interest significance of the sector (Choiruzzad, 2019), and the perceived power dynamics at stake, has put Malaysia and Indonesia in a position willing to sacrifice these FTAs despite complementarities and benefits in other trade areas. Furthermore, given the centrality of both these states in ASEAN, this may also have further regional effects on the planned ASEAN-EU agreement, as has been explicitly expressed by Malaysia (Varkkey, 2020).

Indonesia has also submitted an official request for a consultation with the WTO Dispute Settlement Body (DSB) over “certain measures concerning palm oil and oil palm crop-based biofuels” under the EU RED II (“European Union”, 2019). After an initial block, Indonesia’s second request was approved by the DSB for a panel to examine certain measures adopted by the European Union and EU member states affecting palm oil and oil palm crop-

based biofuels. Malaysia has reserved its rights to participate in the proceedings as a third party as a ‘sign of solidarity and support’ alongside other palm oil producer countries Thailand, Guatemala, Costa Rica and Colombia, and major agricultural exporters the United States, Canada, Brazil, and Argentina (“Panels established to review”, 2020). Third parties receive the parties’ first written submissions to the panel and present their views orally to the panel during the first substantive meeting. Malaysia has also submitted its official request for WTO consultation in early 2021, which has also been accepted (“European Union and certain member”, 2021).

Both countries have argued that the EU RED II violates the principle of non-discrimination in the WTO (Arief et al., 2020) and has the potential to damage the reputation of palm oil in non-biofuel EU markets (Siahaan, 2020). The WTO’s basic free trade tenets are understood such that if a foreign product looks like a domestic product, it should not be taxed or sanctioned differently from that domestic product. As rapeseed oil and palm oil are virtually identical in terms of functions and physical characteristics, Erixon & Abbott (2009) and Meredyth (2012) have predicted that the WTO will likely demand a repeal of the policy to allow Southeast Asian palm oil to compete freely in Europe, using existing certification schemes like the RSPO, ISPO, and MSPO. With the EU already being on the losing end of at least two biodiesel-related cases that it brought to the WTO in 2013 (anti-dumping of soybean-based biodiesel from Argentina and palm-oil based biodiesel from Indonesia), further losses should deliver considerable blows to EU’s global normative standing (Oosterveer, 2020).

These responses were coordinated through the Council of Palm Oil Producing Countries (CPOPC). The CPOPC was found by Indonesia and Malaysia in 2015 originally to harmonise the Indonesian ISPO and Malaysian MSPO sustainability standards (Nesadurai, 2018), but has now developed to become a platform to coordinate palm oil diplomacy and trade access efforts of the commodity’s largest producers (Siahaan, 2020) (Colombia, the third-largest producer of palm oil, has recently joined). For example, the CPOPC made a strong statement against the EU RED II at the ASEAN-European Union Summit in 2017, where FTAs were discussed (Wibowo & Ratnawati, 2020). Other coordinated efforts include Indonesia’s ban of products labelled as ‘palm oil-free’ and the Malaysian government’s implicit support of retailers doing the same (Australian Industry Group, 2019).

The CPOPC’s Ministerial Meeting in 2019 called for unity among palm oil-producing countries in combating discriminatory trade measures against palm oil through aggressive joint campaigns (Siahaan, 2020). Its eighth meeting in 2021 continued in this vein, with discussions focusing on bolstering cooperation between Indonesia and Malaysia over palm oil. Possibly in response to the contested science and calculations on GHG emissions related to palm oil under the EU RED, the CPOPC established a Scientific Committee to focus on research and development activities for the enrichment of public knowledge on palm oil commodity (“Indonesia, Malaysia to bolster”, 2021). In addition to Colombia, representatives from Ghana, Honduras, and New Guinea attended the meeting as observers.

The collaborative approach is interesting, considering that Indonesia and Malaysia avoid bilateral cooperation over palm oil for decades, with both marketing their own palm oil

as superior to the other (Varkkey, 2016). However, when confronted with the EU using and augmenting its position of power and influence in the interest of its own agro-industry, these two weaker producing countries decided to mobilise (sometimes together with other smaller producer states) to resist such resource capture and enclosure jointly. While joint diplomatic efforts (like the CPOPC Joint Mission to Brussels in April 2019 to appeal against the EU RED II) (Wibowo & Ratnawati, 2020) may be less effective due to the large power differentials between the two parties. The market-based mechanisms may speak more directly to underlying economic and trade interests of the EU.

The EU's response, suggesting that EU RED II fulfilled WTO regulations by establishing sustainability criteria for biofuels that are global, objective, and non-discriminatory to meet the EU's renewable energy targets and not limit access to the EU biofuels market (Arief et al., 2020), would seem to be once again leveraging upon its position as a global normative leader to justify its policy choices. However, the recent establishment of the EU and ASEAN Joint Working Group on Palm Oil and its first meeting held in early 2021 significantly marks a possible 'softening' of the EU's stance in the face of mobilisation and resistance (Roozen, 2021).

Hybrid Governance and Sustainability Trajectories

By focusing on the same crop, the interplay between the EU RED II biofuel governance regime and the Southeast Asia-based palm oil sustainability regime has resulted in a complex hybrid environmental governance regime with effects across governance scales, trading markets, and political actors. It has been warned that such hybridity and fragmentation can result in operational confusion among regulators, economic providers (producers and manufacturers), civil society observers, and consumers (Larsen et al., 2014; Miller et al., 2020; Pacheco et al., 2020; Stattman et al., 2018; von Geibler, 2013). What follows would be suboptimal outcomes for sustainable development and environmental justice (Miller et al., 2020; Stattman et al., 2018). Such suboptimal hybridity within the biofuels and palm oil regime can be observed in at least three distinct ways: (1) the lowering of regulatory quality within the biofuels sustainability regime, (2) the undermining of the sustainable palm oil market, and (3) the indirect bolstering of unsustainable practices outside the palm oil sector.

Firstly, both European biofuels and the Southeast-Asian based palm oil sustainability regimes, and the schemes within them, vary widely in the scope of their standards, modes of implementation, and compliance costs (Larsen et al., 2014), reflecting the malleability of the concept of sustainability. The resulting fragmentation can decrease sustainability through a race to the bottom when there is competition between schemes due to various governance options (Stattman et al., 2018). In the case of biofuels, the EU considers schemes initiated and developed both before and after the RED. RSPO was developed before the EU RED to address sustainability issues within the whole palm oil sector, not just for biofuels to Europe. Such roundtable-based programs tend to stipulate more stringent environmental and social sustainability criteria. Indeed, the sustainability requirements under RSPO already went beyond the requirements of the EU RED (Larsen et al., 2014). However, these additional

features were of no interest to the EU (Larsen et al., 2014), which was only interested in the strict (and arguably arbitrary) (Sharman & Holmes, 2010) criteria under RED.

On the other hand, programs created (or, in the case of ISCC, fully fleshed out) after RED were explicitly designed to serve as certifiers for the European biofuels market. They tend to be business-led, which include RED-stipulated sustainability criteria only and discriminate more easily against the global South. Due to the less rigid and more affordable production rules and auditing standards, these types of standards tend to dominate (Kemper & Partzsch, 2018; Moser & Leipold, 2019; Pacheco et al., 2020; Ponte & Daugbjerg, 2015). Indeed, the European-based ISCC is considered relatively more accessible, as it is leaner, quicker, and more in tune with industry interests (Ponte & Daugbjerg, 2015). This has paid off with most biofuel feedstock including palm oil biofuel, which enters into the EU market is currently certified under the ISCC scheme (Oosterveer, 2020), with 85% of companies certified under RED having ISCC certification in 2017 (Moser & Leipold, 2019). In comparison, despite RSPO's RSPO-RED scheme, which was specially designed to align with RED, "no [RSPO-RED certified] tonnes were shipped [since its recognition in 2012], and currently there are no RSPO-RED certified growers [due to lack of demand]". RSPO has since decided to discontinue the scheme upon its expiry in 2021 ("RSPO-RED scheme not to be", 2020). Such race-to-the-bottom outcomes lower the overall regulatory quality of the regime and discourage the expansion of a more inclusive, sustainable, and transparent certification system for biofuels in Europe (Ponte & Daugbjerg, 2015).

Secondly, the EU RED II regime has also indirectly undermined the efforts in the palm oil sustainability regime and the palm oil sustainability market more broadly. For example, in 2017, a European Parliament resolution questioned the "ecological and social integrity" of certification schemes like the RSPO, MSPO, and ISPO, and thus their value as benchmarks for sustainable palm oil (Nesadurai, 2018), which reflects the perceived lesser credibility of these schemes among European constituencies (Nesadurai, 2018). This is despite recognition elsewhere: 1) Scholars and commentators have acknowledged that the RSPO performs better on many sustainability criteria compared to ISCC (Nesadurai, 2018; Stattman et al., 2018); and 2) MSPO has received recognition from bodies such as the Tokyo 2020 Olympics and Paralympics Games Sustainable Sourcing Code Committee, China's Green Food Development Centre, and the Solvent Extractors' Association of India (Sani, 2020). This is especially ironic since a major driver for developing these schemes was the sustainability demands of Western consumer goods manufacturers, NGOs, and governments (Siahaan, 2020; Nesadurai, 2018; Pichler, 2013). The market for certified sustainable palm oil (CSPO) remains limited as downstream corporate buyers, mainly in Europe, did not match their pledges with the actual purchase of CSPO. For example, uptake of RSPO-certified CSPO has been less than 50%, keeping premiums low (Nesadurai, 2018). This has translated to only around 20% of palm oil produced globally being RSPO-certified even though 40% of total palm oil is produced by RSPO members (Nesadurai, 2018).

Such lacklustre demands reduce the incentive for these schemes to strengthen their standards continually. For example, both MSPO and ISPO continue to suffer from unresolved issues like tenure rights and the conservation of high-carbon forests within concessions

(Pacheco et al., 2020) and RSPO's challenge remains in smallholder inclusion. It also reduces grower interest to comply with difficult sustainability certifications (Nesadurai, 2018). In addition, it encourages the sector to make strategic market adjustments by refocusing export to equally lucrative but less demanding (by way of sustainability) markets like India, Pakistan, and China and utilising similarly less demanding domestic markets (Rifin et al., 2020). Indeed, exports to these countries have been steadily growing (Erixon & Abbott, 2009; Nesadurai, 2018; Pacheco et al., 2020; von Geibler, 2013), and both Indonesia and Malaysia have been actively strengthening their national biofuels policies as key strategies to increase domestic palm oil consumption (Varkkey, 2020; Varkkey, 2018).

Thirdly, the EU RED II guarantees that the market demand for biofuels remains regardless of palm oil supply to the region. The narrowing of the European market for palm oil would mean that this demand would have to be filled by less land-efficient and energy-efficient oils. Palm oil uses the least amount of land area (also less fertiliser and pesticide) than other key crops like soybean, sunflower, and rapeseed. Thus, it is the most land-efficient oilseed crop, producing around nine times the yield per hectare of competing oils (Nesadurai, 2018). Schubert et al. (2010 in Meredith, 2012) have explained that "to the extent that demand remains for the food or feed previously produced on [the] land [in question], its production is likely to shift elsewhere". Hence, the shift away from palm oil may drive even larger deforestation rates elsewhere (for example, soybean in Latin America), as even large areas of land will be needed to produce these less land-efficient oils. Currently, soybean already contributes 19% to deforestation worldwide (Lim, 2018).

Furthermore, biofuels' energy efficiency depends on the feedstock type, cultivation methods, and production conditions. Rapeseed, Europe's main domestic source of biofuels, is a feedstock that is considerably lower in energy per hectare than palm oil. Biofuels in Europe are already heavily subsidised, so they produced way above the opportunity costs of the fossil fuels they replace (Afionis & Stringer, 2012). To maintain supply, European countries will have to continue to subsidise the production of these more expensive and less energy efficient oilseeds (Erixon & Abbott, 2009; Meredith, 2012; Wahid, 2008). Afionis & Stringer (2012) point out that "this confirms the image of a powerful trading state seeking to protect its native biofuels industry, even if doing so entails promoting or subsidising uneconomical, inefficient, and unsustainable production".

The complexity of the biofuel-palm oil hybrid transboundary environmental governance regime lies in different conceptions of sustainability, which stems from different political motivations on both sides. Indeed, leveraging market connections can be a powerful tool for sustainability (Miller et al., 2020), but under certain conditions, market-driven governance can weaken sustainability objectives. Pye (2010) state that despite differences, translational campaign alliances show how civil society from both Southeast Asia and Europe can work together towards positive market outcomes. However, in the three manners, the hybrid state-non-state European biofuels regimes threaten to undo sustainability progress in Southeast Asian producer states. Taking pointers from transnational activism on palm oil and biofuels, the EU should look more towards Southeast Asia for sustainability certification signals. A more open interpretation of sustainability standards, and an understanding that they

continue to evolve and improve, will support a more holistic and organic approach to sustainability on the ground.

CONCLUSIONS

While transboundary environmental governance instruments are generally presented as neutral, problem-solving, and consensus-based initiatives (Pichler, 2013), the discussion has illustrated how processes like certification and standards development are, in fact, deeply politicised. Global production systems are integrated economic, political, and discursive systems in which market and political power are intertwined (von Geibler, 2013). Hence, powerful entities in the commodity network use these governance tools to continue to legitimise their power position (Woods, 2003) by exerting ‘control at a distance’ in disciplining less powerful actors in the network (Klooster, 2005). In this manner, these governance instruments are sites of political contestation where key players’ relative political and economic power, and geopolitical position allow powerful ones to broker settlements designed to reinforce unequal power relations (Miller et al., 2020).

Hence, transboundary environmental governance cannot escape from the confines of geopolitical realities (Woods, 2003). These geopolitical tensions complicate the process of transboundary environmental governance, with power asymmetries creating obstacles to coordination, information and knowledge sharing, adaptation to changing circumstances, and resolving trust issues. This is especially the case when different combinations of hybrid regimes clash at various scales of governance (Miller et al., 2020). The deep interrelatedness of the European biofuels regime and the Southeast Asian-based palm oil biofuels regime has given rise to hybrid regulatory features, including overlapping arenas of governance and mutually dependent public-private interactions (Ponte & Daugbjerg, 2015). The resulting cross-border and cross-scale rulemaking, implementation, and enforcement processes. However, rather than enhancing the overall governance capability to strengthen sustainability objectives, they have weakened them. Key players will leverage upon power dynamics to block or allow access to the benefits of particular resources (in this case, markets) in line with their own interests, with serious environmental implications (Miller et al., 2020).

In conclusion, using the case study of hybrid biofuels and palm oil sustainability governance, the research has attempted to add further weight to the argument that hybrid transboundary governance can weaken sustainability objectives (Stattman et al., 2018), particularly when market incentives are validated without the full understanding of how incentives in particular regimes may have counterproductive spill over effects on other overlapping regimes (Miller et al., 2020). For the EU in particular, its own credibility and power position as a global normative environmental leader is at stake if its trade-related environmental policies are increasingly seen to have detrimental effects outside the EU, in particular on the developmental opportunities of countries in the global South (Afionis & Stringer, 2012). In this case, hybridity within the biofuels and palm oil sustainability regimes may serve to undo the advances achieved within the highly politicised palm oil sector and discourage further advancements in sustainability.

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THE ROLE OF FINANCIAL STRUCTURE, BUSINESS DRIVE, BUSINESS ENVIRONMENT ON DECISION TO USE AN EXTERNAL AUDITOR ON SMES: EVIDENCE FROM ASEAN COUNTRIES

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ABSTRACT

The research examined the role of financial structure, business drive, and business environment that resulted in external audit service adoption in small and medium-sized enterprises (SMEs) within ASEAN countries. Source of data were from the 2015 and 2016 World Bank Enterprise Survey. The research discovers that external audit service adoption is significantly influenced by financial structure, business motivation, and business environment. Additionally, we take into account a number of control variables, including sales, ownership structure, industry sector, and country of origin. The findings indicate a significant positive correlation between sales, ownership structure (partnership vs. sole proprietorship), and external audit adoption for SMEs. From a country-of-origin perspective, it is concluded that audit adoption is significantly higher in Malaysia and the Philippines than in Vietnam. However, audit adoption in Indonesia is significantly lower than in Vietnam, both in terms of awareness and implementation. Other points of interest can be seen in the interaction regression between countries, which indicates the degree of complexity associated with audit adoption when country of origin is taken into account. One significant policy implication is that SMEs can leverage external auditor services to support their growth and, in turn, the economy of the corresponding country.

Keywords: *external auditor, SMEs, financial structure, business drive, business environment*

INTRODUCTION

Prior to any decision making for the company, several considerations are the defining factors. This involves company decision's when contracting external auditor service. In the case of a public company, an external auditor is a mandatory requirement in order to fulfill company responsibility to their shareholders. However, this is not the case with small and medium-sized enterprises (SMEs). A lot of SMEs decided to not use external auditor service. One of the main reasons being cost consideration, small to non-existent volume of stakeholders. There are no requirements for SMEs in Indonesia to use an external auditor. In Malaysia, Kamarudin & Abidin (2012) concluded that SMEs in Malaysia believe they are required to have audited financial statements due to regulatory requirements, rather than the audit's value and associated benefits. However, Anuar, Devi, and Meng (2012) shares different opinion. They explain that SMEs in Malaysia mainly opt-in auditing to compensate their lack of tangible (professional/qualified accountants) and intangible (accounting and business expertise) resources.

Elkhatib and Kamel (2013) conclude that the primary function of auditing is to review material changes in accounting policies and practices. However, SMEs are unlikely to prioritize the inclusion of external audit services in their business processes if they are not required to. More research on the cost consideration, a study has been conducted in a survey back in 2013 by the Financial Executive Research Foundation (FERF) on 255 U.S. entities (listed companies, closed companies, and nonprofits) reporting external audit fees with a median of 0,07% of annual revenue. Auditing can be prohibitively expensive for very small businesses, the median is 1,05%, a maximum of 3,09% of annual income. These external auditors services vary greatly, some of the factoring points include firm's experience, audit quality, and also services offered. These considerations, in turn helped establish the industry title of "The Big 4 Auditor" which held precedence in terms of audit quality, on global scale. As a matter of fact, accredited external auditors are a common occurrence for businesses, including small and medium-sized enterprises (SMEs).

Additionally, according to Peel and Bridge (1999), SMEs have as one of their strategic objectives "reducing business costs." This practice encourages SMEs to prioritize allocating existing funds to meet specific business needs. Additionally, there appears to be an underestimation of auditing risk; additionally, technological advancements have the potential to reduce auditing costs. As a result, small entities with comparable audit capabilities may benefit from more comprehensive auditing.

Businesses without external auditor aid and knowledge might miss on several key growth opportunity. Subsequently, if the same scenario is applied to a country where SMEs constitute the majority of the economy, the result will be a negative Gross Domestic Product (GDP). As a result, the discussion of why some SMEs choose to hire an external auditor is considered an interesting subject. Due to the critical role that SMEs play in the economies of the majority of countries worldwide, it is widely accepted that SMEs are significant contributors to global employment and GDP (Coetzee & Buys, 2017). However, the debate

over the factors affecting a company's willingness to use external audit services voluntarily continues.

The main interest upon this discussion is to analyze the role of company's financial structure, company's business driver strategy and company's business environment that resulted in usage of external audit services for SMEs in ASEAN. The research on such cases is fairly limited, especially for ASEAN region. Thus, research suggests that some SMES have favorable opinions on the audit function and its value for the company.

The research will be purposefully cover several area, so it could be referred to for: 1) Scientific purpose since it contributes to the existing literature on SMEs and audits, particularly issues in the audit market. Specifically, the contribution will take form as a research conducted in ASEAN, with its multidimensional variables (financial structure, business drive and business environment). There are presumably no research that specifically discuss the relationship between business drive and business environment towards the decision to use external auditor; 2) Practical purpose for business since it provides practical insights on the use of an external audit that will contribute to business success. This research will support ASEAN-based SMEs when they decide to adopt audit in their business process; 3) Regulator as it provides insights to help audit regulators improve audit-related regulations effectively.

The research focuses on SMEs in selected countries within Southeast Asia countries, such as Indonesia, Malaysia, Philippines, Thailand, and Vietnam from World Bank Enterprise Survey in 2015-2016. It is considered necessary since different countries also imbue their businesses with distinctive components. Additionally, the countries selected from Southeast Asia are Tiger Cub Economies, which refers to Southeast Asia's developing economies. The term cub indicates that the countries are in their infant stages, indubitably, the SMEs in these countries can also contribute to the country's economic morphogenesis. With such a broad scope, the research aims to ascertain the factors that influence SME decision-making regarding the use of an external audit service, particularly in the ASEAN region. Therefore, the research question is developed: What role does a company's financial structure, business motivations, and business environment play in small and medium-sized businesses in ASEAN deciding to adopt external audits?

LITERATURE REVIEW

Apart from the absence of obligation for financial report audit on SME, cost consideration and such, an audit is also proven to be beneficial for the business process of a company. The role of external auditors for companies is often inseparable from the stakeholders' need to obtain assurance for the account reported within the financial statements. Financial report is proven to have an indirect effect on business decisions made by business owners, as stated in the Statement of Financial Accounting Standards PSAK No. 1. The presentation clarifies financial statements to provide key information regarding the financial positions, performance, and changes in the financial positions of companies. This information is commonly used by a large number of users in economic decision-making,

especially for users who collect earnings from the business. The assurance required for financial reports is commonly considered within several factors in mind. The factors are differences between the parties carrying out accounting activities with business actors, the insufficient ability of business actors to analyze financial reports, and the need for external parties to guarantee the financial statements credibility themselves.

Other audit function for business, especially SMEs is further explored by Hien, Abbott, and Huyen (2016) concluding that independent auditor service have a positive influence on credit access in Vietnamese SMES. Furthermore, some SMEs are willing to accommodate higher bills to contract globally qualified auditor firms. A similar case has been studied further by Louis (2005) who tries to look for independent variables as to why a small company seeks for the Big 4 services. He concludes that these firms offer much superior services. Hay (2020) also mentions this about the value of auditing with regard on audits of smaller, unlisted companies and audits of voluntary organizations, such clubs or charities, are also an area that is not extensively researched. Other implication such as agency conflict within corporate and non-optimal fund source might be accessed by the company. Carey, Simnett, and Tanewski (2000) and Vanstraelen and Schelleman (2017) go over independent factors that triggers voluntary internal and external audit within a family business. The results of the study shows that agency conflict, size, complexity, level of debt, and financial condition of the company are the key factors that family business considers prior to adopting voluntary audit.

