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Law and Regional Development in ASEAN: A Singapore Perspective

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LAW AND REGIONAL DEVELOPMENT IN ASEAN: A SINGAPORE PERSPECTIVE

By Andrew Harding and Bui Thu Hien¹

In Southeast Asia, as elsewhere, the various states have had somewhat different development trajectories. They have also had differing sets of legal resources and legal experiences. These resources and experiences are reflected in how they regard the relationship between law and development and, in particular, how important and relevant they regard the rule of law as it pertains to development. Such experiences also mirror what states really mean by the rule of law. In law and development (LAD), it is by no means unusual to find that the individual experiences of states are reflected in the types of activity they undertake. Thus, it is noted that Japanese LAD tends to reflect Japanese ideas, while American LAD reflects American ideas, and so on.² Of course, logically, there is no conclusive reason why experience or theory in one nation would necessarily be beneficial, or even relevant, to another. But the real reason appears to be that 'self-imaging LAD', if we may call it that, is also in the interests of the 'donor' country. Seen in worse light, it has even been called neo-colonialism.³ If a country's own legal models are replicated, it not only makes legal transactions and diplomacy much easier, but it also provides opportunities for that country's law firms and LAD personnel, spreads soft power, and so on. Self-imaging LAD is therefore not so much a theory of LAD as it is an inevitable mode of its practice. Our use of LAD in this chapter does not infer the original and somewhat limited meaning that sees LAD as a transfer of legal technology from a 'donor' country or international agency to a 'donee', 'developing', or 'less developed' country. Indeed, we find that in Singapore's case LAD is properly regarded as occurring at many different levels and in many different modes. In some of these, LAD may even be an unfamiliar concept. We recognise that even a potentially broader than usual definition has a penumbra of uncertainty. For example, we found in our empirical survey of LAD in Singapore that Singapore engages in a good deal of training for public officials that might not immediately appear to have a LAD aspect, in that it does not have overtly 'legal' content; but in practice this spreading of Singapore's values in the sphere of public service tends to enhance legal capacity in a broader sense, and trends towards

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² V Taylor, 'Japan's legal technical assistance: A different modernization narrative?', in David K Linnan (ed), *Legitimacy, Legal Development and Change: Law and Modernization Reconsidered* (Ashgate Publishing Ltd, Surrey, England, 2005), 235; V Taylor, 'Displacing "development": The new agenda for rule of law assistance', *Northwestern University Law Review*, vol. 104, no. 257, pp. 260-261; V Taylor, 'Rule-of-Law assistance discourse and practice: Japanese inflections', in A Perry-Kessaris (ed.), *Law in the Pursuit of Development: Principles into practice?* (Abingdon and New York, Routledge, 2010), 161-179; S Humphreys, *Theatre of the Rule of Law: Transnational Legal Intervention in Theory and Practice* (Cambridge: Cambridge University Press, 2010)

³ Humphreys, above n.2, 112.

good governance, integrity, and the rule of law. While many see the rule of law as valuable in itself, it is seen by recipients of its value as serving a variety of ends. Such training programmes can therefore be seen— legitimately, in our view—as part of LAD. We therefore outline in this chapter a ‘multi-level’ approach to LAD in Singapore which, as we have explained, does not define LAD according to the usual definition, but which sees many different agencies and initiatives taking place at various governmental and societal levels.

Of all the ASEAN states, Singapore is by far the most prosperous, being listed as a high-income state.⁴ It is the only state in ASEAN, apart perhaps from Thailand,⁵ that is in a position to devote significant resources to regional development and to LAD activity. The Singapore government has always seen the rule of law and legal institutions as part of the ‘software’ that has enabled the city-state to improve its GDP per capita about 100-fold between 1965 (when Singapore became an independent republic) and 2010.⁶ Having long since ceased to have the status of a ‘developing country’,⁷ Singapore is now a ‘donor’ rather than a ‘donee’ state. It is also a state that has espoused the rule of law and good governance in a deeply embedded fashion. Despite the overt notion of a state based on Confucian values,⁸ it is in practice legalism, and legal certainty, that govern society, administration, and all private transactions in Singapore, and orientate it to the rule of law as a universal value as well as one that serves Singapore’s own development.⁹ Demands on and opportunities for Singapore in the LAD field are also emphasised by its position within ASEAN as not simply the most prosperous state, but as a leader in legal expertise, having a deep interest in regional legal integration.¹⁰ Singapore sees itself as a legal hub for the region,¹¹ much like The Hague, which has achieved such a status in the context of international law. Examples of this ambition include the establishment of the

⁴ According to the 2015 Legatum Prosperity Index, Singapore’s economy ranked 17th among 142 countries across the globe and 1st in the ASEAN region: <http://www.prosperity.com/#!/ranking>; see also <http://www.straitstimes.com/business/singapore-among-top-20-nations-in-global-prosperity-index-its-economy-is-no-1> (both accessed 18 April 2017)..

