

*Original article*

# The evolution of Transnational organized crime in Southeast Asia: how far will it go?\*

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**Abstract:** Transnational crimes have plagued parts of Southeast Asia since the region's governments gained independence following World War II (only Thailand escaped colonization). Major illicit activities have grown and diversified over the past two decades, leading to charges of genocide in Myanmar by the United Nations Human Rights Council; an investigation by the International Criminal Court (ICC) of extra-judicial drug enforcement policies in the Philippines; and an explosion of methamphetamine trafficking out of Myanmar that reaches from north Asia to the Pacific and points in between. The Malaysian government and international investigators are still dealing with fall-out from the multi-billion US dollar financial scam that began there in 2009 and is still being adjudicated. The region's governments—joined together through the Association of Southeast Asian Nations (ASEAN)—signed the United Nations Convention Against Transnational Organized Crime (UNTOC), its three protocols and the UN Convention Against Corruption (UNCAC). The member states have also signed related agreements among themselves—although not specifically against corruption—and meet regularly at ministerial and working levels to operationalize those blueprints for curbing international crime. They have not met with much success. After reviewing the academic literature and case studies of the major transnational crimes in the region, the author concludes that ASEAN's conceptual weaknesses—that is, the requirement of unanimity in decision making—and lack of institutions capable of checking autocratic leaders' desire for wealth and power have simply overpowered the best intentions of international agreements and regional cooperation. Legacies from the colonial era; the political/crime nexus in the region; outside forces, including the enabling role of foreign banks in Malaysia's recent international financial scam; and cultural idiosyncrasies have also contributed to the gaps between written goals and on-the-ground success. Related challenges are around the corner: meeting them will require increased trust among the region's law enforcement and intelligence agencies; and continued close cooperation with foreign counterparts. Above all, the region's leaders must commit politically and legally to counter these growing problems.

**Keywords:** Southeast Asia, transnational organized crime, ASEAN, UN Convention Against Transnational Crime (UNTOC), UN Convention Against Corruption (UNCAC).

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## **Introduction**

The Association of Southeast Asian Nations (ASEAN) is a vibrant, economically powerful collection of ten autonomous states located along strategically important land and sea routes from the Middle East to north Asia and the Pacific. The world's industrial powers all have significant commercial, political and security interests in the region, along with long historical ties.

Despite these seeming advantages but also in part because of them, Southeast Asian nations have long been plagued by significant transnational crime: leaders who have used their positions for personal gain as well as drug and human trafficking. Illicit cross-border activities increased in depth and scope during the first two decades of the 21<sup>st</sup> century, including alleged violations of human rights involving thousands of victims in Myanmar and the Philippines; a multi-billion US dollar international financial scandal in Malaysia that reached to North America, Western Europe and the Middle East; national election fraud in Cambodia that has drawn sanctions from the European Union and the United States; and the escalation of illegal economies in northern and eastern Myanmar that have reportedly drawn in at least one international drug syndicate while trafficking an estimated US \$60 billion of methamphetamines and US \$10 billion of heroin from eastern Myanmar to north Asia and the Pacific. Unregulated mining and logging in northern Myanmar has also reportedly caused major environmental damage and hundreds of deaths (Fishbein, et al, 2020)

ASEAN, which celebrated its 50<sup>th</sup> anniversary in 2017, has played an active role at the international level in trying to limit those problems, acceding to the United Nations Convention on Transnational Organized Crime (UNTOC), its related protocols and the UN Convention Against Corruption (UNCAC). At the regional level, ASEAN ministers of interior and home affairs meet every two years in the ASEAN Ministerial Meeting on Transnational Crimes (AMMTC), which supervises the related work of police chiefs in the member states. The ASEAN Wildlife Enforcement Network (ASEAN-WEN) was

officially launched in December 2005. Agreement was reached in April 2018 to increase regional capacity to counter cybercrimes.

The major governments with interests in the region also provide assistance and training. China and ASEAN delegations meet biannually at ministerial and senior officer levels to consider criminal activity of mutual concern based on a Memorandum of Understanding (MOU) signed in 2004 and renewed in 2009 (Chit Win, 2017, p.2). The United States and Australia provide law enforcement training through centers in Bangkok and Jakarta which they co-host respectively with the Thai and Indonesian governments. The United States Department of Justice and the Federal Bureau of Investigation cooperated closely with Malaysian authorities in breaking the major financial scam that brought down Malaysian Prime Minister Najib Razak in 2018 (U. S. Department of Justice, 2020). The Australian Federal Police are also heavily involved in the region, having taken a lead role in international efforts to control heroin and methamphetamine trafficking out of Myanmar (Cave, 2021).