The research uses three major variables as independent variables to determine whether to hire an external auditor. This might begin with considering the structure. When it comes to running a business, growth is unavoidable. However, the company's development and expansion will require additional funding. There are many financing options for companies to fulfill their business expansion plans, one of which is through bank loans or other financing options.

According to Hermas and Tahavainen (2002), firms attempt to minimize the financing costs by opting first to the internal finance before turning to external. If external financing is required, the firm will issue next external debt and lastly external equity. However, SMEs often face difficulty accessing credit from banks or third parties. This claim is supported by Schiffer and Weder (2001) arguing that SMEs frequently experience roadblock when trying to access credit. In general, banks or other third parties assess the quality of the company through the information in the financial statements. Caneghem and Campenhout (2010) discover that both types of information are frequently used as leverage. Additionally, these findings support the view that firms cannot access external financing due to a lack of qualified information. Naturally, when discussing financial statement quality, it cannot be separated from the report's content. Furthermore, on Greek manufacturing SMEs, Voulgaris, Asteriou, and Agiomigianakis (2000) argues that as return on total assets and net profit margin, it is believed to have the strongest effect on all types of debt but negatively correlated with external financing. It is believed that the quality and content of financial statements also need to be accurate. Thus, SMEs turn to institutions who have the capability to produce a qualified financial report.

The use of an external auditor as an institution that can provide assurance to financial statements can certainly be one of the company's main considerations to obtain a good corporate financial structure. Palazuelos, Crespo, and Corte (2017) conduct a research involving 471 bank officers to draw conclusions based on the opinions from bank loan officers in Spain, where they discover a positive relationship between audited SMEs, the perception that the accounting information has a direct on loan officers' willingness to grant them credit. Therefore, even though there is no obligation for SMEs to audit their financial statements, the use of an external auditor can support SMEs to have better quality financial reports, so the company can have better quality financial structure. Therefore, the research classifies financial structure into three categories, namely: 1) owners loan or line of credit, 2) overdraft, and 3) working capital.

Hypothesis 1 (H₁): There is a positive relationship between financial structure and SMEs decision to use external audit.

Secondly, business drive or business model design is often associated with innovation. Most of the enterprises, especially SMEs have little knowledge and awareness about the critical importance of business model innovation (Marolt et al., 2016). Marolt et al. (2016) conclude that the external opportunity is the main driver that solidify SMEs' decision to innovate their business model. External opportunity is described as changes in key technologies, which might illustrate that companies often innovate to support business drive strategy or simply because they follow the trends. According to Kesting and Günzel-Jensen (2015), business model sophistication affects all businesses, but particularly new ventures and small and medium-sized enterprises. On the basis of the preceding discussion, it is argued that startups should be constantly on the lookout for sophisticated opportunities when developing a business model for their market offering. There are numerous ways for businesses to grow while focusing on technology development that supports their business model innovation. However, the use of an external auditor can be considered as one of the factors affecting the company's decision when designing the business drive strategy.

Irmawan, Hudaib, and Haniffa (2013), supported by Hay (2020), define an external auditor or independent auditor as an assurance for financial information reports produced by companies and bottom line helps increase the confidence in the capital market and improve the company's market value. In addition, Wallace (2004) argues that the use of auditor services also ensures investors that management has high credibility in presenting financial information. This credibility comes from the aspect of technical precision. The business drive strategy carried out by the company while using external auditors can certainly be seen in terms of the credibility of the auditors and the quality of the audited financial statements, so that external parties can assess the company as a credible entity. The audit quality often ties back to the predicate Big 4 auditors which might also add value to the company when a company presents audited financial reports.

Therefore, the research classifies business drives in SMEs into four categories, namely: 1) top management experiences, 2) foreign licensed software, 3) own website, and 4) using e-mail. The research considers SMEs with the aforementioned facilities are businesses

driven by a business strategy. Therefore, the research identifies whether companies that have an overview of business drives also include external audit as a support of the business drive strategy. In the case of SMEs, the use of these audits is very different from that of their larger counterparts. It is assumed that no research has been done on the relationship between business drive and external auditing.

Hypothesis 2 (H₂): There is a positive relationship between business drive and SMEs' decision to use external audit.

The third is business environment. While running a business, the decision to choose the business environment is considered important since certain business environment can support business activities. Schiffer and Weder (2001) conclude that smaller firms face significantly more problems than larger firms in terms of financing, taxes and regulations, inflation, corruption and street crime. There are eight business environments that affect company size, including: 1) taxes and regulations, 2) instability policy, 3) inflation, 4) exchange rates, 5) the judiciary, 6) corruption, 7) street crime, 8) organized and anti-competitive practice (Schiffer & Weder, 2001). Bad business environment is thought to have a detrimental effect on the business. Additionally, the World Bank states that business environment factors can have an effect on the development of SMEs (Schiffer & Weder, 2001). A study on bad business environment impact on business development could be seen in a research by Olawale and Smit (2010) which conclude that crime and bad macroeconomic environments have positive and significant correlations with non-accessible debt financing to new SMEs.

The research analyzes the relationship between an inadequate business environment and a company's decision to use an external auditor based on the foregoing discussion. It is assumed that owners have the consideration to hire external auditors voluntarily, in the same manner a bad business environment that requires owners to hire external audits to avoid bad perspectives from external parties (banks, other financial institutions) which cause difficulties for companies to access bank loans. Business owners also consider an external auditor to be even more important if the company's business activities are revolving around a bad business environment. The research classifies the business environment in SMEs into two categories, namely: 1) budget for security; 2) losses as a result of theft, robbery, and vandalism. There has not been a research that discusses the relationship between business environment and the use of external audit.

Hypothesis 3 (H₃): There is a positive relationship between a better business environment and SMEs decision to use external audit.

RESEARCH METHODS

As an ordered logistic function, the research models the relationship between the dependent variable AUDIT:

$$Y_i^* = X\beta + V\gamma + u_i; E(u_i) = 0 \quad (1)$$

in which the cut-off the latent variable for category j of dependent variable * is given by

$$Y_i = 1; 1 < Y_i^* < \infty \quad (2)$$

$$Y_i = 0; -\infty < Y_i^* < \infty \quad (3)$$

where Y is ordinal scaled dependent variable (AUDIT). X is the vector of variable of interest regressors and V is the vector of control regressors. The latent variable subsequently converted to probability belongs to category j through a logistic function.

The research has 16 regression models to covering a substantial portion of rich information provided in the data set. From that point, various items in the questionnaire are combined into three key metrics: 1) A measure of company's financial structure (FINSTRU), 2) A measure of company's business drive strategy (BUSDRIVE), and 3) A measure of company's business environment (BUSENV). The research determines the value by analyzing the relationship between costs and benefits of the audit that hopefully will bring advantages to the company. In analyzing the factors affecting SMEs' decision to use external audits, the research reviews several variables that might affect a company's decision, whose codes are provided in Table 1.

a. Financial Structure

It is a multidimensional variable that measures the extent of financial reliance on an outer source. The calculation for this variable is the sum of (a). Line of Credit Facility, (b). Overdraft Facility and (c). 1-Retained Earnings (K3a). We will treat qualitative answers (Yes/No) as an ordinal scale, in which Yes=1 and No=0. For numeric variables, we transform the variables using the S function.

b. Business Drive

It is a multidimensional variable to measure the extent of SMEs business driver factor. The calculation for this variable consists of the sum value from these variables (a). Top Management Experience (B7), (b). Usage of Foreign License Office Software (E6), (c). Own Website (C22b), and (d). Use eMail (C22a). We treat this variable through qualitative means (Yes/No) or as an ordinal scale, in which Yes=1 and No=0. For numeric variables, we will transform using the S function.

c. Business Environment

It is a multidimensional variable to measure the SMEs Business Environment. It is calculated by summarizing the answers to questions of (a). Pay for Security (I1), (b) Experience Losses As A Result Of Theft, Robbery, Vandalism Or Arson (I3). We measure these questions through qualitative answers (Yes/No) or as an ordinal scale, in which Yes=1 and No=0. For numeric variables, we transform using the S function.

Several control variable are calculated using: 1) country dummy, which will be used to set some boundaries within research that is being conducted in the country of interest, done due to the difference between each country policy that endorse audited financial reports; 2) company sales value that will be convert into USD currency, by using sales as a control

variable, the research aims to set the sales performance to determine company size; 3) business sector, moving forward this variable will cascade each sector into specific clusters, this is necessary to check if specific business sectors are interested to adopt audit into their business process.

Lastly, the ownership structure in a company definitely influences the decision-making. In this case, the decision to use an external auditor is expected to be voluntary or due to external pressure that requires the company to hire an external audit. Research by Anuar et al. (2012) in Malaysia finds a positive association between different modes of ownership structure and SMEs opting for voluntary audits.

However, in Canada, Senkow et al. (2001) do not find a significant relationship between managerial ownership and voluntary audits. Therefore, the research considers the level of complexity of the ownership structure that influences the decision to hire external auditors voluntarily. This is also supported by Collis (2009) and Desender et al. (2009), who find that the ownership structure has a significant influence on the relationship between the demand for external audit and executive board characteristics. However, Collis (2009) adds that demand for voluntary audit by small companies is a result of demand from shareholders and the bank/lenders (agency factors), but the demand from shareholders is predicted to be the more powerful of the two.

This research also determines whether the higher level of complexity in ownership of a company is considered to be high. There are various types of ownership that have different levels of complexity, and these types of ownership is considered to vary greatly. The research considers more complex ownership structure leads to higher company's desire to use an external auditor service voluntarily.

The research tests the feasibility of the regression results using the Hosmer-Lemeshow Test & Pseudo R² Test. The Hosmer-Lemeshow Test is a goodness of fit test for logistic regression. A goodness of fit test can describe how well the data fits the model. Appropriate is defined as the absence of a significant difference between the model and its observed value. Additionally, we used the Pseudo R Square to determine the independent variable's ability to explain the dependent variable. The results demonstrate the independent variable's ability to adequately explain the dependent variable in percentage units. The remainder denotes an extraneous factor that exists outside the model and contributes to the explanation of the dependent variable.

The basic model is extended to include company's domicile (C_ID, C_MY, C_PH, C_VI, and C_TH), classification based on company's ownership structure, and also classification based on company business sector (BSECS_MA, BSECS_OS, BSECS_RS). In addition to the assumption test on the final model, the research conducts robustness checks throughout the variables of interest (FINSTRU, BUSDRIVE, and BUSENV). This is to determine whether each of these variables has an effect on the estimated results. Explaining chronological research includes how to prepare materials research, design of the study and research procedures. Minimum research method consists of research type, type and source of data, data collection techniques, and data analysis techniques.

Table 1. Description of Variables

Variables	No	Proxy	Description	WB ES Questionnaire Source	
				Code	Question
Dependent Variable	1	AUDIT	The Use of External Auditor	K21	In fiscal year [insert last complete fiscal year], did this establishment have its annual financial statements checked and certified by an external auditor?
Variable of Interest	1	FINSTRU	Financial Structure	K8	At this time, does this establishment have a line of credit or a loan from a financial institution?
				K7	At this time, does this establishment have an overdraft facility?
				K3a	Internal funds or retained earnings; Over fiscal year [insert last complete fiscal year], please estimate the proportion of this establishment's working capital, that is the funds available for day-to-day operations, that was financed from each of the following sources?
	2	BUSDRIVE	Business Drive	B7	How many years of experience working in this sector does the Top Manager have?
				E6	Does this establishment at present use technology licensed from a foreign-owned company, excluding office software?
				C22a	At the present time, does this establishment use emails to communicate with clients or suppliers?
				C22b	At the present time, does this establishment have its own website?
	3	BUSENV	Business Environment	I1	In fiscal year [insert last complete fiscal year], did this establishment pay for security, for example equipment, personnel, or professional security services?
				I3	In fiscal year [insert last complete fiscal year], did this establishment experience losses as a result of theft, robbery, vandalism or arson on this establishment's premises?
	Control Variable	1	SALES	Sales Amount in USD	D2
2		C_ID	Country - Indonesia	A1	Country
		C_MY	Country - Malaysia		
		C_PH	Country - Phillipines		
		C_TH	Country - Thailand		
3	C_VI	Country - Vietnam	A0	Business Sector	
BSECS_MA	Business Sector - Manufacture				
BSECS_RS	Business Sector - Retail Service				
		BSECS_OS	Business Sector - Other Service		

4	OWNST_SP	Ownership Structure - Sole Proprietorship	B1	What is this firm's current legal status?
	OWNST_PS	Ownership Structure - Partnership. The combination of partner business category (private or public), due to limited respondent in some observed country		

Source : World Bank Enterprise Survey
<https://www.enterprisesurveys.org/en/enterprisesurveys>

RESULTS AND DISCUSSIONS

Descriptive Statistics

Table 2 presents descriptive statistics for the variables utilized within this research. AUDIT will hold a minimum value of 0 and maximum on 1. This categorization is required because this research conducted on an ordinal scale with qualitative answers (Yes=1/No=1). If AUDIT acquired a standard deviation value of 0,477 (above mean value), this implies AUDIT possesses high data variation. SALES have a minimum value of 2,556 and max value of 9,597. Within this variable, we convert sales value from native regional currency into USD, afterwards, the monetary value converted using a log algorithm.

Next, for FINSTRU and BUSDRIVE, the minimum - maximum value acquired are: 0,078; 2,687; 0,176; 3,986 both scored standard deviation value of 0., and 0,887 respectively (under mean value) which indicate that FINSTRU & BUSDRIVE have data variation level that is lower than the mean value. FINSTRU & BUSDRIVE is calculated with a simple sum of answers to questions within the respective proxy. Inside FINSTRU & BUSDRIVE proxy also presents several numeric variables that will later be transformed using S function. Numeric variables in FINSTRU being mentioned illustrates retained earning percentages. On the other hand, BUSDRIVE symbolize top management experience measured in years of experience they currently have. Lastly, BUSENV with minimum value of 0 and maximum value of 2. The value is operated using simple sum operation of the ordinal scale of the particular variable. BUSENV held Standard Deviation value of 0,608 (above mean) which indicates high data variance.

Table 2. Descriptive Statistics of Variables

Variable	Obs	Mean	Std. Dev.	Min	Max
AUDIT	3813	0,351	0,477	0	1
SALES	3813	5,334	0,833	2,556	9,597
FINSTRU	3813	1,017	0,624	0,078	2,687
BUSDRIVE	3813	1,568	0,887	0,176	3,986
BUSENV	3813	0,478	0,608	0	2

It starts with 3,940 observations and then exclude null-valued responses. After filtering out the foregoing observations, 3,813 observations will be analyzed. The lower part is number of cases in each category of dependent and explanatory variables, as seen in Table 3.

Table 3. Cases of Categorical Variables

	Indonesia	Malaysia	Phillipines	Thailand	Vietnam	Total
AUDIT	119	294	636	140	152	
Non-Audit	810	395	177	563	527	
Responses	929	689	813	703	679	3813
BSECS_MA	722	372	602	469	426	
BSEC_OS	110	173	104	128	204	
BSEC_RS	97	144	107	106	49	
	929	689	813	703	679	3813
OWNST_PS	266	464	514	438	282	
OWNST_SP	663	225	299	265	397	
	929	689	813	703	679	3813

Table 4. Pearson's Correlation Table

	AUDIT	SALES	FINSTRU	BUSDRIVE	BUSENV
AUDIT	1,000				
SALES	0,195	1,000			
FINSTRU	0,066	0,239	1,000		
BUSDRIVE	0,211	0,398	0,197	1,000	
BUSENV	0,253	0,249	0,105	0,311	1,000

Table 4 summarizes a simple correlation (Pearson's Correlation) between the variables of interest used in the research. Afterward, we use Kendall's Tau to test the relationship between variables on an ordinal scale, according to Cleff (2019). Additionally, the research examines the relationship between control variables. Thus, it is concluded that there is no significant correlation between control variable and each independent variable, and that each independent variable exists independently of the others.

Baseline Regression

First, the research performs ordered logistic regression and supported by regression using a linear probability model and probit model. As Table 5 illustrates, for the 3rd model, Pseudo R2 shows the value of 0,239. This indicates that the independent variable could account for 23,9% of the dependent variable, but the model of significance is to be considered

when practicing the logistic model. Furthermore, the correctly classified percentage scores on 77,76%, which describes the proportion of the subject is considered to be well-classified. The research also finds strong empirical support for the variable of interest: 1) financial structure (FINSTRU), 2) business drive (BUSDRIVE), and 3) business environment (BUSNEV). To add to this formula, three different models are applied, the level of significance for each variable of interest showed equal value. BUSDRIVE & BUSENV is statistically significant at the 1% level. However, FINSTRU is statistically significant at the 5% level.

For BUSDRIVE variable, the findings comes to support the theoretical hypothesis of Wallace (2014) explaining that external auditor service is crucial in serving highly credible financial statement. Since external audit adoption is still fairly new in these test samples, when corporate is willing to spend a higher budget to afford public accountant service, this decision is believed to have a positive impact on the business drive strategy. Business environment (BUSENV) describes a bad business environment and shows positive correlation with external audit adoption. This findings supports the World Bank's statement that the business environment holds high impact upon SMEs growth, this is why companies that operate in a bad business environment could leverage external auditor service adoption to ensure sustainability of its business operation (Schiffer & Weder, 2001). Financial structure (FINSTRU) also supports the research on a company's financial structure to eventually contract external audit services. If a company's financial structure also consists of external sources, audit adoption is believed to be an essential content within the financial statement. The motion also supports the research by Palazuelos et al. (2017) that information within financial structure also has an impact on loan officers' willingness to grant them business loans.

Regression results portray sales significant position, this illustrates audit adoption has a significant impact on sales for each company. The higher sales value of the company, the more complex internal business process become. Elkhatib & Kamel (2013) support that external audit role is pivotal for accounting policies and practices review. Thus, the research conclude the sales variable to be included in the company decision to contract an external auditor. Next, the research looks further on the country, and makes Vietnam as a benchmark. Explicitly, audit adoption is significantly higher in Malaysia and the Philippines than in Vietnam. When compared to Vietnam, however, audit adoption is significantly lower in Indonesia, both in terms of awareness and implementation. This deduction requires further study into the subject, the initial hypothesis suggests that the culture and history of a country affect companies' tendency to adopt audit within the country border.

Next, the business sector variable is analyzed with the manufacturing sector as benchmark shows no significant relationship between audit adoption in other retail or service sectors. Lastly, based on company ownership structure, the research will consider sole proprietorship as the benchmark in this dummy variable. The research combines private, public and partnership-based company ownership due to limited samples on private and public corporate in some of the observed countries. The data shows that partnership (OWNST_PS) has a significant impact on audit adoption when compared to sole proprietorship. This finding aligns with Collins (2009) who states that demand for voluntary

audit by a small company is influenced heavily by shareholders compared to its external counterparts. In summary, when a company is co-owned by several individuals, the company will ultimately utilize external auditor service.

Table 5. Baseline Regression

No	Variables	Model 1	Model 2	Model 3
		LPM	Probit	Logit
1	SALES	0,040*** (0,009)	0,150*** (0,032)	0,260*** (0,056)
2	C ID	-0,003 (0,021)	-0,112 (0,080)	-0,165 (0,143)
3	C MY	0,245*** (0,022)	0,731*** (0,077)	1,236*** (0,132)
4	C PH	0,569*** (0,021)	1,630*** (0,076)	2,712*** (0,133)
5	C TH	0,034 (0,022)	0,123 (0,080)	0,185 (0,141)
6	BSEC_OS	0,018 (0,017)	0,071 (0,060)	0,133 (0,104)
7	BSEC_RS	0,010 (0,019)	0,051 (0,070)	0,106 (0,122)
8	OWNST_PS	-0,042*** (0,014)	-0,142*** (0,052)	-0,237*** (0,090)
9	FINSTRU	0,031*** (0,011)	0,092** (0,038)	0,154** (0,065)
10	BUSDRIVE	0,047*** (0,008)	0,166*** (0,030)	0,291*** (0,052)
11	BUSENV	0,078*** (0,011)	0,252*** (0,041)	0,429*** (0,070)
	Constant	-0,162*** (0,049)	-2,147*** (0,178)	-3,675*** (0,311)
Observations		3813	3813	3813
<i>Standard errors in parentheses</i>				
*** $p < 0,01$; ** $p < 0,05$; * $p < 0,1$				
Pseudo R2			0,239	0,239
LR Chi2			1183,66	1182,30
F			145	
R2			0,296	
% Correctly Classified			64,99%	77,76%

Elaborate Regression

Furthermore, the results of additional regression is reported by performing elaborate regression between the control variable dummy and the variable of interest sequentially to see the interaction of each variable of interest with the dummy variable. As shown in Table 6, the research performs a regression to see the interaction of the dummy variable with our three variables of interest. Each model shows interaction between control variables with the

respective variable of interest. Table 6 presents the estimated coefficients and p-values in parentheses. The results also shows promising results for Indonesian region compared to Vietnam. Indonesia shows significant hesitation towards audit adoption. As indicated by the interaction values for the relevant variables, Indonesia had values of 0,636; 1,150; and 0,802. In contrast to Vietnam, Indonesia demonstrated consistent stand-alone results on the FINSTRU variable, which is non-audit adopting. However, when the interaction of the three variables is considered, Indonesia demonstrates a significantly higher rate of audit adoption than Vietnam. In aggregate, Indonesia, Malaysia, and the Philippines have a statistically significant level of audit adoption of 1%, according to FINSTRU, BUSDRIVE, and BUSENV compared to the benchmark country, Vietnam. The statistical significance used is: * at the 10% level, ** at the 5% level, *** at the 1% level respectively.