⁵ For which, see ch.7.

⁶ See, e.g., Lee Kuan Yew, ‘The Secret of Good Government’, ch.4 of Han Fook Kwang, W. Fernandez, and S. Tan (eds), *Lee Kuan Yew: The Man and His Ideas* (Singapore, Times Editions, 1998).

⁷ As is acknowledged by Lee Kuan Yew in the very title of one of his books, *From Third World to First: The Singapore Story 1965-2000* (Harper Collins, New York, 2000) See also A. Harding and C. Carter, ‘Cutting Through the Complexity: The Singapore Model of Law and Development’, ch.13 of A. Perry-Kessaris and J. Hatchard (ed), *Law and Development: Facing Complexity in the 21st Century* (Cavendish, London, 2003). In fact the World Bank has in fact abandoned the distinction between developed and developing countries: <http://www.channelnewsasia.com/news/world/world-bank-no-longer/2795642.html> (accessed 18 April 2017).

⁸ Tu Weiming, *Confucian Ethics Today: The Singapore Challenge* (Federal Publications, Singapore, 1984).

⁹ K Shanmugam, ‘The Rule of Law in Singapore’, [2012] *Singapore Journal of Legal Studies* 357.

¹⁰ We do not in this chapter discuss regional integration, on which there are now 13 books in the series ... However, without doubt the LAD efforts discussed here are designed, by building capacity and encouraging cooperation, to serve, if not actually accomplish, the objective of regional integration through law. In addition Singapore’s Academy of Law recently established the Asian Business Law Institute, whose objectives are to research integration issues for Asia generally, and propose solutions: <http://abli.asia/NEWS-EVENTS/Whats-New/ID/12> (accessed 18 April 2017).

¹¹ S. Menon, ‘Transnational Commercial Law: Realities, Challenges and a Call for Meaningful Convergence’, [2013] *Singapore Journal of Legal Studies* 231.

Singapore International Commercial Court, the Singapore International Arbitration Centre, and the Singapore International Mediation Centre. In Singapore's case, there is no doubt that it regards LAD in practice as based squarely on the rule of law.¹² This reflects Singapore's own experience. The rule of law is also widely seen in Singapore as the answer to the region's problems in the field of law and development. Advancing the rule of law amongst the ASEAN states is clearly very much in Singapore's interests, and is perceived in Singapore to be decidedly in the interests of the other ASEAN states and also as a binding force for ASEAN.¹³

It is therefore interesting to see whether we can identify, in the case of Singapore, a LAD policy or a set of LAD policies, and to what extent such policies reflect Singapore's own developmental experience. This is the major purpose of this chapter. Singapore is, of course, limited by its size and population in terms of what it is able to do in this area; but as was indicated above, it does nonetheless have considerable resources to bring to bear – professional, legal, and financial – as well as compelling interests to protect or advance. Various institutions in Singapore, public, government-linked, and private, pursue regional development using their own expertise to benefit the region's poorer states; and this is as true of LAD as it is of other areas of development, for example in the medical field or in public administration. Given the importance of Singapore's government-linked companies and the fact that the government is Singapore's biggest shareholder, we cannot in Singapore draw the neat distinction between the public and private sectors that might be appropriate elsewhere. Professional bodies, such as the Law Society of Singapore, are also relevant. Accordingly, we need to look at a range of different institutions in order to discover what we choose to call Singapore's 'multi-layered approach' to LAD. One important lesson that may be drawn from this is that, consonantly with the diversity of contemporary approaches to and definitions of LAD,¹⁴ there may be many players, many agendas, and many modes in which LAD operates. In Singapore, LAD is not formalised but it smoothly and implicitly crosses public, private, and state-to-state frameworks to deliver effective assistance without tutorialising and without coercion. We find, however, that LAD clearly does actually occur at a meaningful level, irrespective of whether it represents an overt policy. In our research, we were unable to find a single express statement of LAD policy by a Singapore government representative in Parliament or in the media. LAD policy in Singapore, therefore, has to be inferred from the behaviour and indirect statements on the issue of LAD by the government, its representatives, and other actors. Therefore, in what follows, we describe the various ways in which LAD is *pursued in practice* by various entities in Singapore. This has not been done explicitly before, to the best of our knowledge, and may well, we hope, be of interest to LAD practitioners, officials, and scholars. We reiterate that the term 'law' in LAD needs to be

¹² Shanmugam, above n.9.