Given this history, why have transnational crimes in the region expanded and diversified? In this article, this question will be answered by reviewing and synthesizing the available academic literature and major studies done by the United Nations as well as non-governmental organizations and the extensive media coverage of these issues. The article that follows also includes case studies of three of the major illicit challenges in the region: narcotics, human trafficking and animal poaching and trafficking, an issue that underscores the relationship between cultural practices and crime. What follows is an overview of a complex set of problems that stretch around an even more diverse region.

### **Sources of Criminal Activity in Southeast Asia**

Leaders all over the world try to use their positions to maintain power and influence. Anyone who followed political developments in the United States during President Donald Trump's administration and through the inauguration of his successor on January 6, 2021, understands this practice. The most successful practitioners of this art are in countries with limited checks and balances on such efforts. With the exceptions of Singapore and secondarily Malaysia, Southeast Asian governments have not taken the time or made the effort to create institutions capable of controlling efforts by their leaders and the institutions that support them to use government funds for personal gain.

Short of dramatic changes in governance in several of the region's countries, this practice will not abate soon. A lengthy report published in July 2019 by the United Nations Office of Drugs and Crime (UNODC) reported that corruption underpins many of the region's criminal activities (UNODC, 2019 pp 18-19). The financial scams now being tried in Malaysia and Hun Sen's nefarious election rigging in Cambodia alone confirm that billions of US dollars were involved in corrupt activities in the region in 2018. The pay-offs and under-the-table deals involving drug trafficking and the regions' other illicit activities far exceed the amounts of money involved with the Najib/Hun Sen affairs.

Long established societal practices also contribute to corruption in Southeast Asia. Researchers in Indonesia have reported that at least some of the region's citizens accept, even expect, government officials and political leaders to use public office and other prestige posts for personal benefit (Welsh, 2016). Prominent national leaders who have criticized underhanded activity before assuming positions of authority have compromised earlier views in exchange for political allies after taking office. For example, President Duterte campaigned in the Philippines on a tough law-and-order platform but later approved moving the remains of ex-President Marcos to the Heroes cemetery in Manila in November 2016 (*Philippine Star*, 2016).

As might be expected in such a diverse region, however, not everyone accepts corruption or looks the other way when it takes place. As mentioned above, the Malaysian

electorate voted ex-Prime Minister Najib out of office in May 2018. He and his accomplices are now being tried for serious financial malfeasance. Lesser-known incidents also give lie to generalizations about Southeast Asians' acceptance of corruption.

Ralf Emmers, a scholar based in Singapore, pointed out an obvious, but basic, aspect of the problem in an article he wrote for the *Pacific Review* in 2003, namely that transnational crimes by definition span more than one country, and they may not be considered universally illegal under international law (Emmers, pp 420, 423 and 425). Cooperation is therefore essential between governments that can have different stakes, or even different interests, in trying to control (let alone prosecute) them.

ASEAN still lacks a mechanism for proactively combating transnational crime within a multilateral framework because of its commitment to upholding the principles of national sovereignty and non-intervention. It cannot dictate that national laws, and the procedures for enforcing them, be harmonized. The need for unanimity in ASEAN limits its ability to intervene in sensitive cases, particularly those involving the actions of prominent national leaders (Ibid).

This weakness showed itself when 300 Muslim refugees (Rohingya) were turned away at sea by the Malaysian government on June 11, 2020 as they sought to escape pain and suffering in Bangladeshi camps after being forced from their homes in north western Myanmar by government military forces in 2017-18 (*Daily Sabah*, 2020). The United Nations Human Rights Council has accused the Myanmar government of “failing its obligations....to enact effective legislation criminalizing and punishing genocide” (UN Human Rights Council, October 2019). That charge has yet to lead to significant change, despite the Bangladesh government's increasingly desperate efforts to escape the burden of having approximately one million refugees on its soil.

Other scholars have offered historical explanations to these problems. Eric Tagliacozzo, for example, writes, “the practice of trading far from the eyes of the state, indeed, has changed little over the centuries in this part of the world. What has changed, to some degree, is the nature of goods flowing in these opaque, liminal spaces, and why they travel in the first place” (2002, p. 194).

He examines two sectors of the criminal economy, drug and human trafficking, suggesting that economic slowdowns in the 1990s were an important reason why the high-minded rhetoric of combating transnational crimes failed to generate notable results. In the long-term he predicted regional efforts to fight such crimes will give way to corruption, fuelled by market forces inherent to runaway capitalism (Ibid, pp. 205-206). Absent strong political will, mere statements of intent and even operational-level information sharing will not take place. Written 18 years ago, Tagliacozzo is on the mark today. He also describes how traditional cultural practices can serve as sources of criminal activity in Southeast Asia. He cites trafficking of animal parts as an example of this, suggesting that “few in Europe or North America would resort to violence to obtain tiger bile ducts” (2009, p. 252).