Table 6. Extended Model Regression Result, Country Dummies

No	VARIABLES	Model 4	Model 5	Model 6
		FINSTRU	BUSDRIVE	BUSENV
1	SALES	0,230*** (0,054)	0,182*** (0,055)	0,200*** (0,055)
2	FINSTRU	0,027 (0,163)	0,150** (0,066)	0,134** (0,067)
3	BUSDRIVE	0,259*** (0,051)	-0,293** (0,135)	0,274*** (0,051)
4	BUSENV	0,424*** (0,070)	0,427*** (0,070)	0,221 (0,147)
5	C MY	1,220*** (0,252)	0,085 (0,308)	0,976*** (0,172)
6	C PH	2,333*** (0,272)	0,886*** (0,334)	2,539*** (0,188)
7	C TH	0,046 (0,274)	0,166 (0,327)	0,106 (0,176)
8	C_ID	-0,847*** (0,287)	-2,187*** (0,333)	-0,644*** (0,201)
9	1.C MY#VIR	-0,028 (0,190)	0,559*** (0,160)	0,277 (0,190)
10	1.C PH#VIR	0,320 (0,256)	0,980*** (0,180)	0,112 (0,204)
11	1.C TH#VIR	0,065 (0,216)	-0,101 (0,173)	-0,296 (0,260)
12	1.C ID#VIR	0,636*** (0,234)	1,150*** (0,169)	0,802*** (0,235)
	Constant	-3,359*** (0,353)	-2,173*** (0,387)	-3,190*** (0,324)
Observations		3,813	3,813	3,813
<i>Standard errors in parentheses</i>				
*** $p < 0,01$; ** $p < 0,05$; * $p < 0,1$				
Pseudo R2		0,239	0,257	0,241
LR Chi2		1186,10	1273,27	1191,89
% Correctly Classified		77,68%	78,18%	77,71%

Table 7 reports the results of additional regressions with the business sector dummy. It is seen that the impact of business sector retail service and other service does not have significant impact on audit adoption compared to manufacturing companies. This supports the results from previous baseline regression based on complexity within the interaction presented. The table presents estimated coefficients and p-values in parentheses. The statistical significance used is: * at the 10% level, ** at the 5% level, *** at the 1% level respectively.

Table 7. Extended Model Regression Result, Business Sector Dummies

No	VARIABLES	Model 7	Model 8	Model 9
		FINSTRU	BUSDRIVE	BUSENV
1	SALES	0,289*** (0,047)	0,286*** (0,047)	0,288*** (0,047)
2	FINSTRU	-0,063 (0,071)	0,004 (0,057)	0,001 (0,057)
3	BUSDRIVE	0,296*** (0,045)	0,302*** (0,051)	0,290*** (0,045)
4	BUSENV	0,672*** (0,060)	0,670*** (0,060)	0,649*** (0,074)
5	BSEC_OS	-0,102 (0,174)	0,276 (0,217)	0,015 (0,122)
6	BSEC_RS	-0,134 (0,201)	-0,004 (0,228)	0,051 (0,142)
7	1.BSEC_OS#VIR	0,065 (0,138)	-0,180 (0,115)	-0,088 (0,145)
8	1.BSEC_RS#VIR	0,344** (0,166)	0,149 (0,131)	0,327* (0,179)
	Constant	-2,953*** (0,245)	-3,016*** (0,246)	-2,994*** (0,242)
Observations		3813	3813	3813
<i>Standard errors in parentheses</i>				
<i>*** p<0,01; ** p<0,05; * p<0,1</i>				
	Pseudo R2	0,074	0,074	0,074
	LR Chi2	368,72	368,76	368,75
	% Correctly Classified	68,37%	68,19%	68,27%

Finally, Table 8 summarizes additional regression results that contribute to the creation of the dummy ownership structure. When we consider the business sector as a whole, there is no discernible difference between baseline and elaborated regression. The estimated coefficients and p-values are presented in parentheses. The statistical significance are: * at the 10% level, ** at the 5% level, *** at the 1% level respectively.

Table 8. Extended Model Regression Result, Ownership Structure Dummies

NO	VARIABLES	Model 10	Model 11	Model 12
		FINSTRU	BUSDRIVE	BUSENV
1	SALES	0,275*** (0,048)	0,272*** (0,048)	0,273*** (0,048)
2	FINSTRU	0,080 (0,091)	-0,002 (0,057)	-0,001 (0,057)
3	BUSDRIVE	0,277*** (0,045)	0,285*** (0,064)	0,279*** (0,045)
4	BUSENV	0,662*** (0,060)	0,665*** (0,060)	0,630*** (0,093)
5	OWNST_PS	0,233* (0,141)	0,121 (0,161)	0,063 (0,099)
6	1.OWNST_PS#VI R	-0,134 (0,116)	-0,015 (0,085)	0,060 (0,120)
	Constant	-3,014*** (0,254)	-2,933*** (0,247)	-2,914*** (0,242)
Observations		3813	3813	3813
<i>Standard errors in parentheses</i>				
<i>*** p<0,01, ** p<0,05, * p<0,1</i>				
Pseudo R2		0,073	0,073	0,073
LR Chi2		362,67	361,36	361,56
% Correctly Classified		68.06%	68.37%	68.53%

Robustness Check

Table 9 reports regression robustness check for proxy: FINSTRU, BUSDRIVE dan BUSENV. Robustness check is conducted by inserting variables of interest in sequential manner. Each regression (shown on the first row of each table) is processed by using the LOGIT regression model. This report serves an estimated coefficient with enclosed p-value. In practice, level of significance statistic used are: * on 10% error level, ** on 5% error level, *** on 1% error level consecutively. Through sequential regression upon variable of interest, the regression model could be deemed as robust. This claim is based on the relative magnitude and level of significance for each variable shown consistent results even when the variable of interest is being input in sequential manners. Even though each variable of interest is submitted in a sequential manner, Pseudo R2, LR Chi or correctly classified percentage does not show significant results, so it is concluded that each variable of interest is independent of each other.

Table 9. Robustness Check – Sequential

No	Variables	Model 3	Model 14	Model 15	Model 16
		Logit	Logit	Logit	Logit
1	SALES	0,260*** (0,056)	0,285*** (0,055)	0,332*** (0,054)	0,277*** (0,055)
2	C_ID	-0,165 (0,143)	-0,167 (0,143)	-0,284** (0,142)	-0,238* (0,142)
3	C_MY	1,236*** (0,132)	1,281*** (0,131)	1,173*** (0,131)	1,171*** (0,130)
4	C_PH	2,712*** (0,133)	2,687*** (0,133)	2,668*** (0,133)	2,725*** (0,132)
5	C_TH	0,185 (0,141)	0,204 (0,141)	0,186 (0,141)	0,010 (0,137)
6	BSEC_OS	0,133 (0,104)	0,127 (0,104)	0,114 (0,104)	0,128 (0,104)
7	BSEC_RS	0,106 (0,122)	0,101 (0,122)	0,046 (0,121)	0,109 (0,121)
8	OWNST_PS	-0,237*** (0,090)	-0,235*** (0,089)	-0,184** (0,089)	-0,175** (0,089)
9	FINSTRU	0,154** (0,065)		0,184*** (0,065)	0,183*** (0,065)
10	BUSDRIVE	0,291*** (0,052)	0,301*** (0,052)		0,352*** (0,051)
11	BUSENV	0,429*** (0,070)	0,441*** (0,070)	0,506*** (0,069)	
	Constant	-3,675*** (0,311)	-3,681*** (0,312)	-3,627*** (0,311)	-3,656*** (0,309)
Observations		3813	3813	3813	3813
<i>Standard errors in parentheses</i>					
<i>*** p<0,01; ** p<0,05; * p<0,1</i>					
Pseudo R2		0,239	0,238	0,232	0,231
LR Chi2		1182,30	1176,81	1151,26	1144,95
% Correctly Classified		77,76%	78,05%	78,15%	77,00%

CONCLUSIONS

The purpose of this research is to ascertain the factors that influence SMEs' decision to adopt audit. Specifically, the research aims to examine how the identified variables of interest (financial structure, business motivation, and business environment) influence the decision to adopt external auditing by ASEAN SMEs. Additional research is conducted to incorporate several control variables into the analysis, including sales, country, business sector, and ownership structure. The initial model is largely supported by adequate specification and bolstered by robustness tests.

As a straightforward application on audit adoption, the research uses the ordinal logistic regression. Upon testing and reviewing variables and data, it is found that audit have positive correlation with financial structure, business drive, and business environment. This

indicates three of our predetermined variables have contribution on audit adoption decision, especially for SMES. As for the control variables, there seems to be no significant correlation between the business sector of a company with the tendency to adopt audit as part of SMEs business processes. For the ownership structure, there is a significant negative correlation between this variable with external audit decisions for SMEs companies. However, the research discovers a significant positive correlation between audit adoption and sales in the case of audits. This implies that a higher sales value may influence an SME's decision to adopt audit. This could happen since businesses with a higher sales value also have a higher earnings value, implying that their business processes are more complex. This results in a significant amount of audit adoption within the observation scope. In addition, according to country of origin research, there is a significant positive correlation to adopt audit in the country of Malaysia, Philippines as opposed to Thailand and Vietnam. In Indonesia, awareness of audit adoption is relatively insignificant compared to the other variables examined in the research.

Additionally, the research discovers that there is no significant differences between baseline regressions of each control variable and the respective variable of interest; BSECS and OWNSTRUC. Distinction is found through a complex regression analysis based on country of origin. For example, previously on baseline regression, Indonesia showed low adoption rate when observed with variable of interest. Now, it comes up with showing different results. The result indicates a significant positive relationship between external audit adoption in Indonesia with three of our predetermined variables of interest. This could indicate that, when viewed through the lens of the country of origin, external audit adoption is a complicated process.

As a matter of fact, additional research is required to examine the business motivations and business environment factors that influence a business entity's decision to adopt audit. Additionally, it would increase SMEs' awareness of the business benefits of audit adoption. This variable may also provide a different angle for a business considering external auditor services, apart from the cost and potential profit associated with that decision. Correspondingly, there is room for additional research on ownership structure and sales variables as this research does not examine those variables due to resource constraints.

It is hoped that by the end of this research, the variable of interest will be a factor in business owners' decision to hire external auditors. Particularly in Indonesia, these findings may encourage businesses to consider cost-benefit analysis, as business drive has had a significant impact on the adoption of external auditing. As for business environment, it is expected that businesses operating in unfavorable business environments will consider utilizing external audit to help them improve their business processes. The research serves as a literature review on auditing for scientific purposes and lays the groundwork for future research.

In terms of the regulatory body, this research, particularly the financial structure proxy, can be used as supporting literature for any auditor-related regulator who has an impact on SMES, particularly those who will use SMEs ownership structure as a criterion for

regulation. As a proxy for business drive, it is expected that the research provides a new perspective on the use of external auditors and contributes to the growth of small and medium-sized businesses by advocating for a more transparent application of audit fees. This would educate businesses about the detailed impact of service costs on each business line. Lastly, regulatory bodies could make use of the business environment proxy to enrich the auditing process for SMEs in unfavorable business environments. In the long run, regulators could also offer incentive and support toward SMEs to adopt external auditor service adoption. With numerous accomplishments, it is hoped that external auditor services will be widely adopted to boost growth and ultimately benefit the economies of developing countries. Furthermore, regulators could also offer incentive and support toward SMEs to adopt external auditor service adoption. With many success test cases, external auditor services is expected to be widely adopted to boost growth and ultimately benefit the economies of developing countries. Due to resource limitation, further research is required upon multidimensional components and variables for better clarity on key factors that result in SMEs adoption of audit in a more specific manner.

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THE EFFECTS OF INTEREST RATE ON REAL EFFECTIVE EXCHANGE RATE VOLATILITY SPILLOVER IN MALAYSIA AND THAILAND: EMPIRICAL EVIDENCE

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ABSTRACT

The research examined this asymmetric effect between the interrelationship of the interbank rate on the external competitiveness purchasing power represented by the real effective exchange rate for Malaysia and Thailand using monthly data covering the period of 1994 until 2020. The empirical findings confirms an asymmetric effect between interbank rate and real effective exchange rate based on the nonlinear autoregressive distributed lag estimates. The research also finds a unidirectional asymmetric causal relationship running from real effective exchange rate on interbank rate Thailand, which indicate the monetary policy has a direct relationship on interbank rate volatility. While in Malaysia, there is no causality running between both variables since the country has proposed several soft monetary policies and more concentrating on the short-term borrowing by improving the tight money supply circulation based on the domestic inflation, global economic, and financial market volatility. Therefore, the research recommends a specific need of monetary stabilizer policy to stabilize both countries' currencies and put more effort to liberalize the foreign exchange rate system in a globalized economy.

Keywords: *asymmetric analysis, interest rate, nonlinear causality, real effective exchange rate*

INTRODUCTION

The internationalization wave has made the country purchasing power indicators become one of the most widely studied macroeconomic indicators in the world. These indicators gauge the value of imports and exports between countries by determining the intrinsic purchasing power of a country with respect to its trading partners. Thus, the stabilization of purchasing power indicators have become one of the main objectives of monetary policy for most countries, especially among Asian countries (Cobham, 2021). The monetary policy is a powerful tool used by a country's authority to regulate macroeconomic and financial indicators such as the inflation rate, the exchange rate conversion, and the employment rate. The policy is formulated using different tools such as interest rate, government securities, and reserve to control the amount of money circulated in the market.

Since 1950, Malaysia has employed multiple targeting monetary policies to avoid price volatility, spur economic growth and maintain financial stability without elucidating potential conflicts and trade-offs - in-line with the charter objectives of the Central Bank of Malaysia (Cheong, 2005; Ariff & Yap, 2001). Malaysia has also adopted the soft monetary policy, however, since the 1997 Asian financial crisis, the monetary policy committee of the Central Bank of Malaysia has embedded financial stability as one of the country's monetary policy objectives. The principal objective of monetary policy as per Central Bank of Malaysia Act of 2009 is to develop a conducive monetary and financial stability to support economic growth (Hossain, 2017).

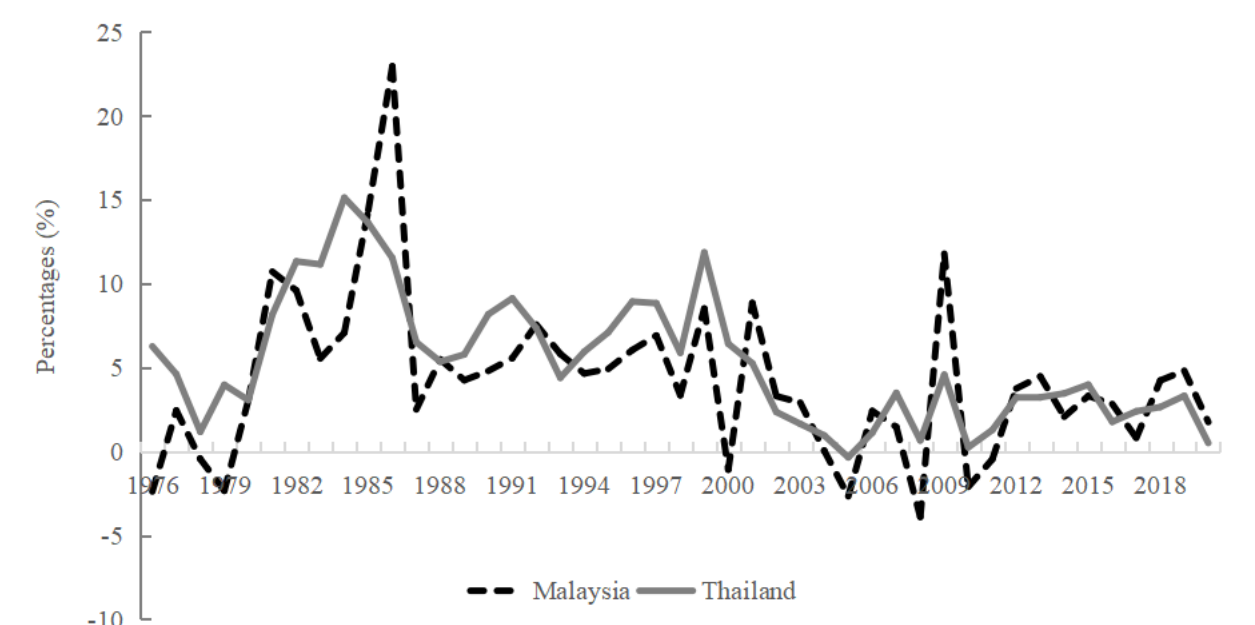


Figure 1. The trend of real interest rate for Malaysia and Thailand between 1976 to 2020
Source: World Bank (2021)

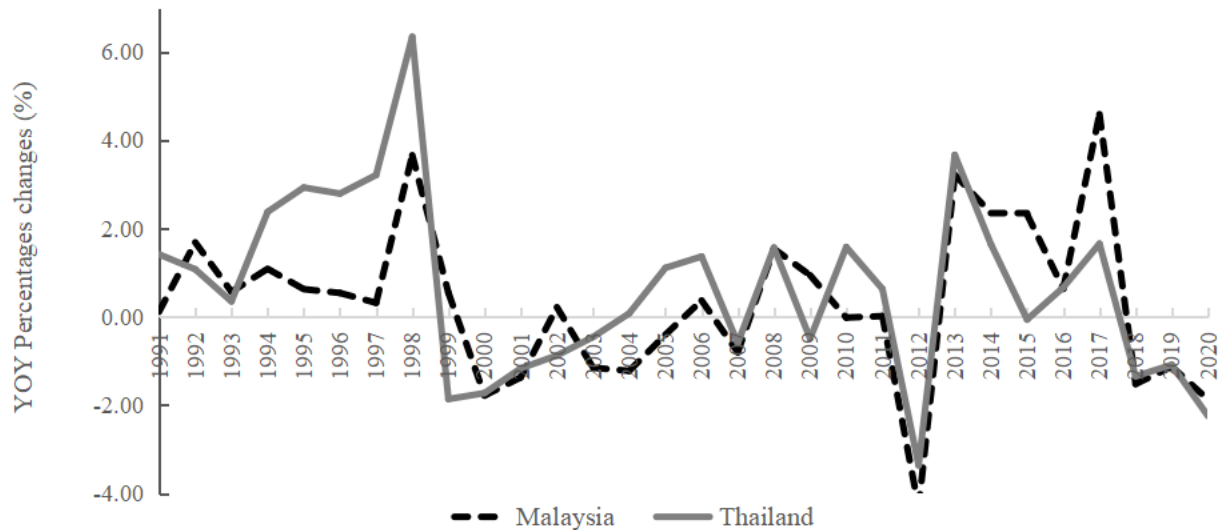


Figure 2. The trend of PPP conversion factor (private consumption) for Malaysia and Thailand between 1991 to 2020.
Source: World Bank (2021)

Thailand monetary policy framework is slightly different compared to that of Malaysia, whereby the Thailand government has undergone three phases of regime development until now. The first phase started after the end of World War II with the Baht value being pegged to the gold value, major currencies or a basket of currencies. The second phase of monetary targeting regime took place with the adoption of the floating exchange rate system starting in 1997 with the financial support and monitoring by the International Monetary Fund (IMF); with the objectives to maintain the macroeconomic stability, ultimate sustainable growth, and price consistency. The third phase began on May 2000 by employing flexible inflation targeting with the main focus on the price stability and inflation rate framework supporting the sustainable economic growth (Bank of Thailand, 2020; McCauley, 2006).

Figure 1 and Figure 2 show the trend of selected macroeconomic variables for Malaysia and Thailand for the past few decades. Generally, the interbank rate and external competitiveness purchasing power of Malaysia and Thailand were quite volatile and this created an atmosphere of economic uncertainty even though they have recovered from the 1997 Asian Financial Crisis (AFC). Undeniably, the instability of these indicators can dampen the economic growth if not properly managed by the relevant authorities. Although previous studies have documented the relationship and impact between these variables, the empirical findings show mixed results, with different directions and arguments on sampling and exchange rate regimes issues. Thus, the main objective of this study is to examine the interrelationship between interest rate (IBR) and external purchasing power indicator for Malaysia and Thailand.

LITERATURE REVIEW

Generally, it is believed that higher interest rate can significantly contribute to the stabilization of purchasing power indicators. However, the possible trade-off from the higher interest rates includes fragile financial system, production losses, and higher unemployment rate. Sarac and Karagöz (2016) and Furman et al. (1998) point out that, although some scholars opined that interest rate can play a role in stabilizing the purchasing power indicators, the empirical validation of its effectiveness remains inconclusive until to date. However, interest rate parity theory states that the difference between domestic and foreign interest rates equals to the supply and demand of the change in the exchange rate, so no party could misuse the interest rate differential to create arbitrage profit due to depreciated currency of the countries with high interest rate (Wu & Cheng, 1998). Although there have been many research on the effectiveness of monetary policies and interest rate, Kayhan et al. (2013) argue that the interest rate in emerging, developing, and developed economies behaves differently and has varying impacts on the same type of purchasing power indicators. Recently, Karamelikli and Karimi (2020) have used the linear and nonlinear estimates, which result in different empirical statistics and relationships between interest rate and purchasing power indicators in Turkey.

The movement of interest rate due to the short-term borrowing and money supply circulation in the market by the government authority reflects the volatility in purchasing power performance. Interest rate and purchasing power indicators are interrelated to play a role in stabilizing the growth and development in the country. Therefore, lower interest rate promotes growth of money in the market, which results in an increase in spending and thus promotes development; but at the same time causes inflation rate to increase (Oliver, 1997). Due to the effect of monetary policy changes on the volatility purchasing power indicators, many studies attempted to investigate the relationship between these variables using assorted models and econometric approaches. For example, Hoang et al. (2020), Cecchetti et al. (2020), Alsamara and Mrabet (2019), Aizenman et, al. (2016) and Bagchi, Chortareas, and Miller (2004) have explained the impact of monetary policy on the changes in value of purchasing power indicators.

