

ASEAN LEGAL SYSTEMS AND REGIONAL INTEGRATION

SESSION III – CURRICULUM DEVELOPMENT

International Law Conference on

ASEAN LEGAL SYSTEMS AND REGIONAL INTEGRATION

Asia-Europe Institute, University of Malaya

Introduction

3-4 September 2001

At the start of this Conference, we were reminded that ASEAN is 44 years old! As the history of ASEAN was briefly recapitulated to us by the Secretary-General yesterday morning, we see how ASEAN has matured from its humble beginnings of a "loose" association of five founding states in 1967 to its present state of being more receptive to legal structuring. The increasing number of treaties and agreements concluded by ASEAN in the economic

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A Malaysian Perspective

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The purpose of this paper is to consider how law schools in ASEAN states can contribute towards this process of "ASEAN Legal Systems and Regional Integration". More specifically, this paper will consider the following two matters:

- a. Developments in the University of Malaya and particularly, at the Faculty of Law towards this process.
- b. Possibility of a postgraduate program on ASEAN Legal Systems.

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Introduction

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The purpose of this paper is to consider how law schools in ASEAN states can contribute towards this process of “ASEAN Legal Systems and Regional Integration”. More specifically, this paper will consider the following two matters:

- a. Developments in the University of Malaya and particularly, at the Faculty of Law towards this process.
- b. Possibility of a postgraduate program on ASEAN Legal Systems.

a. Developments in the University of Malaya (UM) and particularly, at the Faculty of Law.

A department on Southeast Asian Studies has been established in the University of Malaya (UM) since 1978. This department takes a multi-disciplinary approach and courses are structured along regional lines. The strong interest in Southeast Asian studies has always prevailed. In early 2000, at a meeting between the Vice-Chancellors of UM and the National University of Singapore (NUS), the idea of a postgraduate program for an International Master in ASEAN studies was proposed. Since then, there have been further discussions and the planning for this UM-NUS collaboration is still ongoing. The proposed program will be made up of both taught and research based courses. Among the taught courses will be core courses and elective courses, which are offered by other faculties on matters related to ASEAN. For a start, the Faculty of Law has offered as an elective, a course on ASEAN Practice on the Law of the Sea. In future, it is hoped that more courses will be offered by the Faculty, for example, in environmental law and in trade and investment law.

It may be said that in small ways, the Faculty of Law has unwittingly already begun the process of integrating ASEAN concerns and comparative studies of different legal systems into its law curriculum. At the undergraduate level, first year law students have to take a compulsory subject, LXEB 1101 Malaysian Legal System where they are exposed to the Civil Law system practiced by some of our neighbouring states while the emphasis of the course is on the Common Law and the peculiarities of the Malaysian legal system. Besides this course, these students also take LXEB 1103 Islamic Law which is also a compulsory subject. By the time these students reach their third year, they will be studying international legal norms and treaties when they embark on LXEB 3103 Introduction to International Law, a compulsory course commencing in the next academic session 2002/2003. Presently, two courses on Public International Law (LXEB 2301 and LXEB 2401) are available to second and third year students as optional subjects. The decision to make Public International Law into a compulsory subject was made recently by the Faculty, upon the

recommendations of the Curriculum Review Committee. Among the main reasons for the change is the recognition that in this age of globalization, our law students must be equipped with at least some rudimentary fundamentals of how nation states operate and relate to each other at the international level.

At the postgraduate level, some amount of ASEAN input can be seen in courses such as LM 531 International Environmental Law, since issues of the environment knows no boundary as is particularly obvious in the matter of the haze which is a concern to many of us present here. Similarly, in LM 508 Law of the Sea, important issues arise, for example, from the Straits of Malacca and Singapore, *vis-à-vis* Indonesia and Malaysia. Comparative studies of some ASEAN constitutional systems, the Common Law system and the Islamic system take place in the subject of LM 502 Comparative Constitutional Law.

The challenge to the Faculty is whether to offer a postgraduate course on ASEAN concerns alone rather than the disparate treatment of ASEAN issues as it arise in any particular course, as is presently practiced. This has to a certain extent, being hampered by the lack of specialist lecturers to run the entire course. It is now timely to move on to the next subject matter of this paper, which may open up some possibilities on this related matter.

b. Possibility of a postgraduate program on ASEAN Legal Systems.

At the Introduction of this paper, I mentioned the possibility of a future trend in ASEAN for a greater acceptance of legal structuring in view of the increasing areas of mutual cooperation, some of which have been identified. In order to have a more legal arrangement on any of these areas, I believe, there must first be an understanding of the legal systems of each of the member states. Thus, consideration for a postgraduate program on ASEAN legal systems is now timely. More specifically, there must be an understanding of the Constitutions of each member state as this is the basis of each member's legal foundations and laws. Thus, a course on ASEAN Comparative Constitutions is important for any postgraduate program on

ASEAN Legal Systems. Another relevant subject to include is a course to consider the best measures towards regional integration in ASEAN. Thus, a comparative study of associations and groupings such as the European Union, the Organisation of American States, the Organisation of African Unity or the Organisation of Islamic Conference is pertinent. Thus, with reference to the European Union, a study needs to be made as to whether ASEAN regional integration is best fostered through multilateral treaties, which are further enforced by local national legislation. The other relevant subjects should consist of comparative studies in relation to public and private laws, particularly to some of the common matters of concern to ASEAN identified above.

Besides the issue of content, important issues arise as to the management of the program. Possibilities arise as to whether the program is managed by one university having the resources to do so, or alternatively, for a consortium of universities from various ASEAN states to run the program. If the latter is chosen, there may still be a need for a coordinating university and if so, the question arises as to which university should confer the degree upon the completion of the program. The question of the mode for delivery for the program also raises interesting questions. Should the program be managed in the traditional way, of students physically attending classes in a university, and if a program is run by a consortium of universities, by way of rotation in attending at the different universities. For example, for the UM-NUS collaboration mentioned above, since only two universities are involved, it has been proposed that students spent half their required time in each university and take subjects which are specialisations of that university. Besides this traditional mode, in light of the advances in technology, the possibility of running the program online should be seriously considered. Thus, provided that the required technology is available in the member states, students can access the program online through computers. These are merely some of the issues that will have to be considered. While the outcome of any such program may come to fruition many years from today, it is indeed a matter which should be seriously pursued in line with the aims of greater regional integration in ASEAN.