Other unique qualities of regional mores and practices also affect modern day international crimes in the region. For example, a researcher at the Habibie Center in Jakarta has written that at least some of the region’s citizens accept (even expect) government officials and political leaders to use public office and other prestige posts for personal benefit (Welsh, 2016).

More likely, in my opinion, many Southeast Asians probably feel powerless—and with good reason—to challenge official corruption, particularly when it involves large public institutions such as the military or major political parties. For example, a Cambodian anti-corruption activist, Kem Ley, was assassinated in Phnom Penh in July 2016 in broad daylight (BBC News, July 10, 2016) and a Lao critic of his government, Sombath Somphone, disappeared near a police station in Vientiane in December 2012 under still unclarified circumstances (Strangio, 2020). Numerous Vietnamese dissidents have also been jailed and persecuted for criticizing their government.

Reporting presciently over two decades ago, Peter Chalk observed that, “there are sometimes other factors at play which prevent discourse from being followed up with action.” For example, “secret deals between drug traffickers and government officials have continued to be made in Myanmar” (2000, p. 90-93).

He was referring to agreements between covert American sources and Myanmar officials during the 1950s when Chinese Nationalist troops retreated to then Burma and began converting opium to heroin and trafficking it out of the “golden triangle” where Myanmar, Thailand and Laos intersect, using the proceeds to harass the victorious communist forces in China (McCoy, 1972). The links between Myanmar’s military officers, the militias they created to control ethnic dissidents in the Shan States and the relationships the militias have with drug syndicates were described recently in a detailed study done in January 2019 by the respected International Crisis Group (“Fire and Ice, Conflict and Drugs in Myanmar’s Shan State”).

The same types of links likely underpin the illegal and dangerous exploitation of Myanmar’s jade mines, a US \$31 billion industry described by a non-governmental organization based in London, Global Witness, as “Myanmar’s big state secret” (Global Witness, 2015, p. 1-31). The illegal logging that has decimated Myanmar and Indonesia’s forests are part of the same set of criminogenic conditions.

Academic writing also previews the environmental problems caused by these illegal mining and deforestation in parts of Southeast Asia today. Lorraine Elliot has observed, for example, that environmental crimes, even when committed on a sustained basis, attract less attention than drug or arms trafficking (Elliott, 2007, pp 508-510). Yet their impact on state security (preserving the integrity of national borders), economic security (preventing revenue losses), and human security (minimizing disruption to local communities) is considerable.

While Professor Elliot’s assessments of the comparative public noise levels of the different crimes are no doubt accurate, subsequent press reporting and related photographs of the death and destruction by illegal mining in Myanmar’s Kachin state illustrate the seriousness of those type crimes as well. In addition to the *Global Witness* study cited above, see the *South China Morning Post*’s report of August 19, 2020; *BBC news* of May 19, 2020; and earlier reporting in *The New York Times*, July 17, 2018 and *Time* magazine, March 9, 2017.

In a similar vein, Peter Munro writes about the political criminal nexus (PCN) in Southeast Asia's borderlands, looking at the specific impact this has had on human trafficking. His study examines the dynamics of this activity in three border areas: (1) Indonesia-Malaysia-Singapore; (2) Thailand-Cambodia; and (3) Thailand-Myanmar. Continuing transnational crime in the region can surely be attributed in part to weakly-policed borders (Munro, 2012, p. 164-167). This shortcoming, however, does not account for the transcontinental flows of drugs, humans and wildlife that regularly pass to and from ASEAN countries by sea and air routes, often through well-guarded ports of entry where checks are nominally rigorous.

Case studies of three of Southeast Asia's long-established, but currently ongoing and expanding, transnational crimes follow: narcotics, human trafficking, and animal poaching and trafficking. The analysis is intended to illustrate the historical legacies that underlie drug trafficking in the region; the economic disparities within and among ASEAN's member states; and aspects of the cultural divide that seems to exist between some Asian and Western views of animal poaching and trafficking.

## **A historical problem**



Opium cultivation has been part of the commerce and culture of mainland Southeast Asia since the early 18th century, when Chinese traders planted the crop in northern Burma (Renard, 1996, p. 14). As British administration was extended into the area from 1887 onwards, the colonial office decided to establish a system of “indirect rule” whereby leaders in the Shan and Kachin territories – main opium growing areas then and now – would have control of their own communities in exchange for recognition of overall central government authority and payment of an annual tribute. This enabled local rulers to continue the opium trade and encouraged their sense of independence from the rest of the Burmese colony (UNODCC, 2001, p. 44-46). That decision had a lasting impact.