Moreover, Brailsford et al. (2006) also indicate that many Asian countries' exchange rate benefit from the interest rate fluctuation especially during the financial crisis. In addition, Curran and Velic (2019) and Patel and Mah (2018) have found that the monetary policy tools as well as interest rate have a strong causal relationship with the real external purchasing power indicators in the emerging countries. AbuDalu and Ahmed (2014) find a significant relationship between interest rate and competitiveness exchange rate indicator performances in Thailand. Andonov et al. (2017), Hanson and Stein (2015), and Bowe and Saltvedt (2004) show that interest rate is an important factor that attracts foreign investment flows, and this can be achieved through interest rate manipulation by the authorities.

Interest rate volatility, however, can affect the ion volatility of inflation rate and a country's internal purchasing power. Pattanaik and Mitra (2001) prove that inflation rate, interest rate, and external purchasing power are highly correlated with each other. Sun and De

(2019) postulate that the depreciation of external purchasing power rate seems to create an inflationary effect in the US due to the circulation of money in the market as compared to quantity production. The situation will spark arbitrage activities as a result of profit arising from the disequilibrium price between countries. Ahmed and Mazlan (2021) update the finding of ASEAN countries by revealing that the effect of interest rate on the external purchasing power indicator varies with the existence of short run and long run asymmetries within ASEAN members. According to Phuc and Duc (2019), although inflation volatility, trade openness, and interest rate significantly influence changes of external purchasing power indicators in Australia, Japan, New Zealand and South Korea, the impact varies across the studied sample.

Similarly, Barbosa et al. (2018) proves varying impacts of selected independent variables on the volatility purchasing power indicators in developing and emerging countries. Nonetheless, the impact of interest rate on purchasing power indicators especially real exchange rate movement is still ambiguous. Kalemli-Ozcan and Verela (2019) provide an evidence of weak influence on the impact of interest rate differentials on purchasing power indicators in emerging countries. Hnatkovska (2013) concludes that the impact of interest rate on external purchasing power indicators vary, and is dependent on the variation of interest rate, especially for Thailand. Moreover, Tari and Abasiz (2009) reveal that the causal relationship between the external purchasing power indicator and interest rate is just valid in the short run. In contrast, Khin et al. (2017) and Sarac and Karagöv (2016) provide an evidence of non-significant relationship between external purchasing power indicator and interest rate especially in a long-run relationship for Malaysia and Turkey. Interestingly, Engel et al. (2019) have recently found the importance of inflation rate on the volatility of exchange rate rather than the interest rate in the case of US dataset. Table 1 indicates some of the previous studies capturing the causal relationship between external purchasing power and interest rate worldwide.

Table 1. Causal Relationship between External Purchasing Power Indicators and Interest Rate

Authors	Time Span	Country	Method	Causality
Balduzzi and Chiang (2020).	1983 - 2012	Emerging countries	VECM	EPPIs $\leftarrow / -$ IR
Nguyen et al. (2020)	1999 - 2014	ASEAN countries	SVAR	EPPIs $\leftarrow / -$ IR
Hoang et al. (2020)	2005 - 2018	Vietnam	VAR	EPPIs $- / \rightarrow$ IR
Sun and De (2019)	1973 - 2017	US	FAVAR	EPPIs $- / \rightarrow$ IR
Alsamara and Mrabet (2019)	1986 - 2014	Turkey	Linear and nonlinear ARDL	EPPIs $- / \rightarrow$ IR EPPIs $\leftarrow / -$ IR
Draz et al. (2019)	1981 - 2013	Asian countries	GMM	EPPIs $\leftarrow / -$ IR
Khin et al. (2017)	2010 - 2016	Malaysia	VECM	EPPIs $\leftarrow \neq \rightarrow$ IR
Adler and Grisse (2014)	1980 - 2011	OECD countries	BEER	PPIs $\leftarrow / -$ IR
Aizenman et al. (2011)	1989 - 2006	Emerging countries	VAR	PPIs $- / \rightarrow$ IR

Source: Author's compilation

Alsamara and Mrabet (2019) and Chowdhury (2012) have found that external purchasing power indicators are negatively related with interest rate differential and money supply in Turkey and Australia, respectively. Moreover, Bagchi et al. (2004) also find that real interest rate differential has a long-run pressure impact on Australia's real purchasing power indicators, and the pressure impact may change due to the different exchange rate regimes implemented. Furthermore, Engel (2019) and Draz et al. (2019) also prove that the interest rate indicator has significant impact on the volatility of real purchasing power indicators in selected Asian economies. Kia (2013) finds that the money supply, interest rate, growth rate, government expenditure, commodity prices, and debt have significant impact on the volatility of purchasing power indicators in Canada. Furthermore, Andries et al. (2017) and Granville and Mallick (2010) provide empirical evidence of a robust relationship between interest rate and external purchasing power indicators in Romania and Russia, respectively.

Verico (2017) suggests that in order for ASEAN Economic Community (AEC) to be economically integrated, the private sector in the ASEAN countries needs to be strengthened. Understanding the complex relationship between monetary policies especially interest rate and purchasing power indicators is crucial because the disequilibrium between the variables can have a big impact to country sustainable economic growth and development. However, previous empirical findings documented mixed results with different direction and argument on sample observation, exchange rate regime and the macroeconomic indicators used. Therefore, this research fulfils the gap by employing the asymmetric empirical analysis to get a comprehensive outcome focusing on the emerging ASEAN's small tigers, mainly Malaysia and Thailand.

RESEARCH METHODS

The research analysis relies on monthly data from January 1994 to December 2020. The data on external purchasing power indicators, which is represented by the real effective exchange rate (REER), are obtained from J. P. Morgan's time series data sources ("Data and analytics", 2021). Meanwhile, the data for interest rate based on the IBR were obtained from the Central Bank of Malaysia (2021) and the Bank of Thailand (2021). The REER is a proxy for the external purchasing power indicator and is the dependent variable in the research. This indicator represents the intrinsic value of comparing exchange rate fluctuation on the quantity of goods and services offered internationally between local currency and other currencies as suggested by Bartolli (1995). In order to obtain a specific relationship between the external purchasing power indicator and interest rate, a general empirical model specification is created:

$$\text{REER} = f(\text{IBR})$$

The REER and the IBR are transformed into natural logarithm formation to avoid bias estimation. Based on the nature of the time series data, the research firstly performs several

unit root tests to ensure the tested variables are free from stationary problems, and at the same time, appropriated econometrical models are chosen. The unit root tests performed include: 1) the Augmented Dickey Fuller (ADF), proposed by Dickey and Fuller (1981), 2) Kwiatkowski–Phillips–Schmidt–Shin test (KPSS) by Kwiatkowski et al. (1992), 3) the endogenous structural break stationarity test by Perron (1989), and 4) the nonlinearity test of the Fourier ADF (FADF) test proposed by Enders and Lee (2012). The FADF nonlinear unit root test is used because the REER series may entail structure breaks due to the exchange rate regimes implemented during the period of the study (peg exchange rate regime and managed floating regime). Furthermore, the nonlinearity test based on the FADF is also utilized to capture the nonlinearity condition of the tested variables. The auto-regressive distributed lag (ARDL) cointegration approach introduced by Pesaran et al. (2001) is utilized, and it uses the F-statistics value against the upper and lower critical bounds value for the cointegration decisions. In general, the ARDL cointegration model for the research can be defined as follows:

$$\Delta REER_t = \varphi_0 + \sum_{i=1}^p \varphi_{11i} \Delta REER_{t-i} + \sum_{i=0}^p \varphi_{12i} \Delta IBR_{t-i} + \gamma_{11} REER_{t-1} + \gamma_{12} IBR_{t-1} + \mu_{1t}$$

The Δ symbol represents the first difference operator; the coefficient φ_i refers to the short-run elasticities; γ_i represents the long-run elasticities; and μ_t indicates the normal white noise of the ARDL estimates. The aim is to determine the long-run cointegration between REER and the IBR. Therefore, the null hypothesis can be expressed as $H_0: \gamma_{11} = \gamma_{12} = 0$, with the alternative hypothesis expressed as $H_1: \gamma_{11} \neq \gamma_{12} \neq 0$. Pesaran et al. (2001) formulate critical value based on the F-statistic is used in the research. If the estimated F-statistic is higher than the upper bounds $I(1)$, it indicates that there is a long-run cointegration between the estimated series of this research. For the purpose of ARDL bounds estimation, the Akaike Information Criterion (AIC) to select the optimal lag for estimation purposes (Yakubu et al., 2021) is employed.

Considering the assumption of limited information revealed by the symmetric model in permitting the strong inference for yielding a predictable forecast in wide range of economic and finance situations, the nonlinear ARDL (NARDL) test is performed to explore the actual long run relationship between external purchasing power indicator and interest rate in Malaysia and Thailand. Based on Shin et al. (2014), the positive and negative components in the test will capture the existence of asymmetric relationships of underlying variables. Shin et al. (2014) defines the equation of positive and negative components as presented:

$$iv_t^{\pm} = \sum_{j=1}^t \Delta iv_j^{\pm} = \sum_{j=1}^t \max(\Delta iv_j, 0)$$

$$iv_t^- = \sum_{j=1}^t \Delta iv_j^- = \sum_{j=1}^t \min(\Delta iv_j, 0)$$

Therefore, the NARDL specification can be written as follows:

$$\begin{aligned} \Delta REER_t = & \alpha_0 + \beta_0 REER_{t-1} + \beta_1 IBR_t^+ + \beta_2 IBR_t^- + \sum_{t=1}^p \mu_t \Delta REER_{t-1} + \\ & \sum_{t=1}^q (\gamma_t^+ IBR_{t-1}^+ + \gamma_t^- IBR_{t-1}^-) + \varepsilon_t \end{aligned}$$

The iv^l 's are the independent variables and the parameter p and q are lag order. In order to examine the cause-effect relationship, the Hatemi-J causality test as used by Nguyen et al. (2015) and Gozgor (2014) is used to capture the possibilities of the asymmetric effect relationship between external purchasing power indicator and interest rate. Hatemi-J (2012) proposes the equation as presented:

$$\begin{aligned} y_{1t} &= y_{1t-1} + \varepsilon_{1t} = y_{10} + \sum_{i=1}^t \varepsilon_{1i} \quad t = 1, 2 \dots T \\ y_{2t} &= y_{2t-1} + \varepsilon_{2t} = y_{20} + \sum_{i=1}^t \varepsilon_{2i} \quad t = 1, 2 \dots T \end{aligned}$$

where, y_{10} and y_{20} are the constant value, ε_{1i} and ε_{2i} are white noise disturbance term, $\varepsilon_{1i}^+ = \max(\varepsilon_{1i}, 0)$, $\varepsilon_{2i}^+ = \max(\varepsilon_{2i}, 0)$, $\varepsilon_{1i}^- = \min(\varepsilon_{1i}, 0)$, and $\varepsilon_{2i}^- = \min(\varepsilon_{2i}, 0)$, represent the positive and negative parameter. This can also be expressed as $\varepsilon_{1i} = \varepsilon_{1i}^+ + \varepsilon_{1i}^-$ and $\varepsilon_{2i} = \varepsilon_{2i}^+ + \varepsilon_{2i}^-$. This can be rewritten based on the presented expressions:

$$\begin{aligned} y_{1t} &= y_{1t-1} + \varepsilon_{1t} = y_{1,0} + \sum_{i=1}^t \varepsilon_{1i}^+ + \sum_{i=1}^t \varepsilon_{1i}^- \\ y_{2t} &= y_{2t-1} + \varepsilon_{2t} = y_{2,0} + \sum_{i=1}^t \varepsilon_{2i}^+ + \sum_{i=1}^t \varepsilon_{2i}^- \end{aligned}$$

The positive and negative value for each variable will be defined as a cumulative form as $y_{1t}^+ = \sum_{i=1}^t \varepsilon_{1i}^+$, $y_{1t}^- = \sum_{i=1}^t \varepsilon_{1i}^-$ and $y_{2t}^+ = \sum_{i=1}^t \varepsilon_{2i}^+$, $y_{2t}^- = \sum_{i=1}^t \varepsilon_{2i}^-$. Thus, each underlying variable has a permanent impact of positive and negative shocks. After that, the test of causal relationship between variables done by the VAR model of order p value:

$$y_1^+ = v + A_1 y_{t-1}^+ + \dots + A_p y_{t-p}^+ + \mu_t^+, \text{ by assuming } y_t^+ = (y_{1t}^+, y_{2t}^+); \text{ and}$$

$$y_1^- = v + A_1 y_{t-1}^- + \dots + A_p y_{t-p}^- + \mu_t^-, \text{ by assuming } y_t^- = (y_{1t}^-, y_{2t}^-)$$

where, the $Y_t^{+/-}$ is the (1×2) vectors of the variable, v is the (1×2) vectors of intercepts, $\mu_t^{+/-}$ is the (1×2) vectors of error terms and A_r is the (2×2) matrix of parameter for lag order $r = 1, \dots, p$ and the lag order selection will be based on the AIC specification.

RESULTS AND DISCUSSIONS

Table 2 summarizes the test statistics for the employed unit root tests. The ADF and PP unit root test statistics show that all variables are stationary in their level, but become non-stationary after taking the first difference, whereas the KPSS unit root test statistic demonstrates a non-stationarity in level and stationary in first difference. Thus, all variables are confirmed stationary in first difference despite using a multiple traditional unit root test and endogenous structure break unit root test. However, the Fourier ADF unit root test shows that the REER variables for Thailand has a unit root issue. Thus, this warrants the utilization of ARDL and NARDL approach since the unit root tests statistics are mixed.

Table 2. Unit Root Test Results

	At level			At first difference			FADF
	ADF	KPSS	Perron	ADF	KPSS	Perron	
Malaysia							
REER	-2,299	1,050*	-3,066 (1998; Nov)	-17,177*	0,046	-17,344* (1997; Dec)	-2,443
IBR	-2,021	0,803*	-2,801 (2002; Feb)	-13,917*	0,085	-8,872* (1999; Jan)	-2,233
Thailand							
REER	-2,040	0,632**	-4,573 (2000; Dec)	-16,171*	0,108	-8,137* (1998; Feb)	-4,721*
IBR	-1,686	1,212*	-3,054 (2001; Sept)	-7,545*	0,059	-10,780* (1998; Nov)	1,033

Note: * and ** denote rejection of the null hypothesis of a unit root at the 1 and 5% significance levels, respectively. The finite sample critical values for FADF and F-test are taken Table 1 of Enders and Lee (2012).

Furthermore, the result of ARDL bounds test confirms that there is no long-run relationship between interest rate and purchasing power indicator being studied (see Table 3). In Malaysia, there is an endogenous break for REER in November 1998 and for IBR on February 2002, respectively. This could be due to the Asian financial crisis in 1998, where Malaysia manipulated the interest rate policy and increased the government spending in order to stimulate economic growth (“Malaysia: December 2001”, 2001). Thailand encountered the REER endogenous break in December 2000, and IBR in September 2001. These periods referred to changes of Thailand monetary policy which stressed exchange rate stability and fostering an economic recovery. In addition, it is also attributed to the victory of Telecoms tycoon Thaksin Shinawatra’s Thai Rak Thai Party in Thailand general election (“Timeline: Thailand’s turbulent”, 2019).

Table 3. Bounds Test for the ARDL and NARDL Cointegration Specifications

	<i>F</i> -statistics		Results
	Malaysia	Thailand	
ARDL	2,064	1,484	No cointegration
NARDL	4,088*	3,605*	Cointegrated
Significance value	Critical values		
	Lower bounds	Upper bounds	
1%	4,94	5,58	
5%	3,62	4,16	
10%	3,02	3,51	

Note: * denote rejection of the null hypothesis of no long run cointegration at 1% significance level. The lag selection is based on the AIC.

In addition, the empirical results are parallel with Abdoh et al. (2016) which also reveal that there is no long-run relationship between interest rate and exchange rate for Brunei, Malaysia, Philippines, Singapore, Thailand, Indonesia, Cambodia, Laos, and Vietnam, using the symmetric cointegration approach. In addition, when the nonlinear ARDL test is used, a significant long-run relationship between the series of both countries are found. This result is in-line with Karamelikli and Karimi (2020), and Katrakilidis and Trachanas (2012). In Golit et al. (2019), an asymmetric approach was used in examining the sample of G7 countries, which showed a stronger relationship between interest rate and exchange rate.

The findings on the long run and short run asymmetric estimates are presented in Table 4. For Malaysia, the findings verifies the existence of long run asymmetry positive effect of IBR on the REER. When the IBR increases in the long-run period, the REER decreases by almost 22,1%. Looking at Thailand, the estimation confirmed a significant relationship for both of positive and negative asymmetric effects especially in the short-run. An increase of IBR in the short-run period is able to increase the REER around 13,4%, and decreases in IBR will reduce the REER value around 12%. For Thailand, the NARDL estimates indicate the overall positive effect around 0,1% higher compared to the negative effect faced by the country.

Table 4. The NARDL Estimates

Country	Variable	Coefficient	<i>F</i> -statistics
Malaysia	L_{IBR}^+	-0,221	3,75***
	L_{IBR}^-	0,112	1,473
	$W_{LR, IBR}$		7,832*
	$W_{SR, IBR}$		0,534
Thailand	L_{IBR}^+	0,134	3,289***
	L_{IBR}^-	-0,120	4,137**
	$W_{LR, IBR}$		0,416
	$W_{SR, IBR}$		19,750*

Note: *, ** and *** denote rejection of the null hypothesis of no asymmetric relationship at the 1, 5 and 10% significance level, respectively. The lag selection is based on the AIC.

Figure 3 depicts the long-run dynamic multiplier effects with positive and negative changes in IBR for Malaysia and Thailand over the estimation period of the research. It is found that approximately after the third period, the solid line of asymmetric effect in Malaysia indicates decreased condition with almost four periods before it rises and overshoots positive and negative effects during the fourth period, and consistently facing constant condition over the estimation period. The negative changes showed by the dotted line have crossed-out the asymmetric line at the 13th period, which is approximately in year 2000 due to the recovery effect of Asian financial crisis and the economic recession period for many developed countries in the early 2000s. Thus, an increase of IBR has a long run negative effect on the REER in Malaysia. However, there is a different situation with the dynamic multiplier effects in Thailand, where the positive effect overshooting the asymmetric line for all periods are involved in the research. Hence, an increase in IBR totally has a positive effect on the REER since the country has overcome the financial issues with a comprehensive tight monetary policy over the estimation period.

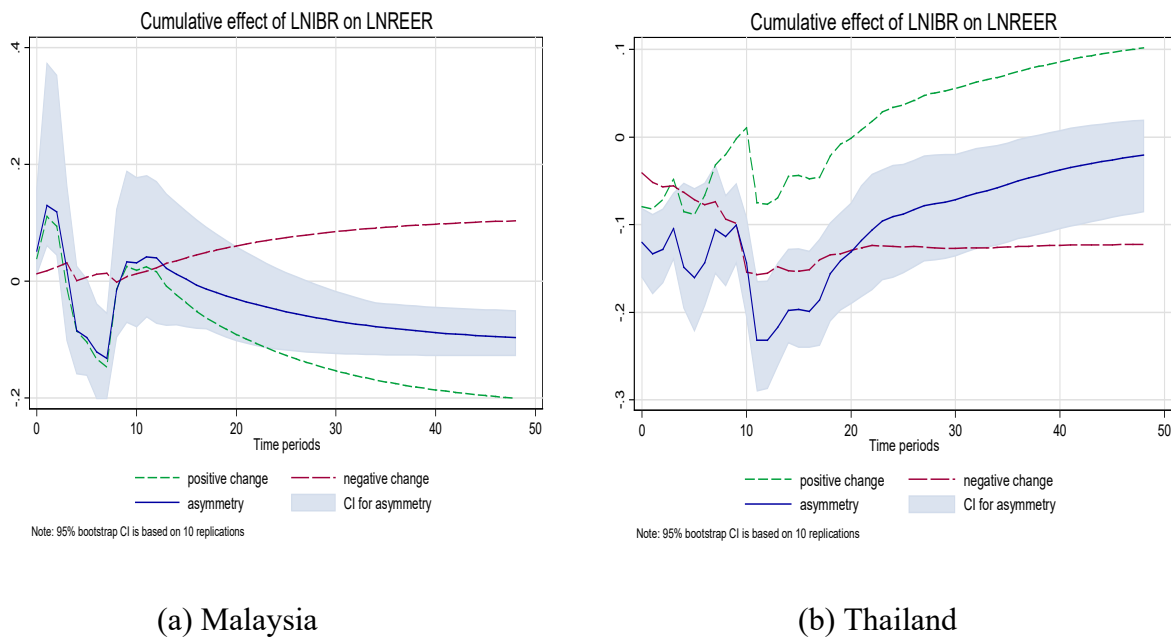


Figure 3. Asymmetric Effect of IBR on REER for Malaysia and Thailand

In order to validate the asymmetrical relationship between interbank rate and real effective exchange rate, the research performs the Hatemi-J (2012) asymmetric causality test, and the summary of the causal effect tests are reported in Table 5. Based on the estimation, the research found that there is no asymmetric causal relationship between IBR and the REER in Malaysia. However, there are two coefficient values that are statistically significant, and this proves the existence of asymmetric causal relationship between IBR and the REER for Thailand. This is especially in the situation where positive components of real effective exchange rate cause the positive components of IBR; and negative components of the REER cause the negative components of IBR. The research findings are almost in-line with those of

Karamelikli and Karimi (2020) and Capasso et al. (2019), which confirm that the short and long run relationship with positive and negative explanatory power of the IBR components is greater than positive explanatory components.

Table 5. Hatemi-J Asymmetric Causality Test Results

Causality directions	Malaysia		Thailand	
	W-statistics	Null hypothesis	W-statistics	Null hypothesis
$IBR \rightarrow REER$	0,011	Accept	0,727	Accept
$IBR \leftarrow REER$	0,542	Accept	0,554	Accept
$IBR^+ \rightarrow REER^+$	0,564	Accept	0,976	Accept
$IBR^+ \leftarrow REER^+$	1,084	Accept	6,257**	Reject
$IBR^- \rightarrow REER^-$	0,247	Accept	0,696	Accept
$IBR^- \leftarrow REER^-$	1,869	Accept	6,979**	Reject

Note: *, ** and *** denote rejection of the null hypothesis of no causality at the 1, 5 and 10% significance level, respectively.