¹³ See, further, ch.1; W. Woon, *The ASEAN Charter: A Commentary* (NUS Press, Singapore, 2015).

¹⁴ S. Newton, 'Law and Development, Law and Economics, and the Fate of Legal Technical Assistance', in J.M. Otto et al (eds.), *Lawmaking for Development: Explorations into the Theory and Practice of International Legislative Projects* (Leiden University Press, Leiden, 2008), 23.

read contextually; some aspects of development may well have legal implications and objectives even if not traditionally regarded analytically as part of LAD. In this respect, our definition needs to be wider than is conventional in order to capture that which is significant. The Singapore Cooperation Programme, discussed below, is a good example of the artificiality of distinguishing the legal from the non-legal in this context.

Finally, in this introduction we advert to the fact that our survey of LAD, Singapore-style, is unlikely to have captured the totality of the activity undertaken. This is precisely because of the prevailing multi-level approach. There will without doubt be many layers that are unsung and known only to the participants and beneficiaries of the relevant activities. We regard this as symptomatic of the 'new law and development'¹⁵ in which LAD has become multi-faceted and multi-directional, rendering somewhat unobvious the epistemology around its nature and extent.

Singapore's unheralded development agencies and their law-related programmes

Singapore was, of course, one of the founding members of ASEAN, which was established in 1967 mainly for the purpose of accelerating economic growth and promoting peace and security between its state members, now 10 in number.¹⁶ However, ASEAN's missions and visions have evolved and expanded over time. From a mere facilitator for creating wealth, peace, and security, ASEAN has developed to see itself as an integrated community that puts people at the centre of its concerns.¹⁷ During the ASEAN-community-building process, Singapore has, in recent years, become more and more involved in LAD work with ASEAN at the regional level, and (much more significantly) with ASEAN countries at the bilateral level.¹⁸ It also sometimes acts as an assisting third party to bilateral activity between an ASEAN and a non-ASEAN state.¹⁹

Singapore does not, however, have an equivalent of the United States' USAID, Australia's AUSAID, Japan's JAICA, the UK's DfID, or Sweden's SIDA. There is, in other words, no bureaucracy devoted to international or regional development as such. Nonetheless, there are many agencies in Singapore that direct attention to regional development projects, and many of those are concerned with law, even if they do not specifically call their activity LAD. These include the Ministry of Foreign Affairs, the Ministry of Law, the courts, the Attorney-General's Chambers, the Law Society of Singapore, the Singapore Academy of Law, the Temasek Foundation, the Singapore International Arbitration Centre, and the law schools at the National University of

¹⁵ D. Trubek and A. Santos (ed), *The New Law and Economic Development: A Critical Appraisal* (New York, Cambridge University Press, 2006).

¹⁶ <http://asean.org/asean/asean-member-states/> (accessed 18 April 2017).

¹⁷ ASEAN, *ASEAN Community Vision 2025*: see <http://www.asean.org/storage/images/2015/November/aec-page/ASEAN-Community-Vision-2025.pdf> (accessed 18 April 2017).

¹⁸ Robert L. Rau, *Role of Singapore in ASEAN*.

¹⁹ ?

Singapore (NUS) and Singapore Management University (SMU), as well as the Lee Kuan Yew School of Public Policy at NUS.

Legal capacity-building appears in fact to be the main area of support that Singapore has been providing for ASEAN countries. This support has been delivered in various forms, including the exchange of legal materials, legal drafting assistance, study visits, training workshops, collaborative seminars, and symposia. Most of the assistance from Singapore is directed to Cambodia, Laos, Myanmar, and Vietnam (known as the 'CLMV' group of states that, having a lower level of development than the original six member states, joined ASEAN in the mid-1990s). Among these country beneficiaries, this study reveals that Myanmar has been given the most attention and support in terms of capacity-building and judicial reform. Until recently Myanmar was an infrequent recipient of international assistance, but Singapore's involvement with Myanmar goes back many years and is intensified in the legal field by the fact the two countries share a common law heritage.²⁰

This LAD activity is geared to legal development in terms of statute law and institutional development towards the rule of law and good governance. These are seen as having specifically economic outcomes, but occasionally, the Singapore government puts pressure on ASEAN countries to improve their human rights practice.²¹