When the International Opium Convention was adopted in The Hague on January 23, 1912, British authorities thought it would be difficult to achieve controls in Shan state, saying, “it is undesirable because opium is the main source of livelihood in many parts of the states. The cost of introducing administration of this nature would be enormous and unremunerative (and cause) problems of such magnitude as to be entirely incommensurate with the object to be achieved” (Ibid, p. 46). Whether Burmese leaders were aware of their former British masters’ reasoning fifty years earlier or not, they “reserved the right to allow opium poppy cultivation to continue in the Kachin and the Shan States for twenty years” when they signed the United Nations Single Convention on Narcotics Drugs of 1961 (Ibid, p. 47).

This same territory, located in today’s Myanmar, is at the vortex of what has become an industry with markets in all ASEAN member states. The end of the civil war in China between Chiang Kai Shek’s Kuomintang (KMT) and Mao Tse-Tung’s communist forces contributed indirectly to the drug economy. Following Mao’s victory in 1949, some KMT troops found refuge in eastern Myanmar and northern Thailand. They proceeded to take over much of the heroin trade, which originated at the time from makeshift laboratories along the Thai-Myanmar border. Their motive was ostensibly to buy weapons to protect their adopted homelands in Myanmar, Thailand and Laos “against the spread of communism.” At more mundane levels, they also sought to feed and enrich themselves. General Tuan Shi-wen, commander of the KMT’s Fifth Army – based in the

infamous Golden Triangle – was famously quoted as saying, “we have to continue to fight the evil of Communism, and to fight you must have an army, and an army must have guns, and to buy guns you must have money. In these mountains the only money is opium” (McCoy, 1972)

The Thai, Lao and Myanmar governments of the early 1950s and ‘60s saw benefit in having foreign (anti-communist) troops on their territory and allowed them to remain. The host governments did not object to the visitors’ mutually advantageous “day jobs” being supported by illegal “night jobs.” Thus, the trijunction of the three countries became colloquially known as the “Golden Triangle”. Of the three, Myanmar was the most prolific opium producer. The reason for this was a combination of prime opium growing land, persistent political instability, ready access to external sources of precursor chemicals and geographic centrality. Heavy suppression of drug production and trafficking in China also served to push the industry further south, although it did not slow the flow of the requisite precursor chemicals from China’s many chemical plants (UNODC, 2019, p 47).

In the 1960s and 1970s, the KMT remnant forces gave way to a Sino-Shan strongman, Chang Chi-fu (aka Khun Sa), who sold heroin to American military personnel in Vietnam as well as to users in the United States and Western Europe. A task force established by the U.S. Government reported in 1973 that an estimated 34 percent of the 500,000 American troops in Vietnam had “commonly used” heroin (Stares, 1996, p26). In the many years since, opium cultivation has gradually decreased in Myanmar (mainly due to the rise of alternative sources in Afghanistan), but there are still significant markets for heroin in Southeast Asia and the Pacific. The UNODC estimates there “are more than three million heroin users in Asia and the Pacific who consume about 66 tons of pure heroin annually with a market value of approximately US \$10.3 billion” (UNODC, op cit, p. 47).

Combating the drug trade has been difficult due to a focus on repressive and unilateralist measures. Across ASEAN, harsh sentences for drug use and trafficking – including the death penalty – are seen as effective deterrents. A stringent effort in

Thailand some time ago failed, although alternative development programs headed by the late King Bhumibol were successful. By far the most controversial has been the case of the Philippines. Although his country has a history of punitive anti-drug policies, President Duterte's campaign of extra-judicial killing of drug abusers is unprecedented in terms of scale across the ASEAN region. Thousands have been killed since the campaign began in July 2016. Estimates range between 7000 (Philippine police) and 27,000 by the chairman of the Philippine Commission on Human Rights (Ellis-Petersen, 2018, and Human Rights Watch, 2019). Yet, despite the crackdown, more methamphetamines and the precursor chemicals needed to produce them are flowing into the Philippines from China and the Golden Triangle (UNODC, 2019, p. 38).

In 2016, Myanmar became a regional leader by announcing a harm-reduction model for its drug policy in partnership with UNODC (UNODC, 2016). The paired "law and policy" documents released in early 2018 suggest conflicting priorities. While the policy "aims to build safe and healthy communities by minimizing health, social and economic harm," an amended drug law derived from earlier legislation passed in 1993 retains a strongly punitive bias (Transnational Institute, 2018). The competing priorities at stake are significant, especially due to the major role of drug revenues in ongoing insurgencies in Myanmar. It also remains to be seen whether Naypyidaw will be willing and able to make necessary investments in harm reduction programs.