CONCLUSIONS

The interrelationship between IBR and purchasing power indicator, especially the REER, has become an important and complex issue for stakeholders. According to the interest rate parity theory, interest rate affects the real exchange rate in short time horizon and becomes reversed in the long run. The assumption of the interest rate parity theory is particularly true in emerging economies, especially when the countries' authorities attempt to stabilize and manage the exchange rate volatility through monetary policy tools. The research provides new evidence in explaining the interrelationship between IBR and purchasing power indicator in the context of Malaysia and Thailand. It has been proven that there is an existence of asymmetric interrelationship between the interest rate and purchasing power indicator variables. The Malaysian data reveal that the asymmetric long-run cointegration between variables and the negative explanatory components of IBR variation have a greater effect on the variation of the REER. On the contrary, Thailand data reveal that an asymmetric short-run interrelationship and the positive explanatory components of IBR variation have greater effect than negative explanatory components. Moreover, Thailand data support the assumption of IBR affects the REER on a short time horizon and reverse on the long-time horizon as explained by the interest rate parity theory.

An increase of interest rate, especially the short-term interest rate, causes a depreciation to the Malaysian purchasing power indicator value for long time period, but appreciates the Thailand purchasing power indicator value in a short period. Thus, due to the asymmetric relationship, the countries' authorities, especially the central banks of both countries, should be more cautious on the dynamic interrelationship between IBR and purchasing power indicators in designing future monetary policy strategies especially in the global financial liberalization scenario. Although only Thailand shows an asymmetric causal relationship, the volatility of interbank rate and real exchange rate has a huge impact on the country's future economic development. Counterbalance of money supply changes is the best

tool in achieving some combination of exchange rate fluctuation and output stabilization. Despite the available number of strategies, the loosening or tightening of interest rate term is an effective option that can be implemented in the exchange rate open market operation in achieving both price and output objectives.

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CONTESTED INTERPRETATIONS OF INDONESIA'S INTERNATIONAL LEADERSHIP IN THE FOREIGN POLICY OF PRESIDENT SUSILO BAMBANG YUDHOYONO AND JOKO WIDODO

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ABSTRACT

The research aimed to examine the Indonesia's international leadership on foreign policy throughout the period of President Susilo Bambang Yudhoyono and President Joko Widodo, who have developed different conceptualizations of foreign policy. It ultimately affects the way each of them makes an interpretation of what Indonesia should do with its international leadership. The research built a solid and rich theoretical framework by consulting on previous research focusing on factors that affect the nature of international leadership especially regarding the role of the individual styles of a state leader. The research had two illustrations or brief case studies, namely, the promotion of democracy and human rights and the initiative of promoting the Indo-Pacific cooperation with a special emphasis on the period of President Joko Widodo. The research finds that he has changed the nature of Indonesia's international leadership to make it fit into his domestic agenda. While President Susilo Bambang Yudhoyono tends to make Indonesia's international leadership as an essential part of his rigorous effort to build a post-authoritarian identity for a democratic and stable nation, President Joko Widodo prefers to make his foreign policy serve the accomplishment of his domestic priorities. The research concludes that Indonesia's international leadership is much contingent upon individual preferences of the presidents in both formulating their policies as well as the implementation. Moreover, the research comes up with constructive ideas which might be useful to strengthen Indonesia's international leadership in the future.

Keywords: *Indonesia, foreign policy, international leadership, democracy, ASEAN, Indo-Pacific*

INTRODUCTION

Research on the role of state leaders in the characterization of Indonesia's international leadership has been previously conducted by various authors. Focusing particularly on foreign policy driven by Soeharto's development, Suryadinata (1996) argues that Indonesia's international behavior was very much dictated by the ongoing dynamics of international politics during the two presidents' period in power. Although Indonesia had limited national capabilities to have an effective influence over the course of international events during their respective periods of government, both leaders had enough self-confidence to assert that Indonesia deserved to be recognized as a leading participant in regional and global affairs. Indonesia became one of the founding members of ASEAN in 1967 and enjoyed a recognition as an informal regional leader of the association in the 1970s until 1980s. Karim (2021) focuses on how President Susilo Bambang Yudhoyono (Yudhoyono, hereafter) tried to legitimize Indonesia's international leadership role by referring to Indonesia's historical experience in conducting such role and using international expectations to ensure domestic support for the president's foreign policy endeavor. Thus, Karim's argument points to the key role of a state leader in determining the nature of his foreign policy endeavor.

Academics provide different answers to two important questions: 1) Whether Indonesia has the ability to carry out its international leadership; and 2) Whether there is real evidence that Indonesia plays such role. Reid (2012), for instance, draws our attention to some internal challenges like corruption, weak law enforcement, and bureaucratic inefficiency that need to be resolved if Indonesia wants to have a bigger influence in international relations. Unlike Reid, Acharya (2014) argues Indonesia had succeeded in accomplishing three policy agendas of development, democracy, and stability in such a way that it deserves to be considered as an emerging democratic power of Asia with a promising prospect in the future. Roberts, Habir, and Sebastian (2015) focuses on the idea of how Indonesia had risen as an emerging power with all the constraints and opportunities it had to face in its external environment. Since their research only covers Indonesia's foreign policy until 2014, it is considered essential to examine its change and continuity especially since President Joko Widodo (Widodo, hereafter) came to power in 2014. Although the research covers the periods of President Yudhoyono and President Widodo, more extensive analysis will be provided to the latter with the purpose of demonstrating how a changing conceptualization of Indonesia's international leadership has affected the way it is enacted.

Shekhar (2018) has developed the most recent analysis of the correlation between Indonesia's rising power and its international ambition to play a leading role in regional and global politics. However, Shekhar's depiction of Indonesia as an Indo-Pacific power raises a question whether there is indeed convincing evidence that Indonesia harbors such a strong intentionality to engage in a contestation of power that is going on in the region. A more realistic interpretation would argue that Indonesia's declaration as a global maritime fulcrum is mainly meant to protect its own territorial waters without any explicit ambition to be an active and assertive player in the strategic competition among great powers. To say that Indonesia has an explicit ambition to become a regional maritime power would contradict the reality of its material or military power on which such ambition could be based.

It follows that there is a need to demonstrate through empirical research the circumstances under which Indonesia can show its capability to lead, the real conduct of such leadership, and conditions which might lead to its withdrawal from such leadership and explain its reluctance to act. The research also seeks to find out how President Yudhoyono dan President Widodo, as well as their foreign policy conceptions might characterize the nature of Indonesia's international leadership. It is argued that the conceptualization of Indonesia's international leadership by each president matters to the extent that such international leadership is not static but significantly dynamic depending on what meaning the state leaders want to attach to such foreign policy endeavor.

THE ARGUMENT AND THE THEORETICAL CONCEPTS

From the perspective of the study of foreign policy and international relations, the research is more concerned with the importance of individual level of analysis and less about the state and international system levels of analysis in explaining how the activity of international leadership by a state operates in reality (Viotti & Kauppi, 2014). The use of the concept of international leadership in this research refers to an effort by a state to influence other states, so they might achieve their common goals. According to Destradi (2010), the concept of international leadership is different from empire or hegemony since it gives more emphasis on the mobilization of normative or ideational resources instead of capitalizing on material resources or military preponderance. Such concept is quite useful in analyzing Indonesia's foreign policy as it seeks to make a projection of its influence not only among ASEAN countries but also beyond Southeast Asia. Thus, all along the Indonesian leaders are aware of Indonesia's primacy in terms of geographical size and population in the region but how they translate such awareness into foreign policy orientation varies from one president to another. Following Destradi's categories of "leader-initiated leadership" and "follower-initiated leadership", the research aims to find out how President Yudhoyono and President Widodo choose the suitable type of leadership for their respective government. It will be argued that the choice made by each of these state leaders is contingent upon how each of them conceptualizes Indonesian foreign policy and utilizes it to accomplish a set of predetermined policy priorities. The determinant role of foreign policy elite in Indonesia's promotion of democracy and human rights is also highlighted by Karim (2016) who challenges the idea that such promotion is rooted in a solid foundation of state identity. The research also takes advantage from results by Breuning (2007) who utilizes the concept of leadership trait analysis with three important elements including attitude towards constraints, openness to new information, and motivation. By using the three elements, a set of guiding questions can be made, for instance: 1) How do President Yudhoyono respond to the constraints created by the great powers in Indonesia's external environment? 2) Is President Widodo open to new information or does he stick to the primacy of his domestic agenda? 3) What is President Widodo's motivation in promoting Indonesia's hedging strategies towards the US and China?

It is quite evident that the way President Widodo conceptualizes Indonesia's international leadership remains consistent with his political pragmatism and the primacy of

his domestic accomplishment. The president's influence in the foreign policy making represents what Mintz and DeRouen Jr (2010) call cognitive consistency in the sense that his prior images and beliefs consistently determine what is important in responding to the complexity of his external environment. Similar recognition of the importance of leader's personal decision-making style can be found in Beasley et al. (2013) suggesting that leaders can be selective in sticking to the information that fits into their strongly held belief systems. Such conceptualization of international leadership may explain the way President Widodo has promoted democracy and human rights in the region with its emphasis on the imperative of good governance to increase Indonesia's national competitiveness, Indonesia's initiative in the promotion of the ASEAN Outlook on the Indo-Pacific, Indonesia's hedging strategies towards China and the US, and Indonesia's reluctance to go the extra mile in pressurizing the military regime in Myanmar to accept ASEAN's policy proposal to resolve the political crisis in that country. Future uncertainties regarding the economic recovery in the post-pandemic COVID-19 may only reinforce such foreign policy direction at least until 2024 when President Widodo ends his second term in office. Under such domestic and external circumstances, it might be relevant here to adopt three important concepts introduced by Breslin (2017), which are willingness, capability, and acceptance for the purpose of explaining the nature of Indonesia's international leadership in ASEAN. We cannot take for granted that Indonesia has the willingness to lead on any issue unless it is directly tied to its own immediate interests. This is particularly the case under the pragmatism of President Widodo's presidency. With relatively limited material and military power, Indonesia's international leadership is characterized more by the mobilization of its ideational resources than material power. Finally, Indonesia's international leadership among ASEAN countries is made possible by the fact that other ASEAN members expect such regional leadership as long as Indonesia stands on the commonality of the interests of all ASEAN members vis a vis the great powers. Nabers (2010) affirms that international leadership cannot be separated from 'the wants and needs of followers' if it is meant to be effective.

As a pragmatic leader President Widodo will tend to perceive the emerging region of the Indo-Pacific with a narrative of economic interdependence in mind and avoid the idea of power politics by the great powers. There are, at least, three reasons why the idea of economic interdependence is more preferred than the narrative of power politics. First, in the context of economic interdependence, President Widodo wants to utilize trade and investment opportunities made available by the Asian economic powerhouses China, Japan, and India and make them serve his domestic priorities of building Indonesia's infrastructures. Second, considering Indonesia's limited material and military capabilities, it would be self-defeating to follow the narrative of a contestation of power. Not only will it destabilize the region, it will also weaken ASEAN's unity and solidity of which Indonesia is its traditional leader. Third, even if the great powers choose to continue with their power politics, President Widodo can capitalize on the credibility of Indonesia's tradition of independent and active foreign policy to play a mediatory role by which it could add more significance to its international leadership in the region. By using all the concepts related to the nature of Indonesia's international leadership, it is believed that there is a solid theoretical foundation to argue that President Widodo is not just a passive recipient of a foreign policy legacy from his

predecessor President Yudhoyono. President Widodo actively reinterprets and redefines such legacy to suit his policy priorities which are ultimately meant to strengthen his performance legitimacy in the eyes of various domestic political constituents. With this argument, the research aims to challenge the idea that President Widodo is indifferent about Indonesia's tradition of international leadership in its foreign policy. The research applies explanatory methods for the analysis aiming to explain the causality between the cognitive and belief systems of state leaders and the way they practice it in a changing external environment (Howard, 2010). By connecting events in a meaningful way, the research is expected to produce useful insights about the nature of Indonesian's international leadership. The research uses various sources of evidence from newspapers, government reports, books, and journal articles to support the analysis.

INDONESIA'S LEADERSHIP IN DEMOCRACY AND HUMAN RIGHTS

When President Yudhoyono came to power in 2004 after Indonesia's first direct presidential election, he had two things in mind as far as the country's international leadership in the field of democracy and human rights. First, he aspired to instrumentalize Indonesia's democratic consolidation as an opportunity to leave behind the authoritarian past by replacing it with a new identity as a nation capable of upholding universal democratic principles and norms. Second, being the largest democracy in Southeast Asia, Indonesia aspired to spread democratic norms and principles through dialogue and exchange of experiences without any intention of imposing it on other states. Although President Yudhoyono's second agenda could only be materialized at the end of his first term through the establishment of Bali Democracy Forum (BDF) in 2008, it was quite evident that he has intention to make it a logical outcome of Indonesia's new identity as a new democratic country. President Yudhoyono seemed to realize that as Indonesia's first directly elected president, he had a personal mission to introduce Indonesia's new identity as a democratic country to the world.

In the eyes of President Yudhoyono there were several reasons why Indonesia could claim to be capable of setting a good example or model for the rest of Southeast Asia in upholding democratic values and human rights. First, Indonesia used to maintain its stability through the operation of an authoritarian government under President Soeharto. However, under his presidency, Indonesia had managed to consolidate its democracy by introducing a multi-party based presidential system. Thus, Indonesia's political model had shown to the rest of the region of Southeast Asia that authoritarian political system was not the only option to create political stability and achieve economic growth. On top of that, Indonesia's domestic stability had a positive impact on the stability of the whole region.

Second, as a nation with the largest Muslim population in the world, Indonesia set a good example of a workable compatibility between Islam and modern democracy. Such compatibility produced a positive co-existence between religious commitment and democratic rules of the game in the organization of political power. Moreover, while the democratic movements of the so-called Arab Spring in many Middle East countries had ended up in protracted sectarian conflicts and the return of the military regime like in Egypt, Indonesia as

a Muslim-dominated nation, stood out as a stable democracy capable of peacefully managing its multi-ethnicity.

Third, as new democracy, Indonesia was also capable of combining coercive measures and cultural approaches to fight against terrorism. Considering that Southeast Asia had become a new area of operation for ISIS (Islamic State of Iraq and Syria) outside the Middle East, Indonesia's program of deradicalization could be a model to be emulated by other countries in Southeast Asia. Instead of relying solely on the security approach through the enactment of quite repressive legislation like Internal Security Act (ISA) in Malaysia and Singapore, being consistent with the progress of its democratic consolidation, Indonesia had chosen to make a balance between firm law enforcement and cultural approach through deradicalization of the terrorist convicts with full support from Islamic mass organizations like Nahdlatul Ulama and Muhammadiyah.

Fourth, Indonesia's success in resolving the separatist conflict in Aceh peacefully through the signing of the Helsinki Agreement in 2005 was a proof of the positive correlation between democratic consolidation at the center and the capacity to abandon military approach in resolving a separatist conflict in the region. Since the collapse of Soeharto's authoritarian regime in 1998, there had been an escalation of conflict in Aceh with the effect that in 2003 the Indonesian government under President Megawati Soekarnoputri, who was backed by the military, enacted martial law. With the direct election of President Yudhoyono in 2004, the Indonesian military reform made a significant progress, so the process could take place without any serious obstacle. Considering that separatist movements remain unresolved in places like Southern Thailand, Myanmar, and Southern Philippines, Indonesia's experience in Aceh can be a source of inspiration for future possibility of a peaceful conflict resolution. According to Destradi's categories (2010) concerning international leadership, the establishment of the BDF can be considered as Indonesia's initiative to set a good example of a democratic transformation that can be emulated by other ASEAN members. There were at least two main factors underlying Yudhoyono's prompt response to the issue of democracy and human rights in Myanmar. First, the Indonesian government could not put aside the internal pressures from the Islamic communities in Indonesia who sympathized with the sufferings of the Rohingyas. Second, there was an external pressure from countries in ASEAN and outside of the region as they expected Indonesia to lead the process of democratization in Myanmar. Dermawan, Purnama, and Mahyudin (2018) explain that Indonesia's policies to Myanmar aimed to show its ability in managing diversity, likewise internal conditions in the country. Certainly, there are other case studies that can be used to analyze Indonesia's role in promoting democracy and human rights during Yudhoyono's presidency. For instance, Alexandra and Basuki (2014) focus on the issue of migrant workers, the Rohingya case, and Indonesia's response to the Iranian sanction. An exhaustive exploration of possible case studies does not end here since being consistent with the main argument of the research, it is essential to highlight how each Indonesian state leader develops a distinct personal understanding of Indonesia's international leadership in his or her foreign policy implementation.

While Yudhoyono's policy was mainly driven by his international activism, President Joko Widodo remains committed to his domestic priorities and does not seem to have a particular ambition in dealing with this regional issue. He did send humanitarian assistance to Myanmar but mainly for the purpose of responding to the demands of the Islamic opposition groups in Indonesia and not for changing Myanmar's political landscape. Similar thing can be said about President Widodo's reaction towards the current political crisis in Myanmar since the military coup on February 1st, 2021. Although there is a high expectation that Indonesia would go the extra mile to pressure the military government in Myanmar, President Widodo has been constrained by several domestic and international factors including his own pragmatism, the inflexibility of the attitude of Myanmar's military leaders, and China's decisive role in the whole regional situation. This may explain why the military government has a strong self-confidence to stay in power while at the same time giving the impression that it is willing to accommodate some of the aspirations of ASEAN countries. Under these political circumstances, there is not much room for President Widodo to conduct any foreign policy maneuver other than an endorsement of the normative approach that has been demonstrated by ASEAN so far. The fact that the ASEAN Leaders Meeting was conducted in Indonesia on the 21st of April 2021 becomes an indication of how much other ASEAN members expect Indonesia's leadership in dealing with the political crisis in Myanmar. Medcalf (2020) is right in his argument that it is beyond Indonesia's capacity to handle political tensions in Southeast Asia. Being consistent with his domestic priorities and the increasing pressure to focus on handling the dramatic surge in the daily cases of COVID-19 seem to have effectively prevented President Widodo from coming up with an alternative policy in convincing the Myanmar's military leaders the importance of getting out from the current deadlock in which ASEAN's aspirations are not properly respected at all. Indonesia's tacit withdrawal from taking more initiative in actualizing its international leadership is strong evidence of how this foreign policy agenda is sensitive to the preferential option of the president himself. The situation has become more complicated for President Widodo since some leaders of ASEAN members like Thailand, Brunei Darussalam, and Cambodia tacitly support the status quo power of Myanmar's military junta leader, General Ming Aung Hlaing (Purba, 2021).

While President Widodo agrees with his predecessor that as a regional power in Southeast Asia, Indonesia should demonstrate its leadership in the field of democracy and human rights. Moreover, he also wants to show his distinct personal interpretation of such leadership by introducing new elements based on his immediate concerns and policy priorities. There are various reasons why it is arguable to say that President Widodo has developed his own interpretation of the meaning of Indonesia's leadership in the promotion of democracy and human rights. First, with the growing influence of the Islamic radical groups trying to spread the ideology of global Islamic caliphate, the president seems determined to challenge it by introducing a moderate version of Islam. As part of his campaign against Islamic radicalism which is perceived as a threat to the state ideology Pancasila, President Widodo has taken a bold decision to ban the Indonesian Hizbut Tharir. While Yudhoyono seemed to take for granted the compatibility between Islam and democracy, President Widodo takes strong initiatives to carry out an active campaign for the spread of moderate version of Islam

with strong support from two major Islamic mass organizations NU and Muhammadiyah. Even Indonesia's humanitarian assistance for Rohingya refugees soon after the military crackdown in August 2017 was considered as a step to calm down the domestic Islamic radical groups who urged the Indonesian government to cut diplomatic ties with Myanmar and take military action.

The establishment of the Indonesian Islamic International University through Presidential Regulation No. 57/2016 is Widodo's another important initiative to contribute to the construction of an Islamic civilization which is compatible with modernity and democracy. Thus, like his predecessor, Widodo wants to assert Indonesia's leadership in promoting democracy but at the same time he is more explicit in capitalizing on Indonesia's capacity to set a model for the Islamic world as an alternative to a more radical and uncivil interpretation of the religious doctrine. On top of that, by building a university as Indonesia's vehicle to be an intellectual hub for moderate Islam, the president appears to address the criticism that Indonesian Islamic scholars have only limited influence among the Islamic world intellectuals (van Bruinessen, 2012).

Second, the success of managing its ethnic and religious diversity has made Widodo's government more confident in sharing Indonesia's experience with conflict-torn countries like Afghanistan. Therefore, when President Widodo visited Kabul in late 2017, he offered his host Indonesia's willingness to become a mediator for the conflicting parties in Afghanistan. Afghanistan President, Hamid Karzai, welcomed such idea and agreed that Indonesia would hold a dialogue as a preliminary towards a peaceful conflict resolution. As a matter of fact, Jakarta hosted the meeting of representatives of Afghanistan's different ethnic and religious groups in which dialogues were conducted to find peaceful conflict resolution that was acceptable for all parties.

Third, another important characteristic of Indonesia's pursuit of international leadership in promoting democracy under President Widodo is that he shows a strong intentionality to make Indonesian democracy capable of delivering the intention to produce for a nation with a high priority for economic development. This is the reason behind the choice of the theme "Democracy that Delivers" for the 10th anniversary of BDF in December 2017. In fact, within three years of President Widodo's first term in office Indonesia had shown better performance in several indicators of internal bureaucratic and economic reform and manage to outrank some of its ASEAN neighbors. For instance, President Widodo had managed to improve Indonesia's rank for ease of doing business from 114 in 2014 to 72 in 2018 (World Bank, 2019). Thus, the credibility of Indonesia's projection of democratic norms to the outside world is strengthened by demonstrating that democracy can produce good governance despite the difficulties of reaching a consensus which typically characterizes the politics of decision-making process in many new democracies. Despite President Widodo's new initiative to substantiate Indonesia's promotion of democracy and human rights with additional elements such as good governance and national competitiveness, critical voices about Indonesia's limitations and weaknesses cannot just be put aside. For instance, Karim (2020) draws our attention to the fact that Indonesia's role in the United Nations Human Rights Council has been constrained by the fear that human rights violations committed by

the Indonesian security authorities in the restive province of Papua might be raised by the international community to embarrass the Indonesian government.