A major effort in this respect has been the Singapore Cooperation Program (SCP), established by the Ministry of Foreign Affairs in 1992. The express mission of this programme is to share Singapore's development experience and provide support to other developing countries. The SCP is designed to build capacity in fields that could smooth the developmental path of these states. For the last two decades, the SCP has facilitated and sponsored a number of training events for ASEAN countries that have an LAD component. Most of the training is focused on the following topics:

- i) Court excellence
- ii) Advanced note-taking and project proposal writing
- iii) Public policy and administrative reform
- iv) Social policy management
- v) Sustainable development and transport planning

²⁰ Myint Zan, 'Rule of Law Concepts in Burma's Constitutions and Actual Practice: No Ground for Optimism', ch.2 of A. Harding (ed), *Constitutionalism and Legal Change in Myanmar* (Hart Publishing, Oxford, 2017), at 29, n.17.

²¹ Singapore took the lead in pressuring Laos to expedite investigation into disappearance of Sombath Somphone: <http://aseanmp.org/2014/04/18/asean-urged-to-follow-singapores-lead-in-pressuring-laos-to-expedite-investigation-into-disappearance-of-sombath-somphone/#respond> (accessed 18 April 2017). For the ASEAN Human Rights Mechanism, see Tan Hsien-li, *The ASEAN Intergovernmental Commission on Human Rights: Institutionalising Human Rights in Southeast Asia* (Cambridge University Press, Cambridge, 2011); Hien Bui, 'The ASEAN Human Rights System: A Critical Analysis', 11:1 *Asian Journal of Comparative Law* 111 (2016).

The ASEAN states who are beneficiaries of this are the CLMV states.²²

On a bilateral level, the Singapore government has engaged in assisting individual ASEAN countries. The bilateral development projects vary amongst different countries but share some common areas, ranging from the exchange of legal materials and study visits, to collaborative seminars, symposia, and provision of scholarships. Bilateral collaboration between Singapore and the assisted countries is often organised formally by signing a Memorandum of Understanding (MoU) at the ministry level. For example, Myanmar and Singapore have signed two official MoUs: the Singapore-Myanmar Integrated Legal Exchange between the Ministry of Law and the Myanmar Supreme Court; and a legal cooperation MoU between the Ministry of Law and the Myanmar Attorney-General's Office.²³ The MoUs seek to enhance greater understanding of the laws, legal systems, and legal and judicial institutions of Singapore and Myanmar.²⁴ These objectives were achieved through the exchange of legal materials, study visits, collaborative seminars and symposiums, attachments, and scholarships for Myanmar officials. They also expected the parties to the MoUs to develop collaborative education, training, and knowledge transfer to enhance the mutual cooperation between the two countries.²⁵

Apart from Myanmar, Vietnam has also received assistance from Singapore in the field of legal and judicial reforms. In particular, Singapore and Vietnam have signed an Agreement on Legal and Judicial Cooperation (March 2008). This cooperation aims for Singapore and Vietnam to collaborate in a wide range of areas which include the drafting and administration of laws, development of legal and judicial expertise, development and promotion of domestic and international dispute resolution mechanisms, including arbitration and mediation, and legal and judicial administration. Cooperation between the two countries can take various forms, including the exchange of legal materials and publications, exchange of visits between relevant personnel (for example judges, academics, and legal practitioners) and the promotion of interaction through lectures, conferences, seminars, and symposia.²⁶

The Singapore government has also assisted the Laos Government to create sustainable economic growth and alleviate poverty. Singapore has played a supporting role through the provision of human-resource training, scholarships, and sharing of

²² Main areas of assistance are: Court excellence; Advanced note-taking and project proposal writing; Public Policy and Administrative Reform; Social Policy Management; Sustainable Development & Transport Planning. See See Singapore Corporation Program, whose website can be found at: <https://www.scp.gov.sg/content/scp/index.html> (accessed 18 April 2017).

²³ 'Singapore and Myanmar Boost Legal Cooperation Through New Agreements', Straits Times, 11 October 2014, <http://www.straitstimes.com/singapore/singapore-and-myanmar-boost-legal-cooperation-through-new-agreements> (accessed 18 April 2017).

²⁴ In this connection, see, for example, Y. Wong, *Money Matters in Myanmar: Banking and Finance Law and Practice* (Singapore, LexisNexis, 2016); Chan Wing Cheong et al, *Criminal Law in Myanmar* (Singapore, LexisNexis, 2017); Harding, above n.20.

²⁵ See <https://www.mlaw.gov.sg/content/minlaw/en/news/press-releases/SMS-working-visit-to-myanmar.html> (accessed 18 April 2017).