Through the years of international isolation drug money "contributed more to Myanmar's relative economic stability than any other single business activity except the oil industry" (Lintner, 2000). Drug sales have been laundered into legitimate businesses and construction projects that have likely boosted economic development in other parts of Southeast Asia. It is not hard to understand why overstretched law enforcement and other government officials have sometimes been reluctant to confront traffickers, particularly when the latter were willing to share some of their illicit wealth with poverty-stricken villagers and—even more telling—with low-paid Burmese, Thai and Lao law enforcement and government officials.

Southeast Asia's rapid economic growth has created new classes of consumers – and markets for drugs – within the region. Organized trafficking rings have extended supply lines and opened new, high-end markets further out in north Asia and the Pacific. Low-cost amphetamines feed the exhaustion of workers fighting grinding poverty in Myanmar's jade mines, on Thai fishing boats and the long-distance truck and bus drivers who operate the machinery needed for economic growth (Strober, 2018). There is no 'one-size-fits-all' solution – no silver bullet – that can solve this nexus of complex problems. Writing nearly 20 years ago, one observer stated, "no anti-drug policy in Myanmar has any chance of success unless linked to a real solution to the country's political and ethnic problems, and meaningful democratic process in Yangon" (Lintner, 2000, op. cit). That is as true today as it was then.

### **Global Hub of Human Trafficking**

In 2018, the Global Slavery Index estimated in 2018 that nearly 25 million people in the Asia-Pacific region were working in conditions of extreme labour exploitation, or “virtual slavery,” including some 4.2 million Southeast Asians (Walk Free Foundation, 2018). The UNODC has labelled Southeast Asia a “global hub” of trafficking in persons – in other words, a source in the region’s poorer countries and a destination in its more prosperous states (UNODC, 2019). Southeast Asians migrate – sometimes on their own, other times with the “help” of professional traffickers – within their own countries. They also move, or are moved, from the poorer to the more prosperous ASEAN member states, to wealthier Asian and Pacific nations outside of Southeast Asia, and to more distant countries with better job and living prospects in the Middle East, Europe, North America and Australia. There are several reasons for this. Substantial differences in the ASEAN member states’ economies fuel the trafficking problem. In 2019, for example, the gross national income (GNI) per capita in Singapore was US \$60,000, more than 50 times that of Cambodia at US \$1,070 (World Bank, GNI Per capita, 2019). The minimum daily wage in Thailand (US \$11) in 2019 was more than three times that of Myanmar, which is US \$3.20 (Trading Economics 2019). Malaysia, Singapore, and Thailand were consequently turned into regional migration hubs between 1995 and 2015 with 6.5 million migrants, 96 percent of the total number of migrant workers in ASEAN. A World Bank study described the workers as “low-skilled and undocumented, compelled to move in search of jobs in construction, agriculture, fishing, and domestic services sectors. Higher salary jobs are available, yet workers are not always able to take advantage of these opportunities” (Testaverde, et. al, 2017).

The second reason for migration, both voluntary and involuntary, is the underground regional market for cheap labour. Human trafficking in Southeast Asia rests on the nexus of cheap labour and employers’ universal desire to maximize profits. Trafficking is especially prevalent in low-skilled and/or loosely regulated industries. For example, the World Slavery Index highlights Malaysian electronic and palm oil industries, Thai commercial fishing fleets and the Bangladeshi and Vietnamese garment industries are salient examples. In situations where local labour forces are too expensive

or unwilling to undertake unpleasant work, trafficking fills the gaps. Families in Saudi Arabia, Kuwait, Taiwan, Singapore, Malaysia, and other prosperous communities hire maids from Southeast Asia through formal and informal channels. Most of those selected accept offers of employment willingly but have limited, if any, recourse if (when) they are abused.

Working through Vietnamese and Russian facilitators, for example, Russian garment makers in Moscow brought Vietnamese seamstresses to work in Russia for low pay and long hours in factories which were actually old-fashioned sweatshops (Vozhdaeva, 2012). Construction companies in Bangkok bring Myanmar, Cambodian and Lao women across their shared borders to work on large building projects without committing to fair wages or protection of the workers' children (Thompson Reuters Foundation, 2018). Thai aqua farmers hire poor Myanmar citizens to clean shrimp in freezing water for long hours to fulfill lucrative sales on world markets (Mason, 2015). In rural Vietnam, young girls are taken to China against their will and sold as wives 'for the price of a buffalo' (Yen Duong, 2018). In October 2019, British police found 39 Vietnamese trafficking victims dead in a refrigerated trailer in an industrial park in Essex. According to press reports, the number of Vietnamese living clandestinely in the UK could be as high as 20 000, with many working in nail bars, restaurants, cannabis factories or as prostitutes (Wright, 2019).