INDONESIA AND THE INDO-PACIFIC REGION

How has Indonesia navigated its foreign policy in responding to the dynamics of power politics in the Indo-Pacific region over the last decade? Do President Yudhoyono and President Widodo have different foreign policy orientations in showing Indonesia's international leadership as expected by other ASEAN members? During his second term in office (2009 – 2014) President Yudhoyono and his foreign minister, Marty Natalegawa, were adamant to show Indonesia's international activism by capitalizing on the ASEAN centrality and solidity in order to neutralize the use of balance of power politics by US and China. There were at least three foreign policy initiatives indicating that under President Yudhoyono, Indonesia was quite active in substantiating its international leadership which it believed to benefit not only Indonesia's own national interests but those of the region as a whole.

First, when Indonesia held the ASEAN chairmanship in 2011, Indonesia took a leading role in the adoption of what was known to be Bali Concord III by which ASEAN declared itself as a regional community in the global community of nations. Second, in 2013 foreign minister Marty Natalegawa proposed the idea of Indo-Pacific Treaty as an alternative to balance of power politics by the great powers by emphasizing what he called a dynamic equilibrium which could ensure regional stability and security as a fundamental requirement for the maintenance of the economic momentum in the region. Third, through his shuttle diplomacy, Marty Natalegawa played an active role in mediating the conflict between Thailand and Cambodia over the control of Preah Vihear Temple. It was quite evident that Indonesia had a strong self-confidence in demonstrating its international leadership with a full support from other ASEAN members.

When President Widodo succeeded Yudhoyono in 2014, he was challenged by quite similar external environment of power politics in the Indo-Pacific region. Instead of reproducing the international activism of his predecessor, President Widodo tends to put more emphasis on the accomplishment of his domestic policy priorities. Unlike his predecessor who pursued his foreign policy goals with a great ambition, President Widodo decides to use foreign policy as his instrument for accomplishing his domestic goals. Some foreign observers even described President Widodo's approach as more inward-looking to the extent that his political regime is depicted as having the tendency of abandoning Indonesia's tradition of international leadership in Southeast Asia (Connelly, 2015). There is also a concern that in the first term of his administration, President Widodo was surrounded by foreign policy advisors and political elites who suggests that Indonesia should go beyond ASEAN to have more diplomatic space in regional and global politics (Rosyidin & Pattipeilohy, 2020).

The research argues that it is quite misleading to suggest that Indonesia is less engaged in international politics under President Widodo's presidency. It seems more appropriate to say that Indonesia has become more critical about its own domestic interests, and it adopts an

idea that international leadership can only be based on the solidity of its domestic foundation in terms of growing national competitiveness, massive infrastructure development throughout the country, and the national awakening from the underutilization of the nation's huge economic potentials. To say that Indonesia is less engaged in international politics under President Widodo is contrary to some concrete facts. For instance, Indonesia has managed to be elected as a non-permanent member of the UN Security Council for the period of 2019 – 2020. In addition, Indonesia also took a leading role to initiate the acceptance of the ASEAN Outlook on the Indo-Pacific during the 34th ASEAN Summit in Bangkok on June 23rd, 2019 (Septiari, 2019). As far as President Widodo is concerned, the main idea behind this outlook is Indonesia's preference for an open and inclusive cooperation among countries in the region for their common prosperity. Networks of economic interdependence are expected to prevent the unnecessary escalation of power politics which could destabilize the entire region. It goes without saying that Indonesia needs such a stable and cooperative external environment to support its massive infrastructure development financed by an unhindered inflow of foreign investment.

From the very beginning since he took office in 2014, President Widodo and his foreign policy team have had real calculations on how to secure Indonesia's strategic interests amid growing tension among the great powers in the Indo-Pacific region. Thus, it was realized from the beginning that Indonesia could not stay indifferent or silent about the competing ambitions of the great powers to dominate the region. The following course of strategic events provides clear and significant evidence that great powers with their strategic stakes in the Pacific Ocean and Indian Ocean promote their respective geopolitical and geo-economic aspirations with the effect that it is no longer relevant to talk about the two oceans as separate spatial or geographical policy entities. First, the maritime component of China's Belt and Road Initiative (BRI) requires a direct maritime connection between the Pacific Ocean and Indian Ocean through which China wants to establish networks of "policy coordination, facilities connectivity, unimpeded trade, financial integration, and people to people bonds" (The State Council the People's Republic of China, 2015). starting from China's Southeastern coastal areas down to South China Sea through the Malacca Strait on to the Indian Ocean before it reaches Africa and ultimately Europe. Countries that participate in this extensive maritime corridor may benefit from the free flow of trade commodities, industrial goods and services, capital, human resources, and technology as their economies become increasingly interdependent under China's coordination as the initiator and founder of a new kind of multilateralism. The fact that such maritime corridor cuts across the Pacific and Indian Oceans has necessitated the formation of a political geographical space within which a suitable policy framework can be proposed to make it function as China intends it to be. Thus, the cooperative response of countries in Southeast Asia and South Asia may appear to be an imperative for China so that its project of maritime connectivity can accomplish its intended goals.

Second, great powers are always sensitive to any possible change of the configuration of power in the international system. China's economic and military rise which is implied in its BRI especially the maritime component has triggered the reactions from the US, Japan,

Australia, and India who revived the idea of Quadrilateral Security Dialogue (QSD) on the sidelines of November 2017 East Asia Summit (EAS) in Manila. Despite the peculiarity of the strategic concerns of each of these countries, they are required to formulate their strategic policies within the same regional framework of the Indo-Pacific. On top of that, these four countries are united by their traditional commitment to Western liberal democratic norms and the upholding of international laws in maintaining the global political order.

Third, in his keynote speech to the audience of the Shangri-La Dialogue hosted by the International Institute for Strategic Studies (IISS) in Singapore June 1-3, 2018, the Indian Prime Minister, Narendra Modi, suggested that he would support an open and free Indo-Pacific region and emphasized the importance of a rules-based regional architecture (Anjaiah, 2018). When Modi visited Jakarta before attending the Shangri-La Dialogue in Singapore, he expressed his eagerness to strengthen relationship with ASEAN especially Indonesia as an essential element of India's Act East Policy. India's intensive engagement with Southeast Asia can be considered as a strategic step to counter-balance Chinese influence in this region not only through the maritime component of China's BRI but also bilateral mechanisms that China has built with each of the ASEAN members.

While it is true that Indonesia's geopolitical aspiration to make a projection of its ideational resources in the formation of a new regional architecture in the Indo-Pacific region was initially announced during the era of President Yudhoyono, the contention of the research is that President Widodo's foreign policy has gone beyond just an imitation of what has been done before. It is argued that the current government has been active in embedding Indonesia's own national interests into its geopolitical strategy while, at the same time, capitalizing on the importance of regional mediatory mechanisms that cannot be easily dismissed by any great power of the Indo-Pacific region. Under President Widodo, Indonesia is fully aware of the fact that the intensity of the rivalry among great powers in the Indo-Pacific region will only reaffirm the necessary role of a regional or middle power with diplomatic credentials capable of reaching out to all stakeholders in the region. Indonesia also seems to capitalize on its positional flexibility to harness or embark on its own foreign policy maneuver by instrumentalizing the zero-sum game environment created by the rivalry among great powers who lock themselves in their respective exclusivity, and demand for a stability and security for the whole region.

In analyzing Indonesia's initiative of international leadership as a regional power, the research does not limit the discussion on the application of the variables proposed by Flemes and Wojczewski (2011) but goes further by looking at how President Widodo and his Foreign Minister, Retno L.P. Marsudi, strategize by combining the external opportunities and internal capabilities for the accomplishment of Indonesia's foreign policy objectives. The president himself is adamant about making his foreign policy serve the best interests of his domestic priorities. There is a conscious effort by the president and his foreign policy team to reveal a predisposition that Indonesia's assertion of international leadership is not meant to be part of an impression management project, but it is connected to the real interests of the nation. Such predisposition is needed because under President Yudhoyono, there was an accusation that Indonesia's international activism was not balanced by internal efforts to address many

unresolved problems including corruption among the ruling party, religious radicalism and terrorism, persecution of minority groups, and bureaucratic inefficiency from the central government down to the regional level. Skeptical voices about Indonesia's emergence as a leading power in Asia referred to these internal weaknesses as the reason why Indonesia "punches below its weight" in international affairs (Reid, 2012).

President Widodo has brought ways to connect his domestic policy priorities and Indonesia's foreign policy towards the Indo-Pacific region. First, there is no doubt that the formation of Indo-Pacific region through the dynamics of international politics among great powers has stimulated responses from countries whose strategic interests are affected by such policy discourse. Under President Widodo, Indonesia has come up with the grand strategy of describing itself as a global maritime axis in line with the archipelagic nature of the country and an intentionality to contribute to the stability and security of the Indo-Pacific region. President Jokowi realizes that geographically the Pacific and Indian oceans are connected through the Indonesian territorial waters and obviously Indonesia feels the pressure to find ways how to secure its maritime sovereignty from any external potential threat. Thus, Indonesia's self-declaration as a global maritime fulcrum has two interrelated objectives. At the external level, Indonesia's assertion as a global maritime fulcrum a preliminary step towards a subsequent announcement of a plan to initiate an Indo-Pacific cooperation. From a domestic perspective, Indonesia wants to substantiate its claim as a maritime power by building inter-island connectivity for the sake of a more efficient commercial interactions and other economic activities. The combination of good maritime infrastructures and modernization of Indonesian navy is expected to eventually strengthen Indonesia's maritime sovereignty and the capacity to manage maritime resources with the mobilization of foreign resources through the cooperation that Indonesia has decided to initiate.

Second, Indonesia's unique position with no significant conflict with any great power enables it to strengthen relationship with all of them without sacrificing its credentials as a provider of mediatory services when circumstances demand such role. With such unique position, Indonesia has the flexibility of reaching out to build strategic relationship with them while at the same time inviting them to supply financial resources required for developing its infrastructures. Currently, Indonesia is cooperating with China to build the Jakarta – Bandung high speed train while inviting Japan to support the development of deep seaport at Patimban to the east of Tanjung Priok. In a move that seems to balance China's maritime domination from South China Sea down to the Indian Ocean through the Malacca Strait, Indonesia has offered the building of Sabang port project to India whose current Act East Policy requires an intensive engagement with ASEAN member countries. Indonesia's multi-direction search for foreign investment in the Indo-Pacific region for the financing of its infrastructure projects turns out to be in line with its initiative to create a cooperative and peaceful architecture of diplomacy within the framework of the ASEAN Outlook on the Indo-Pacific. This is also an indication that President Joko Widodo interprets the independent and active foreign policy principle in a very pragmatic way.

Third, it stands to reason to say that the bilateral relationship between India and Indonesia constitutes an important element of the whole construction of a new Indo-Pacific

regional architecture. As a regional power, Indonesia welcomes India's intention to strengthen its relations with ASEAN members. Thus, when Indian Prime Minister, Narendra Modi, came to Jakarta in June 2018, President Widodo welcomed him with great enthusiasm and the two leaders agreed to take their bilateral relations to a higher level considering the complementarity and interdependence between the two economies. On top of that, both India and Indonesia are key members of the Non-aligned Movement with a strong foreign policy tradition of resisting against the use of power politics for hegemonic purposes. As far as India is concerned, its increasing engagement with Indonesia and other ASEAN members is required to balance China's hegemonic power and military assertiveness in South China Sea as the starting point of its BRI's maritime global connectivity. Thus, as a result of his meeting with President Widodo, Prime Minister Modi gave his support to Indonesia's initiative for an open and inclusive Indo-Pacific cooperation. Not only did Indonesia gain India's support for its global maritime fulcrum policy, but President Widodo also asked his guest to lower tariffs for Indonesia's Crude Palm Oil (CPO) export (Anjaiah, 2018). The incorporation of economic diplomacy in the navigation of Indonesia's foreign policy with the great powers in the Indo-Pacific region is part of the strategy to utilize external opportunities as well as to capitalize on domestic potentials for the accomplishment of foreign policy objectives.

Finally, Indonesia's initiative to promote the Indo-Pacific cooperation has a distinctive characteristic that it underlines the importance of international peace, regional stability, and common prosperity. Course of events before the announcement of such initiative may strongly indicate that Indonesia is on the move to expand the diplomatic arena in which the integrity of the UNCLOS principles can be defended not only for the sake of Indonesia's own maritime sovereignty but also the imperative of a bigger pressure to prevent China from violating further international laws after establishing military infrastructures in the disputed islands of South China Sea. With the increasing difficulty of uniting different and conflicting policies of ASEAN members in dealing with the territorial disputes in South China Sea and China's tendency to instrumentalize their economic dependence on China's investment and market access, Indonesia is under mounting pressure to find alternatives in addition to its traditional reliance on the collective decisions produced in ASEAN summits. Moreover, ASEAN countries was said to be lacking in turning their collective commitment into real actions or projects to resolve their common problems (Agastia, 2021).

Under President Widodo, Indonesia has come to realize that there must be a diplomatic mechanism to change the narrative of balance of power that is preferred by the great powers into what former Indonesian Foreign Minister Marty Natalegawa called "a dynamic equilibrium". On its own, ASEAN cannot persuade China to adopt such policy narrative as it needs wider mechanisms like East Asia Summit (EAS) and its Treaty of Amity and Cooperation (TAC) which are strong enough as common platforms to formulate decisions acceptable to all great powers including China. This is what Indonesia has in mind when it seeks to maintain the centrality of ASEAN within the framework of Indo-Pacific cooperation.

There is no doubt that China would give highest priority to the implementation of the maritime connectivity of its BRI. Despite China's obvious preference for the success of its BRI, Beijing cannot easily sacrifice its strategic relations with ASEAN, otherwise it would

run the risk of losing its legitimacy in Asia. The US Defense Minister James Mattis made harsh criticisms against China's "intimidation and coercion" in South China Sea during the 17th Shangri-la Dialogue in Singapore (Anjaiah, 2018). In response, Hangtian, spokesperson of the Chinese Embassy in Jakarta wrote a letter to the editor of *The Jakarta Post* complaining that the US only made "sensationalization" in South China Sea while at the same time pointing out Beijing's strong emphasis on the solidity of bilateral relations between China and ASEAN member countries (Anjaiah, 2018). It is quite evident that on one hand China wants to embrace ASEAN as its cooperative dialog partner in dealing with the territorial disputes in South China Sea, and on the other hand it resists any interference from the outside especially by the US. China's ambiguity in dealing with ASEAN countries can be made more complicated by the fact that under President Xi Jinping, China tends to be quite assertive in its security policy especially regarding the territorial dispute in South China Sea (Sinaga, 2020).

It seems too early to say with certainty how Indonesia will follow up the acceptance of the ASEAN Outlook on the Indo-Pacific. Indonesia has used not only state to state diplomacy but also the regional platform of ASEAN to gain support from all the stakeholders including the great powers. The optimal use of the existing ASEAN mechanisms would probably be the best way to gather all the great powers, in which they can have a common platform to conduct dialogue than to pursue power politics with its destabilizing effect. The great powers have continued to frame their strategic policies based on their respective geopolitical aspirations related to the emergence of the Indo-Pacific region. Hence it seems that the discursive effect of the regional dynamics both on policy level and the epistemic communities cannot be put aside as the stakes are real, and the political ramifications are clearly recognized. It remains to be seen how Indonesia would navigate its international leadership in promoting the Indo-Pacific cooperation despite the opportunities to start the discussion and dialogue based on the common interests of all the stakeholders.

The research may see the prospect of international politics of the Indo-Pacific region in the post-pandemic COVID-19. It seems that all countries in the region focus on the domestic management of the crisis and try to cope with the likelihood of economic downturn at the regional and national level. As far as Indonesia is concerned, the priority of pushing forward the agenda of economic growth in the post-pandemic era seems non-negotiable. In this context, it might be helpful to strategize new innovations in the conduct of Indonesia's economic diplomacy by recalibrating Indonesia's enormous potential in the rapidly growing digital economy in this region (Margiansyah, 2020). In interpreting the meaning of Indonesia's regional leadership in ASEAN, President Widodo never puts aside the fact that Indonesia is competing with other ASEAN countries especially in maximizing the economic opportunities that come along with the rise of China. On top of that, in ending his second term in power in 2024, the President makes sure that his performance legitimacy is secured through a smooth economic recovery and the creation of regional stability. The current extending and deepening bilateral cooperation with China in trade and investment appears to be an imperative. As a result, whatever policy Indonesia will take in dealing with the contestation of great powers in the Indo-Pacific region, it will be navigated in a pragmatic way in order not to run the risk of damaging the momentum of bilateral cooperation with China. It remains to be

seen how far such pragmatism will affect Indonesia's principle of independent and active foreign policy since getting too close to China would spark a domestic reaction from the nationalist groups and opposition parties in the parliament.

CONCLUSIONS

When President Widodo came to power in 2014, he was widely perceived as an inward-looking leader without a clear vision of what to do with his foreign policy. There was a speculation that he would abandon Indonesia's international activism that had characterized the foreign policy of his predecessor President Yudhoyono. The research has tried to challenge this allegation by arguing that, as a matter of fact, President Widodo has a different conceptualization of what Indonesia should do with this tradition of international leadership. Thus, the role of an individual state leader matters in understanding Indonesia's international leadership. Two important foreign policy agendas, namely the promotion of democracy and human rights and the acceptance of the ASEAN Outlook on the Indo-Pacific, have been selected to see how the two presidents demonstrate Indonesia's international leadership. The use of the concept of international leadership in this research includes initiatives, namely the promotion of ideational resources as a normative orientation in the organization of interactions among states, setting good examples that are worthy of emulation by other countries, and the use of dialogue instead of coercive power in resolving international conflicts.

As Indonesia's first democratically elected president, Yudhoyono was aware that under his leadership Indonesia needed to build a new international identity as a democratic country and would leave behind the era of authoritarianism that had been tainted by massive violations of human rights. With the establishment of Bali Democracy Forum (BDF) in 2008, Yudhoyono set an international stage not only for Indonesia but also himself to convince the international community that Indonesia had some credentials to introduce a more egalitarian efforts in spreading the universal principles of democracy and human rights. President Yudhoyono himself was actively engaged in telling his international audience that Indonesia had managed to demonstrate that Indonesian moderate version of Islamic religion was compatible with modern democracy. The experience could be offered to the Islamic world, especially in the Middle East where people were struggling to combine religious piety with political civility. At the regional level, President Yudhoyono took the initiative to make ASEAN recognized as a regional entity capable of contributing positively to global peace and security. Thus, when Indonesia held ASEAN's chairmanship in 2011, President Yudhoyono proposed the idea of Bali Concord III by which the regional organization declared itself as a reliable partner in the global community of nations. It is quite evident that President Yudhoyono's international activism had used idealistic approach in promoting Indonesia's international leadership with a rather loose connection to his domestic policies. Consequently, his critics accused him of being too much preoccupied with impression management overseas while neglecting to address some critical issues at home like corruption eradication and the protection of the minority rights.

At the beginning of his presidency, President Widodo created a strong impression that he would abandon international activism and focus more on his domestic priorities. It has been shown that the President remains committed to carry out its agenda of international leadership, but it is strongly connected to the accomplishment of Indonesia's own national interests. Indonesia has been successfully elected as a non-permanent member of the UN Security Council, and has held leading role in the acceptance of the ASEAN Outlook on the Indo-Pacific. It is used as evidence of how President Widodo attempts to create a balance between his domestic policy priorities and Indonesia's international responsibilities. The concept of international leadership by Destradi corresponds to what President Widodo has done in his foreign policy by which Indonesia capitalizes more on the mobilization of ideational resources than material capabilities. While President Yudhoyono tends to rely on his idealistic approach in promoting Indonesia's international leadership, President Widodo prefers to use a more pragmatic approach in the sense that the consideration of Indonesia's national interests should come first. Therefore, when Indonesia promotes democracy to the world, the President wants to convince his international audience that Indonesian democracy is also capable of delivering good governance, national competitiveness, and poverty eradication. Indonesia's endeavor for the acceptance of the ASEAN Outlook on the Indo-Pacific is not without its strong connection with some domestic strategic needs. There is a functional connection between Indonesia's initiative of the Indo-Pacific cooperation and its declaration of the archipelago as a global maritime fulcrum whose realization requires a mobilization of financial resources from the great powers like US, China, Japan, and India. There is also a systematic diplomacy to promote export of CPO to China and India as alternative markets since US and European Union continue to instrumentalize environmental reasons in reducing export of Indonesia's strategic commodity. The fact that the global spread of COVID-19 has increased tension between US and China should point to the importance of the ASEAN Outlook on the Indo-Pacific with its emphasis on the mechanism of dialogue and mutual respect for the benefit of all stakeholders in the region. In conclusion, the research has demonstrated that Indonesia's international leadership is very much contingent upon individual preferences of the presidents in both formulating their policies and their implementation.

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WHAT'S WRONG WITH US? AN ANALYSIS OF INDONESIAN PRESIDENT JOKO WIDODO'S PUBLIC SPEECHES FROM 2017 TO 2018

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ABSTRACT

The research examines the rhetorical style and political priorities in Indonesian President Joko Widodo's public speeches during his first term in office. Content analysis is used to investigate a purposive sample of 66 presidential speeches from May 2017 to May 2018. In addition, the research identifies the similarity of words to understand the selective appraisal of Indonesia's progress based on President Jokowi's utterances. In one contentious oration on May 18th, 2017, delivered to government officials, the president bluntly asked 'what's wrong with us'? The question presupposes that something is wrong in Indonesian politics, and is narrowcast to an audience of government officials, some of whom are implicated in the developmental shortcomings, administrative inefficiencies, and social conflicts that persist in Indonesia today. The president's strategic message implies that Indonesia's economic development unduly lags regional competitors; disinformation and hate speech create social divisions and political distortions; and there is a significant digital and technological divide in the country. The research result shows that the president's passion extends beyond bureaucratic reform and into contentious political topics, where selective attempts at disruptive truth-telling are made.