²⁶ See <https://www.mlaw.gov.sg/content/minlaw/en/news/press-releases/singapore-and-vietnam-sign-agreement-on-legal-and-judicial-cooperation.html> (accessed 18 April 2017).

experiences. More than 4,000 Lao officials have participated in training courses and study visits since 1993 under the SCP. Areas of training range from English language training to information technology, civil aviation, and trade promotion. These latter three activities have important legal components. Under the Initiative for ASEAN Integration (IAI) launched by then Singapore Prime Minister Goh Chok Tong in November 2001, Singapore established the Lao-Singapore Training Centre (LSTC) in Vientiane to increase training opportunities for Lao officials. Since the LSTC was set up in 2001, almost 3,000 Lao officials have been trained there. Even though the initiatives did not specially focus on legal and judicial reforms, they helped to enhance the working capacity of Lao governmental officials, and indirectly to facilitate LAD via their significant roles in LAD in Laos.²⁷ In this sense, LAD Singapore-style is not distinguished from development assistance in general.

Mediation skills are another area of capacity-building that the Singapore government has focused on when training judges in Myanmar. A number of training workshops has been conducted in close collaboration between the Singapore Ministry of Law and the Singapore Mediation Centre.²⁸ Beneficiaries of this initiative were 27 Myanmar judges and judicial officers from the Office of the Supreme Court of the Union, the Office of the Judicial Supervision of the Union, the Office of the Chief Justice of the Union, and the District Courts and Township Courts. The objectives of the workshops were to share the experiences of the mediation mechanism for disputes being practised in Singapore courts, and to study the feasibility of these methods for use in Myanmar.²⁹

Initiatives by Singapore's courts

Whereas the SCP is an initiative of the Ministry of Foreign Affairs, LAD more generally is pursued by the collaborative efforts by the judiciary of Singapore that are initiated by the Supreme Court of Singapore.

The main activity of the Supreme Court to assist ASEAN countries is capacity-building for judges. In February 2016, the Supreme Court of Singapore organised training sessions for ASEAN judges on alternative dispute resolution. This was considered a high-profile training programme since it was a joint project involving all the most important stakeholders in the field, including the International Centre of Excellence for the Practice and Profession of Alternative Dispute Resolution (CIArb), the Supreme Court of Singapore, and the SCP. The programme clearly demonstrates Singapore's efforts in building the knowledge and capacity of judges in all the ASEAN states.³⁰

²⁷ Singapore Technical Cooperation with LAO PDR, for which see: https://www.mfa.gov.sg/content/mfa/overseasmission/vientiane/singapore_technical_cooperation.html (accessed 18 April 2017).

²⁸ See www.mediation.com.sg (accessed 18 April 2017).

²⁹ <http://www.unionsupremecourt.gov.mm/?q=news/121> (accessed 18 April 2017).

In 2015 and 2016, the Supreme Court of Singapore also sponsored and organised an international training programme called 'Excellence in Judicial Education and Research'.³¹ The programme was operated directly by the Singapore Judicial College (SJC), which is established under the auspices of the Supreme Court of Singapore. According to SJC's statistics, there have been more than 450 foreign judges and officials from more than 50 countries, including the other nine ASEAN countries, who have been beneficiaries of the training programmes.³² Besides all the training programmes that brought together judges and officials from different countries, SJC and the Supreme Court also organised training classes for specific ASEAN countries. For example, training on the international framework for court excellence was organised specially for local officials in the CLMV countries. Apart from the popular training topic on judicial excellence, the Supreme Court also delivered training on parliamentary law, rules and practices for Laos and Myanmar as a part of the Singapore Ministry of Foreign Affairs' Initiative for ASEAN Integration.³³

Apart from sponsoring and conducting training events, the Supreme Court of Singapore has also been active in facilitating the information network between ASEAN judges on transnational child custody disputes, which is expected to provide information on child-related issues and judicial training.³⁴

Tracing back its reports from the year 2000 to date, the Attorney-General's Chambers (AGC) in Singapore have been very actively involved with ASEAN states. However, most of AGC's activities focus on foreign trade and investment, as opposed to other areas of development. From 2010 onwards, AGC started to represent Singapore in collaborating with other ASEAN Member States in developing the law relating to regional development, for example, the ASEAN Convention on Trafficking in Persons and the Regional Plan of Action.³⁵ The AGC had also been actively involved in negotiations relating to the ASEAN Human Rights Declaration.³⁶

At the bilateral level, there were several exchanges between AGC and the offices of the Government of Myanmar, for example, a visit by delegation members of the Supreme Court of the Union and Union Attorney-General's Office in December 2013. The

³¹ See <http://www.supremecourt.gov.sg/sjc/judicial-education/international/2016#> (accessed 18 April 2017).