A third source of illegal trafficking problems is the lack of comprehensive legal structures. Based on the Global Slavery Index's estimate for 2018, approximately seven-tenths of one percent of ASEAN's total population of 660 million was exploited under slave-like working conditions in 2018. This is not to dismiss or minimize the problem. Even a handful of people forced to work under exploitative conditions need help. However, the relatively small percentage of immediate victims from any one country (excluding Myanmar) helps explain why some leaders have been reluctant to address these issues. The overall problem might also seem intractable to them.

Even so, ASEAN has drafted regulations to facilitate intra-regional movement among certain skilled professions: doctors, dentists, nurses, engineers, architects,

accountants, and tourism professionals. However, those sectors provide just five percent of the jobs in the region (Testaverde/World Bank, 2017). The overwhelming majority of ASEAN migrants – often low-skilled, poor and forced to move from their homes to find work – are unprotected by existing or readily enforceable laws. These restrictive policies are influenced by the view that an influx of migrants would have negative impacts on receiving economies. Ambitious, prospective workers crossing borders illegally, sometimes with the help of unscrupulous brokers, is a recipe for disaster for some (International Labour Organization, 2008). The Thai government has tried in recent years to correct these problems, issuing Temporary Resident Permits in 2017 to more than 100,000 Myanmar nationals working in Thailand, and giving nearly one million identification certificates to undocumented workers from Myanmar. The Southeast Asian fishing industry has been in the spotlight in recent years and Thailand has made “sweeping reforms” there too, signing related international agreements and revoking the licenses “of more than 25,000 fishing vessels and cargo ships” (UNODC, 2019, p. 72).

Deaths linked to trafficking can challenge governments politically and morally. In an important case, mass graves were found in southern Thailand near the Thai-Malaysian border in May 2015 with the bodies of at least 30 ethnic Rohingya in them. Human Rights Watch reports the deceased “lost their lives due to inadequate food and disease while traffickers were waiting to receive ransoms from their families before smuggling them into Malaysia” (Auethavornpipat, 2017). In July 2017, the Government of Thailand took 102 of its officials and others involved in the grisly affair to court and convicted 62 of them on crimes against migrant asylum seekers, mostly from Myanmar. The court’s verdict was 500 pages long and took over 12 hours to read, the largest human trafficking trial in Thailand’s history (Ibid).

A senior Thai police officer who led an internal investigation in Thailand after the mass graves were discovered in 2015 found that “influential figures” in the Thai government, military, and police had been implicated in human trafficking. Fearing for his life, the investigator subsequently sought political asylum in Australia. Meanwhile, the Thai Government reported increasing numbers of investigations, prosecutions, and

convictions in 2016 (Ibid). In the final analysis, individual Southeast Asian leaders must have the political will and determination to develop and implement legislation that protects foreign workers regardless of the jobs they are doing, whether on fishing boats, farm labourers or sex workers.

### **Wildlife poaching and trafficking**

The executive director of the World Wildlife Foundation warned in 2018 that, “we are sleep walking toward the edge of a cliff,” adding that 60% of the world’s animal population had been destroyed since 1970 (Carrington, 2019). A group of scientific experts echoed this same concern on behalf of the United Nations in May 2019, reporting that “some one million animal and plant species are now threatened by extermination, many within decades” (IPBES, 2019). A respected independent scholar argued more pointedly that “species loss is caused in large part by intensified poaching and trafficking to satisfy demands for food, medicines, and trophies.” More than just the iconic elephants, rhinos and tigers are affected. The rate of extinction, she underscored, “is now as much as 1000 times the historical average, and at its worst since the dinosaurs died out 65 million years ago” (Felbab-Brown, 2017).

Of even more immediate concern, wildlife trafficking and poaching are multi-billion-dollar businesses that undermine the rule of law, fuel corruption and destabilize communities that depend on animals, birds and plants for biodiversity and eco-tourism (Lemacher, 2016). With estimated annual revenues as high as US \$23 billion, it is the fourth largest illicit industry after drugs, human and arms trafficking, and larger than the gross domestic products of three ASEAN member states: Cambodia, Laos and Brunei (World Development Index, 2017). As with human trafficking, the factors sustaining wildlife trafficking are varied.