Keywords: *presidential speechmaking; political rhetoric; truth-telling; Indonesia; Jokowi*

INTRODUCTION

In the aftermath of the 1997 Asian Financial Crisis Indonesia's longstanding, President Suharto resigned, and the country underwent a rapid transition to democracy. There have been four direct presidential elections since 2004. Joko Widodo, the current Indonesian President, was elected in 2014 and again for a second term in 2019, winning a repeat contest against Prabowo Subianto with 55,3% of the popular vote. The research examines the rhetorical style and political priorities in Indonesian President Joko Widodo's public speeches from May 2017 to May 2018. The president's strategic messaging is often concerned with economic development, disinformation and hate speech, and the digital and technological divide in the country. The analysis shows that the president's conservative political outlook extends beyond bureaucratic reform and into contentious political topics, where selective attempts at disruptive truth-telling are made.

In one contentious speech delivered on May 18th, 2017, the president bluntly asked 'what's wrong with us' (*apa yang salah dengan kita*)? The question presupposes that something is wrong in Indonesian politics, and is narrowcast to an audience of government officials, some of whom are implicated in the developmental shortcomings, administrative inefficiencies, and social conflicts in Indonesia today. The research argues that this unconventional word choice is explained by context, given that a number of political crises were playing out in May 2017, and strategy, as the president seeks to push his selective reform agenda while maintaining his image as a hardworking, modest but ambitious leader focusing primarily on the national interest. Content analysis is used to scrutinize a purposive sample of 66 presidential speeches over a one-year period from May 18th, 2017 to May 17th, 2018.

Evidence from Jokowi's first term in office suggests the president lacks a 'compelling political narrative' and has a vaguely formulated economic agenda (Tomsa, 2017). By analysing the content of presidential speeches, the research finds that the 'what's wrong with us' repertoire had been used repeatedly in the context of national development problems that persist through both presidential terms. The president appears to have strong views about what seems to hold Indonesia back, and why the country underperforms in certain sectors. Pessimism and optimism are interwoven in presidential speeches about national development and government performance, invoking Callahan's (2010) usage of the term pessoptimist in the Chinese context. Indonesia achieved a solid GDP growth rate of 5,07% in 2017, and attracted much needed investment in infrastructure under Jokowi, although there are persistent problems such as budget inefficiencies and underperforming state agencies.¹ The research does not attempt to measure the effect of presidential rhetoric on audiences. Instead, the content and central themes of a selection of presidential speeches from 2017 and 2018 are examined to gain insight into Jokowi's rhetorical style, as well as his public views on Indonesian society and the performance of his administration.

PRESIDENTIAL SPEECHMAKING

As leader of the world's third largest democracy by population, President Jokowi's political speeches and rhetorical patterns have been regularly scrutinized in the media and by academics. In the age of social media, the character of public discourse is changing in complex ways (Ott, 2017), but the presidential speeches published by the Cabinet Secretariat in Indonesia remain to be important public records and communication artefacts. Technical studies of Jokowi's speeches focus on the general lack of coherence in his sentence structure that can be rectified through the use of images and graphs (Madkur, 2018); the president's preference for casual and plain language and his culturally Javanese style (Madkur, 2018; Siddiq et al., 2021); and his frequent use of positive connotations (Nurpadillah, 2017). It is essential to explore the reasons of Jokowi using such rhetorical patterns in the context of his changing political agenda.

This research reveals another side of Jokowi as a pessoptimist leader that has been generally overlooked by scholars such as Bland (2020), who writes the first English-language biography of Jokowi. Bland (2020) describes Jokowi as a leader full of contradictions, one who is reluctant to follow advice, is a pragmatist rather than an idealist, driven by action, not ideas, a businessman obsessed with small details but with good political instincts. As an ethnically Javanese leader, Jokowi is not always straightforward when delivering his political messages, adding another layer of ambiguity to his political character (Sumarsono, 2016).

During the 2014 presidential campaign, Hatherell (2014) finds that Jokowi deployed a performative *kinerja* repertoire, appealing to voters by highlighting qualities of hard work and effectiveness. This so-called *kinerja* repertoire can be found in Jokowi's speeches and gestures, underpinning his developmental priorities, infrastructure agenda and focus on administrative efficiency, a gambit that can backfire if Indonesia underperforms in certain sectors. Hatherell (2014) identifies Jokowi's repertoires of representation during his first presidential election campaign. However, further analysis of how Jokowi deals with Indonesia's underperformance is needed.

It is well-established that political leaders can manipulate their popularity ratings through drama and spectacle, including strategic speechmaking, with variable effects on policy agendas (Cohen, 1995). The theatrical and declaratory elements of presidential speeches can be used as a governance tool or bully pulpit to inspire or mobilize, to comfort or condemn (Shaw, 2017). President Jokowi is known as a man of many contradictions (Bland, 2020) who deploys multiple repertoires of representation for political gain (Hatherell, 2014). After a shaky start to his first term as president in 2014, Jokowi consolidated power in 2016 and enjoyed a surge in popularity (Warburton, 2016). The president is a pragmatist from Central Java province with a background in the furniture trade and a developmental agenda premised on efficiency, productivity, and infrastructure. Jokowi's speechmaking is often described as wooden and colourless apart from topics concerning bureaucratic streamlining and reform (Warburton, 2016). His campaign team and image consultants attempt to put his lack of charisma down to modesty (Tyson & Purnomo, 2017). The analysis on Jokowi's speech rhetoric in 2017-2018 indicates that his passion extends beyond infrastructure and

bureaucracy into contentious political topics, where he makes selective attempts at ‘disruptive truth-telling’ (Dey & Mason, 2018).

Jokowi’s indirect communication style echoes the Javanese tendency to avoid directly offending people. This indirect communication style is influenced by Javanese characteristics such as *sopan santun* or politeness, *rasa riku* or bashfulness, and *empan papan* as a form of conflict avoidance (Susetyo, Widiyatmadi, & Sudiantara, 2014). Sumarsono (2016) reinforces the view that Javanese leaders are usually not straightforward and try to avoid direct communication if it offends other people. Considering this cultural trait, it makes sense that Jokowi engages in a form of disruptive truth-telling through speeches, making indirect, or vaguely attributable criticisms. As a pragmatic nationalist preoccupied with Indonesia’s economic performance and material advancement, the president’s speeches often allude to the superior performance of Indonesia’s regional economic competitors such as China, Malaysia, and South Korea. As Jokowi contemplates the end of his second term in 2024 (Fealy, 2020), with the COVID-19 pandemic threatening his economic agenda and political legacy, the themes of his speeches from 2017-2018 remain being critical importance.

METHODOLOGY

The research utilizes content analysis to examine Jokowi’s speeches, and generates quantitative data from written, spoken, and visual materials (Brancati, 2018). Speech transcripts and written materials are accessed through the Indonesian cabinet secretariat website. In constructing the quantitative data from speech transcripts, the researchers count certain words and phrases related to the May 18th speech, such as ‘what’s wrong with us’, and identify the similarity of words to understand the selective appraisal of Indonesia’s progress based on Jokowi’s utterances.

The research also investigates the president’s rhetorical patterns by comparing his unpublished May 18th speech with a sample of 66 presidential speeches addressing similar themes retrieved from the cabinet secretariat website over a one-year period from May 2017 to May 2018. A total of 165 speeches are reviewed, from which 66 are purposively selected because they address key national challenges related to economic development, media and technology, and social divisions. Content analysis of presidential speeches reveals Jokowi’s pessoptimist view of politics and governance. This method helps establish speechmaking patterns and themes related to the May 18th, speech.

Jokowi’s disruptive, rhetorical May 2017 ‘what’s wrong with us’ speech is unavailable on the Cabinet Secretariat’s website, where official transcripts of presidential speeches are published.² Jokowi’s May 18th speech is retrieved from YouTube and focus on the contents of the particular speech since it is unpublished, candid, and critical. Moreover, it is due to the timing and symbolic importance of the speech.³ In 2017 Indonesia’s Corruption Eradication Commission (Komisi Pemberantasan Korupsi/KPK) was investigating a large-scale graft case that involved Setya Novanto, then Speaker of the House, as well as other powerful public figures. The House of Representatives exceeded its parliamentary powers by

holding inquiries into the KPK's general mandate and interfering in specific investigations, placing the president in the middle of a complex power struggle. At the same time, Islamist groups secured a controversial legal victory. Basuki Tjahaja Purnama, former governor of Jakarta and close political ally of Jokowi, was found guilty of blasphemy and crashed out of the Jakarta gubernatorial electoral contest (Tyson, 2021). As rival candidate, Anies Baswedan was sworn in as Jakarta's new governor in October 2017. Basuki Tjahaja Purnama was serving the first months of his two-year jail term in Mako Brimob Prison.

President Jokowi twice asks 'what's wrong with us' in his May 18th speech. The formulation, along with related terms such as *apa yang salah*, *apa yang keliru*, *ini keliru*, and *ini ada yang keliru*, appear in 19 speeches between May 2017 and May 2018. This pattern suggests that the president is keen to involve broader audiences in the debate about national and sectoral progress in Indonesia. By using the term 'us' (*kita*), Jokowi seeks to share the burden of some of Indonesia's developmental failures and perhaps distance himself from these failures. NVivo software is used to calculate that the pronouns 'we' and 'us' appear 2411 times in Jokowi's speeches, while the word '*saya*' or 'I' as the singular form of the first-person point of view appears 1575 times. 'We' implies a collective identity or general group membership, but can have different meanings in various contexts. Politicians can use 'we' in their speeches to achieve different effects, for instance: 1) to build institutional identity; to construct a dichotomy between 'us' and 'them'; 2) to deflect the attention of the audience away from particular issues; or 3) to invoke a general collective response related to a specific issue (Bramley, 2001). After counting the relevant words and identifying similarities to measure the speech transcripts using NVivo, the data is validated before moving on to data analysis process. For instance, 'wrong' appears frequently but may not be related to the 'what's wrong with us' narrative. Redundant words are eliminated from the data analysis process. All speeches are translated from Indonesian to English.

POLITICAL BACKGROUND TO THE MAY 18th SPEECH

In 2014, Jokowi narrowly defeated Prabowo Subianto in a presidential race which involved 12 national parties (Aspinall & Mietzner, 2014). A competitive multi-party democracy has taken root in Indonesia, a Muslim-majority country of more than 270 million people, along with robust independent institutions such as the Constitutional Court and the Corruption Eradication Commission (KPK). Jokowi's presidential victory in 2014 was significant due to his reputation as a hard-working reformist and relative political outsider who promised to fight corruption, improve the economy, and enhance the quality of governance and the bureaucracy (Tyson & Purnomo, 2017). A furniture tradesman turned politician from Central Java, the president campaigned on a platform combining pro-poor policies with technocratic populism (Mietzner, 2017). Jokowi earned his reputation as a technocratic reformist during his time as mayor of Surakarta city from 2005–2012, and then as governor of Jakarta from 2012–2014. Economic policy under the Jokowi administration has attracted investment and infrastructure projects, although there is pushback from some protectionist state sectors and trade unions as opposed to deregulation (Ray & Ing, 2016).

On May 18th, 2017, when delivering his ‘what’s wrong with us’ speech at the presidential palace, Jokowi insisted that the deputy head of the KPK, Alexander Marwata, be seated in the front row, which is usually reserved for ministers. He stated, “Before I begin this speech, I would like to ask for one more chair. I see the leader of the KPK. Mr. Alex, please come forward. The KPK is very important, do not place him at the back, he should be seated in front.” At the time of Jokowi’s address, some members of parliament had set up a special committee to inquire into the operations of the independent Corruption Eradication Commission (KPK), which was a formative challenge to one of the institutional pillars of Indonesia’s post-1998 democratic system (Hiariej, 2017). The KPK uncovered a multi-million-dollar scandal related to the national e-identification program (e-KTP), in which former house speaker Setya Novanto and some parliamentarians were financially implicated. In 2018, Setya Novanto was sentenced to 15 years in prison for his role in the e-identification card graft case.

Another issue highlighted in the May 18th speech was the mass rallies triggered by the blasphemy case of Basuki Tjahaja Purnama, the former governor of Jakarta (Tyson, 2021). The spread of disinformation and hate speech is a grave concern for the president. There were seven mass rallies related to the blasphemy case in Jakarta from 14 October 2016 to 5 May 2017 (Agustin, 2017). Jokowi laments the upsurge in ‘unproductive’ demonstrations linked to slander and blasphemy, where ‘we’ channel negative thinking and *suudzon* (an Arabic loanword meaning prejudice) towards others. On December 2nd, 2016 hundreds of thousands of protestors converged in Central Jakarta to demand the arrest of Governor Basuki Tjahaja Purnama, who in May 2017 was convicted of blasphemy under Article 156a of the Criminal Code. Religious organizations and the conservative Council of Indonesian Islamic Scholars issued legal opinions (*fatwa*) denouncing the governor and mobilizing protests. The Purnama blasphemy case is symptomatic of the wider political struggles that Indonesia had to deal with during the president’s first term.

Jokowi is known for running media savvy political campaigns, successfully projecting the image of a clean and humble candidate (Tapsell, 2015). However, since he took office in 2014, he has encountered smear campaigns, hoaxes, and rumours that aim to harm his credibility and stoke fears of sectarianism and religious strife. Jokowi has been branded a communist and a bad Muslim (Tyson & Purnomo, 2017), while the president’s disinterest in the human rights agenda and appointments of oligarchs and army generals to his cabinet cast doubt on his reformist credentials (Fealy, 2020). Transcending the somewhat dull and repetitive presidential speeches about bureaucratic streamlining and reform (Warburton, 2016), the content analysis of Jokowi’s speeches in 2017-2018 shows that the president has a passion for contentious topics, selectively engaging in what Dey and Mason (2018) term disruptive truth-telling about complex topics in politics, business, and technology.

CONTENTIOUS POLITICS

There are many similarities between Jokowi’s rhetoric in his unpublished May 18th speech about social division caused by hate speech and subsequent speeches delivered

between May 2017 and May 2018. This pattern shows that social division is considered by Jokowi to be one of the problems stunting the country's progress. Jokowi refers to '*fitnah*' or smear four times, '*hujat*' or blasphemy three times, '*menyalahkan*' or blame four times, and '*menjelekkan*' or vilify 14 times. The tone of the rhetoric is often pessimistic and includes forms of disruptive truth-telling by mentioning, for instance, that Indonesia wastes a lot of energy and national budget to provide crowd control for protests (SETKAB 3 June 2017).

Indonesia's national motto is unity in diversity (*Bhinneka Tunggal Ika*), and the president often claims to believe that cultural diversity should be regarded as a point of national pride. In speeches about religious inclusivity, for instance, the president claims that many foreign leaders have respect for Indonesia's pluralism and diversity, although Jokowi acknowledges that there are unresolved ethnic and religious tensions since the country's declaration of independence in 1945 (SETKAB 23 May 2017). Jokowi claims that these are politically motivated tensions actively exploited by groups to serve their interests and warns of the destabilizing effect of disinformation. During a June 2017 Pancasila Day commemoration, where Indonesia's five founding principles⁴ are celebrated, Jokowi asserted that one of the main challenges to national unity and integrity is the dissemination of fake news and hoaxes (SETKAB June 1st, 2017). Left unchecked, the spread of disinformation increases the risk of radicalism, intolerance, and discrimination becoming normalized in Indonesia, which directly contradicts the spirit of Pancasila.

While holding a press conference in June 2017 at Muhammadiyah University Malang, the president remarked upon the country's relative instability. The government and the police are facing public demonstrations provoked by the spread of fake news and hate speech (SETKAB June 3rd, 2017). Jokowi addressed widespread rumours about the re-emergence of the Indonesian Communist Party, repeatedly asking rhetorical questions such as 'where are they [the communists]', and 'how are they still around'? He added that the communists 'were dismissed when I was three years old [in 1965]' and he could have gone further by stating that there are basically no communists left in Indonesia. It is possible that president raised this issue in response to growing accusations that he is a communist sympathizer. The reproduction of communist imaginaries is a puzzling phenomenon in Indonesia today (Wadipalapa, 2020), given that the 1965 purge of the Communist Party and all affiliated organizations marked the definitive end of communism as a movement and ideology.

While marking the 60th anniversary of Padjadjaran University in Bandung, the president urged students to use their critical thinking capabilities to help foster an intellectual society that gives rise to beneficial innovations and public goods (SETKAB September 11th, 2017). Jokowi stated that rigid curriculums should not prevent students from thinking outside the box, as it has been the norm in the past for students to be restricted to their specialized area of study. Echoing his appeal to the teachers' union in July, Padjadjaran students who actively use social media were urged to combat the dissemination of fake news. Indonesia has a relatively high degree of online freedom, so users need to take responsibility for the prevention of fake news and hoaxes that undermine national unity by creating an atmosphere of uncertainty, mistrust, and intolerance (SETKAB September 11th, 2017). On September 14th, 2017, Jokowi officiated the opening of the National Library Service Facility Building in

Jakarta, which is touted as the tallest library in the world. The president took the opportunity to discuss the general reading habits of Indonesians, stating that people spend too much time browsing social media content, while neglecting books and other reading materials in general (SETKAB September 14th, 2017). Ever the pessimist, Jokowi referred to social media's paradoxical tendency toward destructive innovation, where the ease of access to information contrasts with the tendency of Indonesian users to eschew facts and broadcast their biased views without proper evidence or academic research.

At the closing ceremony of the 2017 National University Leaders Conference in Bali, the president spoke proudly of Indonesia as a large, diverse, and tolerant nation (SETKAB September 26th, 2017). In the recent past, however, there have been inter-ethnic conflicts throughout the nation (Duncan, 2005), and Jokowi places heavy emphasis on the observance of the Pancasila ideology as a great unifier. One current challenge is the dissemination of provocative content through social media by competing interest groups that is changing public discourse. Much of this content is deemed anti-Pancasila and, according to the president, risks inflaming mass sentiments of hatred and intolerance. Jokowi stated that innovation in the digital age should produce positive development outcomes, as opposed to the 'destructive innovation' that occurs when social media is used as a tool of hatred and division (SETKAB September 26th, 2017). The same message was reiterated by Jokowi on National Teachers Day, which was celebrated in conjunction with the 72nd anniversary of the Indonesian Teachers Association held in Bekasi (SETKAB December 2nd, 2017).

While attending the Quranic Interpretation Council summit in his hometown Surakarta, Jokowi encouraged Islamic leaders and scholars (*kyai, ulama*) to be agents of national unity (SETKAB September 17th, 2017). Radical interpretations of the Quran contribute to social and political instability in the post-1998 democratic era. Jokowi praises the solidarity that Indonesians hold for Muslims who are suffering in other parts of the world; however, he hopes that the same level of solidarity can be shared between countrymen and women. For example, in September 2017 the president hosted a gathering of 38 Islamic figureheads at the Independence Palace in Jakarta (SETKAB September 13th, 2017). His speech focused on the humanitarian aid his government sent to the 370,000 or so Rohingya refugees in Bangladesh. Jokowi urged key religious figures to use their position and social status to spread positive messages, to help foster national unity without antagonizing their followers or indeed the government of Myanmar. This engagement with religious leaders took place in the same week that the Centre for Strategic and International Studies released a poll showing a 68,3% approval rating for Jokowi, so he was working from a position of strength (CSIS, 2017). One assumes that Jokowi's relative silence on the controversy in Xinjiang, China's Muslim majority province, relates to the growing trade, investment, and economic interdependence of Indonesia and China.

In addition to recruiting conservative cleric Ma'ruf Amin ahead of the 2019 elections, Jokowi has been building networks with mass Islamic organizations such as the modernist conservative Muhammadiyah and the pluralist interpretivist Nahdlatul Ulama. In September 2017, the president addressed a scout camp organized by the NU-associated Ma'arif Educational Institute, speaking to youths about the persistent challenges Indonesia faces as a

nation, such as the dissemination of fake news, slander, and hate speech (SETKAB September 18th, 2017). Jokowi encouraged the scouts to actively combat these threats, as well as to participate in constructive and positive activities such as scout contests that challenge their creativity, physical fitness, and intelligence.

In the province of East Nusa Tenggara Jokowi officiated the launch of the Raknamo Dam that was completed in early 2018 by the Ministry of Public Works and Public Housing at a cost of some 760 billion rupiah. During his short stay, the president gave a public lecture at Muhammadiyah University Kupang, where he reflected on the virtues of diversity and pluralism (SETKAB January 8th, 2018). Sharing stories of his meeting with Afghan president Ashraf Ghani, Jokowi recalled how his counterpart marvelled at Indonesia's diversity, the hundreds of different ethnic groups that peacefully co-exist. Jokowi the pragmatic pessoptimist used this opportunity to warn students against complacency, as the country's fragile peace is put at risk by the spread of hate speech and online provocation. Beginning with the interjection *waduh* to express his disappointment, the president stated that people use social media to attack, reproach, accuse, and vilify one another, which is not a true reflection of Indonesian culture or tradition.⁵ The interrelated themes of national diversity (legitimized by Pancasila), the responsible use of new technologies, the spirit of innovation, integrity, and hard work feature prominently in all of the presidential speeches are reviewed in this research. Judging from Jokowi's rhetoric, however, he is still fighting an uphill battle and will continue to face resistance to change from within his government and bureaucracy.