³² See <http://www.supremecourt.gov.sg/sjc/collaboration/international-alumni> (accessed 18 April 2017).

³³ See <http://www.supremecourt.gov.sg/sjc/judicial-education/international/2016> (accessed 18 April 2017).

³⁴ 'ASEAN Chief Justices Gather in HCM City', *Vietnam Pictorial*, 2 April 2016, <http://vietnam.vnnet.vn/english/asean-chief-justices-gather-in-hcm-city/225920.html> (accessed 18 April 2017).

³⁵ See AGC Annual Report, 2013-14, at https://www.agc.gov.sg/DATA/0/docs/AnnualRep/2014/AGC_Annual_Report_2013-2014.pdf (accessed 18 April 2017).

³⁶ See AGC Annual Reports 2012 and 2010, at https://www.agc.gov.sg/DATA/0/docs/AnnualRep/2012/AGC_Annual_Report%20_2012.pdf; https://www.agc.gov.sg/DATA/0/docs/AnnualRep/AGC_Annual_Report_2010_2011%20v1%20090615.pdf (accessed 18 April 2017).

delegation came to Singapore to learn about the use of information and communications technology in the judicial and legal systems.³⁷ Such delegation visits from ASEAN states to various judicial and legal institutions in Singapore are too numerous to be recorded here but they provide valuable insights for the delegations and a basis for further cooperation.

Projects of Singapore's law schools

Legal education is one of the biggest areas of LAD support that Singapore has been providing to the ASEAN states.

Singapore's own legal education system has evolved in such a way as to fully embrace Singapore connectedness with the rest of Asia and the future needs of its legal profession and judiciary. Both NUS and SMU offer core teaching in the legal systems of Asia, which include those of the ASEAN countries as well as those of South and North East Asia.³⁸

One of the best-known initiatives in this area is the 'ASEAN Scholarship', a scholarship given to law students coming to Singapore from ASEAN countries to study. Singapore's two law schools practising in this scheme (NUS³⁹ and SMU⁴⁰) are the two most popular destinations for ASEAN scholars in Singapore.

With regard to support for legal education more generally, Myanmar has so far been the biggest recipient of Singapore's expertise. In February 2014, as a result of a collaboration between Singapore's Ministry of Law and Myanmar's Ministry of Foreign Affairs, the two law schools in Singapore signed MoUs with two law schools in Myanmar (the Law Departments of Yangon and Mandalay Universities), committing them to cooperation in the development of legal education in Myanmar. The MOUs aimed to promote cooperation in legal education between the four universities, with key areas of cooperation including faculty exchanges, study visits, curriculum planning and design, and pedagogy, as well as the enhancement of legal research and development of resources.⁴¹ The theory behind these efforts is that legal education development is an essential underpinning for the longer-term general sustainability of legal and institutional reforms, and by extension, the rule of law.

³⁷ Above, n.35.

³⁸ A. Harding and M. de Visser, 'Teaching Comparative Law in Singapore', in Hu Jiexiang, A. Harding and M. de Visser (eds), *Legal Education in Asia: From Imitation to Innovation* (Brill, Leiden, forthcoming, 2018).

³⁹ See <http://www.nus.edu.sg/admissions/graduate-studies/scholarships-financial-aid-and-fees/scholarships-awards/nus-gsa.html> (accessed 18 April 2017).

⁴⁰ See <https://admissions.smu.edu.sg/scholarships/asean-undergraduate-scholarship> (accessed 18 April 2017).

⁴¹ See <https://www.mlaw.gov.sg/content/minlaw/en/news/press-releases/visit-of-SMS-to-myanmar-2014.html> (accessed 18 April 2017).

Projects by specialist legal research centres

The Centre for International Law (CIL) at NUS has been working on legal issues in ASEAN as one of their main areas of focus. The 'ASEAN Integration Through Law: The ASEAN Way in a Comparative Context' (ITL) project has been one of CIL's major research activities during its initial years. The ITL project examines the role of law and the rule of law in Asian legal integration. The project involves over 70 researchers from Asia and around the world. The outcomes of the project support the efforts of ASEAN member states to achieve the ASEAN Community. The ITL project has undertaken research on the Rule of Law in the ASEAN Community, and Plenary and Course Development Workshop on the ASEAN Economic Community, ASEAN and human rights, and other topics.⁴² Since CIL is directly funded by the Ministry of Law, CIL's interest and activities could be seen as equating to the interest of the Singapore government in ASEAN law, development and integration.