There is a taste for exotic food and pets. This is by no means limited to Southeast Asia and can be found even in the industrialized countries of the West. However, cultural traditions in Southeast Asia and East Asia have intersected with increased socio-economic prosperity to create an unusually strong market for trafficked wildlife. Growing



economies have generated more disposable income for political and social elites, who then indulge in expensive consumer habits to show-off their wealth. Exotic meats are one popular medium of conspicuous consumption: “turtles, civets, pangolins (scaly anteaters), wild wrasses (marine fish), groupers and sharks are literally being eaten up by Asians,” noted one observer (Ibid, p. 52).

As supplies in the wild dwindled in Southeast Asia, and transportation and communication links proliferated around the world, new sources opened in Africa. People living in poverty there were willing to risk their lives in capturing animals and preparing them for shipment. Unscrupulous “businessmen” with access through legal day jobs to privileged information and contacts used these special insights to move exotic products to wealthy users and their intermediaries in Asia. There is also a preference for exotic pets. For example, field research on Java—the most populous island in the world, with 145 million inhabitants—has shown that trade in birds remains deeply embedded in the island’s culture. A Javanese proverb states that, “every man should have a house, a horse (more likely a car or at least a motorcycle now), a wife, a kris (traditional dagger) and a bird.” A researcher found “at least one-third of Javanese households keep birds.” Not surprisingly, she also found there were not many birds left in the Javanese countryside, “most having already been caught by traders” (Felbab-Brown, 2013). Imposing environmental policies based largely on values advocated by western governments and non-governmental organizations at the seeming expense of local people’s long practiced traditions can be difficult to enforce: “even the Indonesian animal rights movement that came out of reform efforts at the end of the Suharto dictatorship in 1998 backed off from taking on bird markets” (Felbab-Brown, 2017, p. 7).

Wildlife trafficking is a low-risk, high-gain business. A prosecutor with the Thai attorney general’s office observed that “we don’t really investigate in detail wildlife crimes in Thailand because, in general, people don’t see them as important. It’s not like life or death of a human, so we put more importance on how wildlife trafficking is related to other crimes like terrorists or organized crime” (Mordock, 2019). Poachers and traffickers have been arrested over the years, and large shipments of animal parts have

been seized in route to Southeast Asia and China from Africa and points between. Shipments continue, however, and leading traffickers are rarely prosecuted.

For example, Bach “Boonchai” Mai, a leading member of a Vietnamese trafficking gang, the “Hydra” (named for its many arms), was arrested in Nakorn Phanom, a small town in northeast Thailand, in January 2018. The town is directly across the Mekong river from Laos and a short drive to Vietnam. Bach was taken into custody in connection with the smuggling of 14 rhino horns from Africa. *The Guardian* had previously reported in September 2016 that Bach, his brother and other shadowy figures were responsible for “smuggling thousands of tons of elephant ivory, rhino horn and by-products from other endangered species” (Davies and Holmes, 2016). Earlier accomplices of the Bach brothers—the Xaysavang network led by a former Laotian military officer, Vixay Keosavang—were said to have moved some 300 tons of wildlife parts a year. Yet Bach’s case was dismissed for lack of evidence by a Thai judge in a provincial court in January 2019 (“Case against wildlife trafficking kingpin dismissed,” *Bangkok Post*, January 30, 2019). The prosecution’s key witness had changed his testimony, suddenly unable to identify Bach. Whether the witness was threatened or bribed is not clear. However, Bach, a Vietnamese national with Thai citizenship, is now thought to be “retired” or pursuing other interests in Laos or Vietnam (Hammer, 2019).

Southeast Asia’s proximity to China’s large, traditional market for wildlife means that the region is heavily affected by Beijing’s wildlife policies. China is currently recognized as the world’s largest market for trafficked wildlife products, including ivory (Stephens and Southerland, 2018). Southeast Asians supply some of those items, many more come through the region from Africa. For the latter, Southeast Asia in effect is a transit zone and local residents—often overseas Chinese or Vietnamese—make sure it functions smoothly.

In the Myanmar border town of Mong La, for example, “vendors have established a wildlife trading hub from which products like ivory, leopard skin, bear bile and elephant skin can be transported into China. Smugglers also use private border crossings with even weaker security....and Chinese authorities taking bribes to allow contraband to cross the

border is commonplace” (Ibid, p. 14). Shifts or changes in the Chinese market can lead to wildlife products flowing to the Southeast Asian countries with weak law enforcement capabilities.