BUSINESS CLIMATE: WHY INDONESIA UNDERPERFORMS

Economic performance is President Jokowi's primary political concern and policy agenda. He had to showcase steady economic growth to make the *kinerja* repertoire work for him to secure re-election in the 2019 presidential contest. He used the 'what's wrong with us' and '*tertinggal*' or left behind rhetoric on many occasions to push government officials in improving economic performance. As a pragmatic, conservative culturally Javanese leader concerned mainly with Indonesia's economic growth and regional standing, there is a pattern of disruptive, pessimistic truth-telling in some of the president's speeches about the performance of Indonesia's regional economic competitors such as China, Malaysia, and South Korea. Jokowi referred Indonesia as being *tertinggal* (left behind) relative to China (sometimes called Tiongkok) 24 times in speeches, to Malaysia and South Korea 18 times respectively, to Vietnam and Singapore 12 times respectively, to India 11 times, Thailand 10 times, the Philippines 6 times, and Cambodia and Laos 3 times respectively. Accentuating Indonesia's economic shortcomings is a politically risky strategy, although Jokowi attempts to shape the narrative by presenting Indonesia's development problem as a collective problem. By asking 'what's wrong with us,' Jokowi invites the audience to share responsibility for and reflect on the causal factors for Indonesia's relative underperformance. The term *tertinggal* usually follows *monoton* or monotonous and *rutinitas* or routine, indicating that there is an entrenched problem with the bureaucratic working ethos. As a president whose branding includes the *kinerja* or performance repertoire, Jokowi is pushing

government officials to improve efficiency and effectiveness, in what has been a relatively lethargic public administrative system.

Indonesia's 2017 GDP growth rate of 5,1% is a good achievement, although the president consistently calls for improvements across the public sector. Despite a sound macroeconomic performance in Jokowi's first presidential term, Indonesia faces currency depreciation and the challenge of bureaucratic stultification (McLeod & Rosdaniah, 2018), and the economy has suffered greatly as a result of COVID-19. Throughout 2017 and 2018 Jokowi highlighted government inefficiencies and made specific reference to several underperforming agencies, warning that Indonesia will fall further behind competitors if substantive changes are not made. In his May 18th 'what's wrong with us' speech, the president cites budget inefficiency, maladministration, and a political culture of negativity as hindrances to Indonesia's development.

Based on comparisons with China, Malaysia, and South Korea, the president laments that Indonesia's development is less impressive than regional competitors. For instance, Jokowi compares the achievements of the Navy Shipyard Company (Penataran Angkatan Laut/PT PAL), an Indonesian state-owned enterprise in shipbuilding established in 1972, with the achievements of South Korean state-owned shipbuilders established in 1973. The president concludes that the sector in Indonesia is stagnating, whereas Korean companies have built globally competitive submarines. With reference to infrastructure and transport, the president stated, "...in the past [1970s], our toll road [Jagorawi] was a role model for other countries. But in 40 years we could only build 780 kilometres. China used to learn from us in the past, [but] they have built 280,000 kilometres".⁶ The critique of shipbuilding and transport infrastructure is a rhetorical form of disruptive truth-telling to pressure government officials to work harder and more efficiently.

Indonesia's relative malaise is contrasted with sectoral competitors who appear to be more adept at shaping and responding to technological change. Jokowi refers to major breakthroughs such as the internet, robotics, and artificial intelligence that are shaping the world around us and laments the fact that Indonesia, a youthful and populous country, is not a leading innovator. In his speech, the president praises Elon Musk (SpaceX, Tesla) as a key global trendsetter, and suggests that Indonesia is falling behind since so much of the nation's energy is misdirected, with constant public demonstrations and political gridlock.

Jokowi implores all ministries to improve the management of their budgets and to control spending so key performance targets can be met. Ever the pessimist, Jokowi questions why economic change moves so slowly. He points out that the nation resembles an athlete that is in good health, with low cholesterol, normal blood pressure, a healthy heart and lungs, and yet is still unable to run fast enough to win races (SETKAB January 5th, 2018). The analogy was repeated a few weeks later at the annual meeting of the financial services industry held in the Ritz-Carlton South Jakarta (SETKAB January 18th, 2018). Jokowi referred to Indonesia as a lumbering athlete at an investment meeting held at the State Palace in Jakarta (SETKAB January 23rd, 2018).

At a Ministry of Education and Culture meeting in Depok, Jokowi raised the issue of bureaucratic competence and called for greater efforts to improve human resources across the country (SETKAB February 6th, 2018). In addition, the country's poor performance relative to regional competitors is thought to stem from inefficient business licensing procedures, budget irregularities, uncoordinated local regulations, delayed infrastructure projects, and a general lack of innovation, among other factors. The president never seems tired of reminding his staff that the country has fallen behind Malaysia, the Philippines, and India in terms of foreign direct investment (SETKAB January 23rd, 2018). Jokowi argues that attracting foreign investment, for example through China's Belt and Road Initiative, will improve Indonesia's infrastructure projects and help ensure long-term national prosperity (SETKAB May 22nd, 2017). Investor confidence is damaged, however, by Indonesia's unprofessional bureaucracy, particularly the irregularities that delay or complicate the issuance of business permits.

Economic problems are exacerbated by dysfunctional agencies and bureaucracies that deliver inaccurate forecasts such as rate of inflation estimates (SETKAB December 6th, 2017). During a speech at the Indonesian stock exchange, Jokowi emphasized that vital investment opportunities are lost due to poor administration and a lack of professionalism (SETKAB August 31st, 2017). According to the president, Indonesia needs an entire building dedicated to business permit processing to help attract investors, as well as to crackdown on bribery and mark-ups in government projects that deplete national budgets. The president expects every organization involved in government projects be more transparent in calculation for their expenditure, and that state-owned enterprises crackdown on unscrupulous and unprofessional practices such as nepotism, embezzlement, and subsidy mark-ups (SETKAB August 31st, 2017). Inter-departmental tensions and power struggles also perpetuate inefficiency, according to the president (SETKAB October 24th, 2017). As a result, many of the president's speeches show that Jokowi is attempting to boost his image as a technocratic populist determined to clean up the political establishment, although there are deeply embedded conflicts of interest that undermine these efforts.⁷

Shortly after his inauguration, President Jokowi announced a flagship foreign policy called the Global Maritime Axis (*Poros Maritim Dunia*) that set out five principles to restore pride in the nation's archipelagic tradition (Nainggolan, 2015). For Indonesia to be a serious maritime power, the navy needs investment and strategic direction. Jokowi is working within a framework established by former president Susilo Bambang Yudhoyono known as the Minimum Essential Force that includes plans for naval modernization (Shekhar & Liow, 2014). Naval procurement under this framework is necessary but contentious. Jokowi's May 18th 2017 critique on PT PAL, Indonesia's national shipbuilding company, was repeated the following month when he compared the inefficiencies of PT PAL to the South Korean Shipbuilding and Engineering Corp (now Daewoo, DSME). Found one year after PT PAL, DSME has vastly outperformed its Indonesian competitor (SETKAB June 3rd, 2017).⁸ DSME went private in 2000, and is now regarded as a world leading shipbuilding and offshore company. The Korean company is currently under contract to supply three DSME1400 class submarines to the Indonesian navy, at a cost of some US\$1.1 billion (Jung, 2017).

Reflecting on his experience at the 2017 G20 summit in Hamburg, where Indonesia pledged to improve its tax administration system, Jokowi told the City Mayors and Regents Association at a conference in Malang that Indonesia still lags the other G20 members in terms of technology, economics, and infrastructure (SETKAB July 20th, 2017). The audience reportedly fell silent as the president listed their shortcomings, but this did not discourage Jokowi, who went on to say that Indonesians should not resist change and should not be satisfied with the monotony of the status quo. Rapid technological developments in the G20 nations should inspire the creativity, innovation, and entrepreneurial spirit of the Indonesian people, which the country needs to survive (SETKAB July 20th, 2017).

Blessed with natural beauty, diversity, and youthful energy, the Indonesian archipelago should be the top tourist destination in Southeast Asia, although this honour belongs to neighbouring Malaysia (SETKAB October 24th, 2017). Indonesia should be a world leader in coffee production, although it lags Brazil, Vietnam, and Colombia (SETKAB October 1st, 2017). Addressing a Ministry of Trade function in Jakarta, the president reiterated Indonesia's poor standing relative to export economies such as Thailand, Malaysia, and Vietnam, and warned that if the country does not shake off its inefficient routines it will be overtaken by Cambodia and Laos (SETKAB January 31st, 2018). Jokowi's tone is pessimistic in this quote, but then shifts to an optimistic statement about Indonesia being the only Association of Southeast Asian Nations (ASEAN) member in the G20 in the same speech. As Jokowi told a gathering of diplomats at the Ministry of Foreign Affairs, Indonesia is a great country that should not feel inferior despite so often having a marginal presence at trade exhibitions in the global south (Bangladesh being one expo cited regularly by Jokowi), and so often being outperformed by regional rivals in terms of exports (SETKAB February 12th, 2018).

During a cabinet meeting in May 2017, Jokowi suggested that the *mudik* (annual return) that marks the end of Ramadan for Indonesia's Muslims presents a real logistical challenge. Each year millions of Indonesians return to their hometowns and villages, and the relative success of the *mudik* is a marker of just how far the government has achieved its goals in terms of infrastructure planning and building (SETKAB May 29th, 2017). Another recurring test of the country's infrastructure and bureaucratic responsiveness is natural disaster management. When Mount Sinabung erupted in 2017, the president called for swift action to prevent a humanitarian crisis in North Sumatra, stating that inefficiencies and procrastination had, in the past, delayed the distribution of aid (SETKAB October 2nd, 2017). In terms of government spending more generally, Jokowi is very vocal about financial irregularities such as massive budget allocations disappearing, and he uses the mismanagement of the Mass Rapid Transit Jakarta project as a general indicator of Indonesia's slow infrastructure development (SETKAB May 23rd, 2017). The unscrupulous handling of state budgets is endemic compared to neighbouring Singapore and Malaysia, according to the president, and Indonesia is falling further behind Vietnam and Thailand in terms of development.

THE DIGITAL AND TECHNOLOGICAL DIVIDE

The third theme in Jokowi's speeches is the concern with the digital and technological divide. This is a common theme amongst ASEAN nations, for instance the highly publicised Thailand 4.0 model launched by the Thai government in 2017. In the speeches, Jokowi refers to social media 27 times, mobile internet 20 times, artificial intelligence 16 times, Tesla 10 times, and Elon Musk's controversial (and possibly failed) Hyperloop concept 10 times. Those words are mentioned to explain that the world is changing rapidly. If Indonesia does not catch up with other countries in the region, it will be left behind. The president also warned that social media platforms are really two sides of the same coin. New media and technology might bring positive effects such as expanding the digital market and improving education; however they are also used to spread hate speech and incite violence and terrorism.

Jokowi spoke at the opening ceremony of the 2017 Indonesia Business and Development Expo in Jakarta. The theme of the expo was the new economy in the digital age, and the importance of technological innovation as a driver of national development was stressed by the president (SETKAB September 20th, 2017). As in his unpublished speech in May 18th, 2017, Jokowi singled out Elon Musk as a role model and pioneer. The recent leap in e-commerce in the new digital age means that Indonesian society has become more technologically dependent, with tech usage driven by the desire for convenience. Jokowi encouraged Indonesians to embrace this future, but at the same time to avoid negative, potentially incriminating media content online, as anything uploaded to the internet stays on the internet (SETKAB September 20th, 2017). He added that such a heavy reliance on technology is changing work ethics and consumption habits. Jokowi put emphasis that this could be a threat to entrepreneurs' business, for instance, small businesses that do not adopt e-commerce practices often struggle to compete and face bankruptcy. Adding further nuance to the topic, recent research finds that Indonesia is still far from closing the digital divide, as feature phones with basic Internet services are used predominantly by older and less educated people, whereas younger smartphone users have faster and more sophisticated levels of information acquisition due to their access to advanced Internet services (Puspitasari & Ishii, 2016).

In July 2017, the president addressed members of the Indonesian Teachers Union in Central Java. The importance of technological progress was the core message, but the president also warned of the negative effects of social media (SETKAB July 22nd, 2017). Jokowi's pessoptimist view on social media combines praise for the speed of connectivity and innovation with reservations about the spread of hate speech, intolerance, and immoral content. Indeed, recent research points to the role social media plays in the 'rise of tribal nationalism in Indonesia' (Lim, 2017). At a social sciences forum in Solo Baru, one of the propositions was that Indonesians have grown too attached to mobile phones. The president stated that the nation's use of smartphones and social media platforms can be a force for good, although it can equally cause dissociative disorders and allow the dissemination of negative content (SETKAB August 9th, 2017). New technologies and smartphones are changing public discourses and the political landscape of the nation. Technology changes the

way many people live, often creating positive outcomes and innovations, although public sector adaptation of technology is lagging, and has yet to improve efficiency (SETKAB August 9th, 2017). The president encourages Indonesian academies and education institutes to conduct new research on the effects of technological changes on society.

Attending the launch of a start-up conference called Indonesia Digital Byte at the Ritz-Carlton in Jakarta, the president reiterated that the country has stagnated and needed to base its development plans on value-adding innovation and new technologies (SETKAB September 28th, 2017). In addition to Indonesia's relative stagnation and dependency on imports, Jokowi warned that the misuse of new technologies and social media causes instability and 'destructive innovation'. Analysis of Indonesia's digital ecosystem suggests that online commerce accounts for at least US\$8 billion in consumer spending, with around 15% of the adult population shopping online (Das et al., 2018). To meet growth targets Indonesia must overcome challenges such as logistical bottlenecks, talent gaps, and inconsistencies in infrastructure and shipping standards, while encouraging cashless transactions and getting more businesses online (Das et al., 2018).

According to the president, there is an urgent need to address the issue of technological advancement for all government departments, in particular the Directorate General of Taxation. Inefficiencies and capacity issues within the bureaucracy continue to result in inaccurate tax statistics and data (SETKAB June 20th, 2017). Bureaucratic inertia and the prevalence of bribery causes delays in the issuance of licenses and permits, which undercuts business and causes reputational damage (SETKAB July 27th, 2017; SETKAB August 20th, 2017). The same concerns were raised during a session at the People's Consultative Assembly (Majelis Permusyawaratan Rakyat/MPR) on the eve of Indonesia's independence celebrations. Jokowi identified radicalism, corruption, and economic inequality as the major threats facing the nation (SETKAB August 16th, 2017). It is true that Indonesia needs less red tape and more innovation, as well as greater equality of opportunity, although a critique published the same day by Forbes suggests that Jokowi's basic diagnosis – the need for greater wealth distribution – is misguided (Worstell, 2017).

In terms of technology utilization to support economic activities, Indonesia seems to have fallen behind when compared to other countries in the region. Muhammad Nasir, the Minister of Research, Technology and Higher Education, revealed that Indonesia's research and development (R&D) budget in 2015 comprised only 0,2% of GDP, behind South Korea (4,3%), Singapore (3,2%), and Malaysia (1,1%) (Utomo, 2016). This comparison raises an important question about how Indonesia regards the role of technological research and development in the advancement of its economy. According to Ministry of Trade data, most of Indonesia's top ten commodities are resource and labour-intensive industries, such as textiles, natural rubber, palm oil, timber, footwear, shrimp, cacao, and coffee ("Produk unggulan Indonesia", n.d.). Only two out of the ten commodities, namely electronic appliances and automotive vehicles, are considered technology-based and capital-intensive industries. The dominant commodities for both categories are electronic and vehicle components, rather than the finished electronic appliances and vehicles ("Produk Unggulan Indonesia", n.d.). Indonesia's export commodities are in stark contrast with the export

commodities of the newly industrialized countries (NICs). In China and South Korea, the top export commodities are technology-based sophisticated goods, for example cars, passenger and cargo ships, computers, telephones, and broadcasting equipment. According to World Bank figures from 2015, Indonesia's high-technology exports (US\$4,4 billion) lag South Korea, Malaysia, and Vietnam (each surpassing US\$30 billion) ("High-technology exports, n.d.). The comparison with Vietnam is particularly revealing. As a fellow developing country in Southeast Asia with prominent labour-intensive and resource-intensive industries, Vietnam managed to earn almost nine times more (US\$38,7 billion) than Indonesia from high-technology exports in 2015 ("High-technology exports", n.d.).

To increase Indonesia's competitiveness in capital-intensive industries, Jokowi once played a formative role in promoting a student-built car brand called Esemka. When Jokowi was the mayor of Surakarta in 2012, he supported the local automotive industry by choosing Esemka as his official vehicle, however the popularity of Esemka has since declined. Jokowi acknowledged that, while it is government's duty to support production of Esemka cars, especially in passing certification and emission testing, it is up to the companies to design, manufacture, and market a successful indigenous automobile brand (Sani, 2018).

The current trappings of Indonesia's political economy dictate that the country focuses on labour-intensive and resource-intensive commodities with relatively low added value. For now, it may be the correct decision to keep fostering Indonesia's comparative advantage in these sectors, although Indonesia needs to compete with regional middle powers such as Vietnam that offers attractive low-cost production for investors and companies while gaining a lot from agricultural products and low-cost industries such as shoes and garments. In the long term, Indonesia expects to follow the developmental path taken by NICs such as South Korea, utilizing innovation and technology to fuel their economic rise. South Korea went from being one of the poorest countries in the 1960s to one of the world's largest and most dynamic economies due to its gradual shift from an agrarian economy to an urbanized, high-tech economy with a highly skilled workforce (Kyung-Sup, 2016). Indonesia announced its Global Maritime Axis policy and the president offers sober assessments of the country's competitive position, though Jokowi is torn between factions driving domestic political crises such as the KPK conflict and Purnama blasphemy trial. Indonesia's shipbuilders are unable to compete with the likes of Daewoo, which supplies the Indonesian navy. Therefore, while the government wishes to harness the potential of new information and communication technologies, it struggles to mitigate threats that arise from ICTs such as the spread of political hoaxes, disinformation, and religious incitement.

CONCLUSIONS

The research sheds light on a significant unpublished speech made by President Joko Widodo on May 18th, 2017, that reveals patterns of disruptive truth-telling on a selective and strategic basis. The twofold argument is that the president's unconventional word choice is explained: 1) by context, with several political crises playing out simultaneously in May 2017; and 2) by political strategy, as President Jokowi advances his ambitious reform agenda

while attempting to maintain his branding as a humble but ambitious leader dedicated to Indonesia's strategic national interests. Considering the COVID-19 crisis, the themes that emerge in the analysis should remain front and centre of the presidential agenda and continue to set the tone for the remainder of Jokowi's second term that runs until 2024.

In 2017, Indonesia was deeply divided by the politicized and contentious blasphemy charges against former governor Basuki Tjahaja Purnama, institutional power struggles between the Corruption Eradication Commission, the House of Representatives, and the police, relative economic underperformance, and a stark digital divide. President Jokowi is not a transformational leader or charismatic orator. Rather, he seeks to use the power of his office to persuade and influence opinion, to pragmatically steer the country in what he believes to be the right direction. Economic growth, infrastructure, and bureaucratic efficiency are among the president's top priorities.

The research does not measure the effect of presidential rhetoric on audiences. Rather, it analyses a sample of presidential speeches to gain insight into Jokowi's rhetorical style as well as his nuanced views on Indonesian society. One notable pattern in his speeches is the tendency for Jokowi to downplay his own agency in the events he highlights. Considering Jokowi's re-election in May 2019, it is likely that the 'infrastructure president' will continue to pursue his economic development agenda, ramping up the rhetoric and accusations while strategically distancing himself from project delays and political conflicts. One of the most significant differences between Jokowi's first and second terms is the salience of Indonesia's foreign relations with China. During the 2019 election, the repeat challenger Prabowo Subianto ran a nationalist campaign and used China baiting and bashing to considerable effect, winning over many provincial constituencies outside Java. Prabowo accused the president of selling Indonesia out and of currying favour with their formidable East Asian neighbour. For instance, there is Indonesia's seemingly weak bargaining position as a recipient country in China's Belt and Road Initiative, as well as the contentious reclamation of the North Coast of Jakarta, the development of the Meikarta luxury apartment and business complex in Bekasi, the rapid train Jakarta-Bandung project, and the presence of Chinese mining companies in Sulawesi and Kalimantan.

The research investigates 66 presidential speeches and found that pessimistic and optimistic statements crossover in Jokowi's speeches, sometimes even appearing together in the same contradictory sentence. 'What's wrong with us' is a rhetorical device used on occasion by the president to justify his pessoptimist statements about Indonesia's economic or technological underperformance relative to regional competitors. The speech pattern is designed to provoke audiences to review their performances and ask hard questions about their achievements. As a pragmatic detail-oriented leader with sharp political instincts (Bland, 2020), Jokowi may be using an indirect communication style in keeping with his Javanese cultural manner and worldview, avoiding direct confrontation but still striving for a strategic and somewhat risky form of disruptive truth-telling that could backfire politically or pay long-term dividends.

NOTES

¹ According to World Bank figures, Indonesian GDP was 5.18% in 2018, 5.02% in 2019, and then plummeted as a result of the COVID-19 pandemic.

² There were 16 presidential speeches recorded by the Cabinet Secretary in May 2017. Official transcripts of presidential speeches are available online at <http://setkab.go.id/category/transkrip-pidato/>. All references to Jokowi's speeches obtained from the Cabinet Secretary website will be abbreviated and dated. For example, if it was on record, our reference to Jokowi's 'what's wrong with us' speech from 18 May 2017 would be cited as: (SETKAB May 18th, 2017).

³ The full video of President Jokowi's May 18th 2017 speech is available at <https://www.youtube.com/watch?v=R7aAtYIULmM>

⁴ Pancasila consists of five principles: belief in one supreme being (god), humanitarianism, national unity, consultation and consensus (governance), and social justice.

⁵ The full quotation from 8 January 2018 reads as follows: *Waduh, kalau coba lihat di media sosial itu, saling menyerang, saling mencela, saling menyalahkan, saling menjelekkkan. Saya kira hal-hal seperti itu bukan budaya Indonesia, bukan tradisi demokrasi di Indonesia.*

⁶ The 60-kilometre Jakarta-Bogor-Ciawi (Jagorawi) toll road was built in 1978. Indonesia's Toll Road Authority has signed at least 24 toll road concessions, but construction proceeds very slowly because of financial complications, budgetary constraints, and the complexity of land acquisitions (Sihombing et al., 2018). Jokowi repeated a number of these claims about Indonesia's relative underperformance in a speech to National Land Agency officials in Jakarta (SETKAB January 10th, 2018).

⁷ For the April 2019 general election Jokowi's main catch-all campaign slogan was 'clean, with the people, and proven contribution' (*bersih, merakyat, dan kerja nyata*).

⁸ For further analysis of Korean conglomerates (*Jaebol*) such as Daewoo, see Rhee (2005).

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