The Yusof Ishak Institute of Southeast Asian Studies (ISEAS) has a general mission to stimulate research and debate within scholarly circles, enhance public awareness of the region, and facilitate the search for viable solutions to the varied problems confronting the region. For ASEAN, the institute seeks to promote greater understanding of ASEAN and to contribute towards regional cooperation and integration. The Centre conducts studies and provides inputs to stakeholders on issues and matters that call for collective ASEAN actions and responses, especially those pertinent to building the ASEAN Community. Apart from working on the ASEAN region, the Institute concentrates on five ASEAN countries individually - Indonesia, Malaysia, Thailand, Vietnam, and Myanmar. For each country, ISEAS navigated their work to fit the nation's contemporary and hotly debated topics, ranging from political dynamics, social change, and cultural trends to political and economic reform, and many more. Activities are also various, including conferences, workshops, seminars, print and e-publications, and timely commentary in the international and local media.⁴³ This research highlights areas for policy development and legal change, and also provides insight into areas of change within ASEAN.⁴⁴

International Bridges to Justice's Singapore Justice Training Centre

International Bridges to Justice established the Singapore Justice Training Centre (SJTC) as the regional hub of the organisation in ASEAN. As one of the first NGOs invited to work in Singapore under the government's International Organizations Development Scheme in 2010, IBJ has developed partnerships with numerous private and public entities,

⁴² See <https://cil.nus.edu.sg/research-projects/asean-law-policy/asean/> (accessed 18 April 2017).

⁴³ For these initiatives see the ISEAS website at <https://www.iseas.edu.sg/> (accessed 18 April 2017).

⁴⁴ Besides these two major centres, a number of joint events have been organised by different centres and public and private sectors in order to discuss ASEAN community and the UN Millennium Goals: see e.g., <http://hrrca.org/hrrc-smu-cals-and-asean-csr-network-hold-side-event-at-the-asean-next-gen-csr-forum-in-bali/> (accessed 18 April 2017).

including Singapore's Ministry of Foreign Affairs, academic institutions, and law firms, to lead training programmes and other events.⁴⁵

Criminal Justice is the major area of expertise where the SJTC has supported ASEAN countries. The inaugural event for SJTC delivered a training workshop that gathered participants from Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, and Vietnam.

Apart from criminal justice training, SJTC has also put forward other initiatives to support ASEAN countries' legal improvement. For example, eLearning was one of the SJTC's other major achievements. It successfully launched 50 eLearning modules in the three years to 30 June 2013. The modules are specific to seven ASEAN countries, namely Cambodia, Indonesia, Laos, Myanmar, the Philippines, Thailand, and Vietnam, as well as India. The topics covered by the modules include the rights of the accused, the rights and obligations of defence attorneys, attorney-client relations, the presumption of innocence, defences, evidence, cross-examination, complaint procedures, pre-trial detention, investigative torture, and preventing torture.⁴⁶

Again, amongst the ASEAN members, Myanmar received special assistance from this organisation. There were programmes called 'Legal Aid System Training for Myanmar' and the 'Regional Legal Aid Forum' that were designed only for Myanmar. While the Legal Aid System Training was attended by high-level government officials and lawyers from the civil society, which marked an unprecedented and progressive step for Myanmar towards legal aid and criminal justice system, the Forum was a unique platform for meaningful engagement between government officials and young lawyers where open discussions and a shared learning experience.⁴⁷

Anti - Corruption efforts by Singapore Government

For a decade from 2006 to 2016, Singapore has ranked highly in the global scale on anti-corruption.⁴⁸ The country has constantly been praised as one of the most successful models – a “shining example” on rooting out corruption, using tough approaches and comprehensive strategies.⁴⁹ The strategies that Singapore has employed either directly focus on improving laws for effective anti-corruption; or concentrate on other law related measures, including adjudication to punish and deter those who are prone to corruption; effective administration to reduce opportunities for corruption; and effective enforcement agencies.⁵⁰

⁴⁵ See <http://www.ibj.org/where-we-work/singapore/> (accessed 18 April 2017).

⁴⁶ Above n.45.

⁴⁷ Above n.45.

⁴⁸ See <http://www.tradingeconomics.com/singapore/corruption-rank> (accessed 18 April 2017).