For example, China’s ban on domestic ivory trade—effective December 31, 2017—has been rightfully hailed as a major success. After Beijing shut down 172 carving factories and all retail outlets in the country were closed, “raw ivory prices in the mainland fell by 65 percent.” There was also an 80 percent decline in seizures of ivory entering China.” WildAid’s Chief Executive Officer described China’s decision as “the greatest single step toward reducing elephant poaching” (Knights, 2018). Some of the Chinese ivory trade, however, shifted to Southeast Asia following the ban in China.

A survey by *Flora and Fauna International* showed that “the value of ivory openly shown for sale in Cambodia—primarily in Phnom Penh and the tourist center of Siem Reap—increased elevenfold from 2015 to 2018. Thirty percent of all the shops selling ivory—and a majority of the larger stores—were Chinese owned and 78 percent said their customers were also Chinese” (USAID, 2019). Cambodia is a signatory of CITES, but there is a loophole in the country’s domestic legislation that does not protect African elephants, “making it difficult to prosecute ivory traders once the ivory is already inside the country.”

China’s Wildlife Protection Law (WPL) permits the captive breeding of CITES-protected species, a position consistent with the use of wildlife as a natural resource. (Stephens and Southerland, p. 3). China’s stance on that issue could well have influenced the Lao government’s willingness to allow tiger farms to exist on its territory. According to the Environmental Investigation Agency—a non-governmental organization with offices in London and Washington—the Lao government, “licensed companies to breed, trade and export parts and derivatives of tigers.” This in turn allowed Chinese-run businesses in Laos to manufacture and sell tiger bone wine, tiger teeth and raw bones to Chinese residents and tourists (Environmental Investigation Agency, 2019). There are also reports of tigers being raised in family homes and farms in Vietnam for slaughter and sale. The infamous Tiger Temple in western Thailand was closed in 2016 following

reports that it was a slaughterhouse and holding facility used by a suspected animal trafficking network. Tiger cubs and other species had been found stuffed in freezers at the temple (Murdoch, 2016).

The Southeast Asian and Chinese governments need to decide individually and—when relevant—with their neighbors if curbing illicit trafficking and use of endangered species is important for them. If governments feel they can manage these species while still using them—as some Chinese officials apparently do—they should demonstrate to the international community how that can be legally and effectively done (Haas, 2017). If having birds in homes is deemed important—as was shown to be the case in Java—contingencies should be made to accommodate the market. There is a need for frank, confidential discussion among colleagues about means of dealing with problems for which one has yet to find satisfactory solutions.

### **Concluding remarks: Need for regional leadership**

As the ASEAN Economic Community grows in regional and international importance, individual societies and economies in Southeast Asia will become more exposed and vulnerable to forces outside their borders. Port and maritime security, as well as cybercrimes, are harbingers of those problems. Ensuring the balance is in favor of gains over losses will not be easy or quickly realizable. It will require courageous, disciplined leadership from political, military and government leaders, closer cooperation within ASEAN, including more intelligence sharing among services within the region and in the international community; and, in the final analysis, determined, efficient international law enforcement based on mutual trust and shared commitments.

Those steps cited above cannot be taken simultaneously. One off or even repeated public pronouncements and sloganeering will not work. Instead, influential individuals in the key member states will have to develop coalitions methodically around those committed to the rule of law and build out from them.

One possibility might be to examine the politics-crime nexus more closely at a non-governmental level, in the form of collaborative, cross-national journalistic reporting

and academic studies. These investigative efforts, provided they stem from within ASEAN member states, would have the advantage of both regional credibility but also offer some protection to researchers as long as they reflect a division of labour between local and foreign investigators. Typically, local investigators are vulnerable to reprisals even if they write about events and personalities that are well-known within a specific neighbourhood. Foreign investigators are able to avoid facing threats to their families and friends, but often lack local networks. By partnering together, the two can raise both public and policy awareness about transnational crimes. They can help bring to light the “organized” dimension of these crimes by exposing the patronage networks that enable them. Since ASEAN as an organization will normally not confront the entrenched nature of transnational criminality, “shaming” governments through civil society initiatives can be an alternative approach.

The focus must not be on encouraging domestic hardline policies of the kind adopted by the Duterte administration in the Philippines, but rather cross-border and region-wide procedures of joint investigation, data pooling and ideally, a common arrest warrant and rapid extradition of suspects. All of these infringe on the national sovereignty so dear to ASEAN member states. It has been ASEAN’s failure to introduce such steps, together with the apathy of the region’s population to transnational crimes and the segmented, pixelated view of such crimes within various government bureaucracies, that has allowed them to flourish. If change does not come from above, then it must come from small coalitions of working-level civil servants, military officers and grassroots initiatives supported by journalists, teachers and community leaders.

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