⁴⁹ See <http://www.asean-csr-network.org/c/news-a-resources/csr-news-from-around-asean/943-anti-corruption-week-19-23-sept-2016> (accessed 18 April 2017); International Bar Association, 'Singapore: Fifty Years of the Rule of Law', 7 October 2015:

<http://www.ibanet.org/Article/Detail.aspx?ArticleUid=09014a7c-65ce-40ab-bdab-a7c443682083> (accessed 18 April 2017); see, further, Shanmugam, above n.9.

⁵⁰ For the Singapore Corrupt Practices Investigation bureau, see below, n52.

Anti-corruption is an area that cannot be ignored in considering Singapore's effort in LAD for ASEAN countries. A corruption-free system at all levels has been seen by Singapore as an indispensable part of a meaningful rule of law. Therefore, Singapore's regional and bilateral efforts in this field fall into the same pattern of LAD as other areas mentioned above, demonstrating Singapore's leadership and interest in enhancing law in the development of other ASEAN countries. However, while Singapore has, as we have seen, been taking initiatives to approach and assist ASEAN countries in other fields, for example legal research and education, strong willingness and direct demand for support have also come from ASEAN countries. For example, Vietnam has proactively reached out for Singapore for technical assistance on anti-corruption measures, which is expected to be delivered by training courses, seminars and high-level exchanges.⁵¹

The effort to help ASEAN countries fight corruption has been implemented by the Corrupt Practices Investigation Bureau (CPIB). This is a government agency with independent capacity for the investigation and prevention of corruption in Singapore.⁵² As with other fields such as legal research and education, through the CPIB, Singapore's assistance to enhance ASEAN's countries' capacity to combat corruption has been focused on three main interrelated areas, including capacity-building, enhancing mutual sharing, and strengthening collaborative efforts on anti-corruption. The foci have been implemented through a variety of events and activities: study visits, participating in seminars, organising international workshops. Singapore also actively establishes good working relationships with its ASEAN member counterparts in the areas of anti-corruption laws and legal enforcement.⁵³ At a more official level, CPIB acted on behalf of Singapore's government to sign bilateral MOUs with some ASEAN countries to enhance mutual sharing, capacity-building, and strengthening of collaborative efforts in anti-corruption matters.⁵⁴

Anti-corruption has long been a significant matter in Singapore's national development and rule of law. Its comprehensive approach to combat corruption and the active assistance it has provided to ASEAN countries has mirrored Singapore's own interest. All these efforts, therefore, illustrate Singapore 'self-imaging' approach to law and development.

⁵¹ 'VN Seeks Singapore's Help on Anti-Corruption', Vietnam News, 22 July 2015, <http://vietnamnews.vn/society/273393/vn-seeks-singapores-help-on-anti-corruption.html#XRSy0ExREOefwQEv.99> (accessed 18 April 2017).

⁵² See <https://www.cpi.gov.sg/about-cpi/roles-and-functions> (accessed 18 April 2017).

⁵³ Koh Teck Hin, 'Corruption Control in Singapore', at http://www.unafei.or.jp/english/pdf/RS_No83/No83_17VE_Koh1.pdf (accessed 18 April 2017).

⁵⁴ *Ibid.*

Conclusion

From the brief survey above of LAD-related activity in Singapore, a number of things are apparent.

First, these efforts strongly reflect Singapore's own experience of the rule of law and the role of law in development. The Singapore government believes the rule of law to be a universal value, but it is also a matter of pragmatically building the institutions required to entrench it. This occasionally includes diverging from the rule of law where it is perceived to be necessary, as with the Internal Security Act 1960, which provides for preventive detention.

Secondly, Singapore does not prominently announce or widely proclaim its LAD activity as a model or even as representing the impressive record that it undoubtedly is. We may infer from this that Singapore sees LAD as a mode of entirely voluntary cooperation, not an area for any form of coercion. Nonetheless Singapore clearly believes that an ASEAN based on the rule of law will be highly beneficial to Singapore and to ASEAN.

Thirdly, Singapore takes a multi-level approach in which its existing institutions, government, judicial, professional, civil-society, and academic, have various roles to play.

Fourthly, Singapore's efforts are mainly, although not exclusively, aimed at the CLMV countries, Myanmar in particular. This reflects an historic close relationship between the two countries as well as the facts that Myanmar's needs are greater than the other states, and that Myanmar's opening since 2011 creates a space for those needs to be met.

Fifthly, Singapore sees corruption as a major problem, and effective anti-corruption measures as part of building an effective rule of law in ASEAN. This too reflects Singapore's own values and experience of developing the rule of law.

As part of attempts to gauge how LAD has changed in recent years, we believe that Singapore's experience and approach should be seriously considered comparatively in the context of the new law and development.