

ASEAN AND UNIVERSAL VALUES*

IOAN VOICU**

Abstract. The article is dedicated to an analysis of the modalities of reflection of universal values proclaimed by the United Nations Millennium Summit in ASEAN's fundamental instruments and practices. It presents the institutional and conceptual frameworks of this theme, some examples of peace-oriented values in ASEAN's practices and concludes with a few suggestions concerning the further advancement of universal values at the regional and global levels.

Keywords: *ASEAN; United Nations; Freedom; Equality; Solidarity; Tolerance; Respect for Nature; Shared Responsibility*

Institutional Framework

The Association of Southeast Asian Nations or ASEAN is a regional intergovernmental organization which was established on August 8, 1967 in Bangkok by five countries: Indonesia, Malaysia, the Philippines, Singapore and Thailand. Brunei Darussalam joined on January 8, 1984, Vietnam on July 28, 1995, Laos and Myanmar on July 23, 1997, and Cambodia on April 30, 1999¹.

ASEAN promotes cooperation and facilitates economic, political, security, military, educational, and socio-cultural integration among its members and other countries in Asia, as well as the United Nations (UN) and major regional organizations².

* This article is an updated and enlarged version of an article with the same title published in 2021 in the Journal of the Faculty of Law of Assumption University in Bangkok. See อาริษยณและคุณศาสกร | AU Law Journal.

** Doctor in Political Sciences (International Law) of Geneva University (1968); Doctor honoris causa in International Law of Assumption University of Thailand (1998); alternate representative of Romania to the United Nations Security Council (1990-1991); Ambassador of Romania to the Kingdom of Thailand and permanent representative to international organizations based in Bangkok (1994-1999); Visiting Professor in Assumption University (2000-2019).

¹ Information and data for this article have been obtained first of all from the official ASEAN website available at <https://asean.org/>.

² The literature about ASEAN is relatively rich, but of unequal scientific interest. We have used in this article a few recent monographs written by authors with an extensive diplomatic and academic experience about ASEAN. Marty Natalegawa, *Does ASEAN Matter?: A View from Within*, I SEAS – Yusof Ishak Institute, Jakarta, 2019, 355 p.; Donald E. Weatherbee, *ASEAN's Half Century: A Political History of the Association of*

Based on 2022 data, the current population of South-Eastern Asia is 683,539,359 as of Saturday, October 8, 2022. In accordance with the latest UN estimates. South-Eastern Asia population is equivalent to 8.58% of the total world population. South-Eastern Asia ranks number 2 in Asia among subregions ranked by population. This area has an average GDP growth of five percent nearing \$3 trillion, and a young, tech-savvy demographic, the ten ASEAN Member States making up one of the world's most dynamic regions³.

The main aims and objectives of the ASEAN can be summarized by reminding the well-known fact that essentially this organization is determined: (1) to accelerate economic growth, social progress and cultural development in the region (2) to promote regional peace and stability through respect for justice and the rule of law in relations between countries in the region and compliance with the principles of the UN Charter.

To give tangibility to these aims and objectives at the beginning of the tumultuous 21st century, ASEAN decided to develop an integrated area by forming a community of Southeast Asian countries that wishes to be open, peaceful, stable and prosperous, caring for each other, tied together in a dynamic partnership in the current century.

These aspirations are reflected in the Vision ASEAN 2020, adopted in Kuala Lumpur in 1997. To implement this generous hope, ASEAN adopted the Bali Concord II at the ASEAN 9th Summit in Bali in 2003 which approved the establishment of the ASEAN Community and the target was accelerated to be reached in 2015.

After a long process of negotiations and technical work, at the 13th ASEAN Summit in Singapore in 2007, ASEAN member countries signed the ASEAN Charter. After going through the ratification process in each Member State, the ASEAN Charter came into force on December 15, 2008.

In accordance with its Charter, ASEAN summit meetings have been scheduled to occur semi-annually and they bring together the heads of state of member countries. There are also annual conferences for foreign ministers.

Relations between ASEAN and other countries are conducted through an original diplomatic process. It includes ASEAN Plus Three, an annual meeting of the heads of state of ASEAN members and the leaders of People's Republic of China, the Republic of Korea, and Japan; ASEAN Plus Six, which includes ASEAN Plus Three and Australia, India, and New Zealand; and the East Asia Summit, a meeting of ASEAN Plus Six and Russian Federation and the United States of America.

Between ASEAN summits meetings the current organization's activities are directed by a standing committee consisting of the foreign minister of the host

Southeast Asian Nations, Rowman & Littlefield Publishers, New York, 2019, 292 p.; Kishore Mahbubani, Jeffery Sng, *The ASEAN Miracle: A Catalyst for Peace*, National University of Singapore Press, 2017, 286 p.; Kishore Mahbubani is a former permanent representative of Singapore to the UN. Jeffery Sng is a writer and former diplomat based in Bangkok.

³ These data are taken from the official site of the US Mission to ASEAN, available at <https://asean.usmission.gov/our-relationship/official-reports/> and accessed on September 8, 2022.

country of the ministerial conferences and ambassadors from the other countries. A permanent secretariat in Jakarta, Indonesia, is headed by a Secretary-General, whose position rotates every five years.

Cooperation between ASEAN and the UN is described as follows in a report submitted by the UN Secretary General to the UN General Assembly⁴.

The UN and the ASEAN have taken significant steps to formalize institutional cooperation, in particular with the adoption in September 2016 of the Plan of Action to Implement the Joint Declaration on Comprehensive Partnership between the ASEAN and the UN (2016-2020), and the ASEAN-UN Environment and Climate Change Action Plan (2016-2020) in September 2017.

Practical cooperation has been facilitated through the activities of the Economic and Social Commission for Asia and the Pacific (ESCAP) and other entities of the UN system, and by the presence of a UN liaison officer to ASEAN in Jakarta. ESCAP has continued to work closely with ASEAN to overcome barriers to economic integration through the facilitation of trade, transport and information and communications infrastructure.

Since 2012, the annual ASEAN-UN regional dialogues have created further space to share experiences and best practices in addressing common peace and security challenges. In December 2017, the regional dialogue held in Kuala Lumpur focused on the role of women in the prevention of violent extremism.

ASEAN member States have continued to be important partners and major contributors to UN peacekeeping activities. The UN participated in an ASEAN regional forum workshop on peacekeeping, held in Hanoi on 19 December 2017. During the ASEAN Defence Ministers Meeting Plus Experts' Working Group on Peacekeeping Operations, held in April 2018 in Bali, Indonesia, the UN announced the expansion of a triangular partnership project to the ASEAN region, effective late 2018. Initially implemented in Africa, the project provides training to troop-contributing countries in areas such as engineering that are critical to enabling capabilities.

The UN has continued to support the efforts of ASEAN with respect to disarmament, counter-terrorism, preventing violent extremism and cross-border security issues. In that regard, the UN Regional Centre for Peace and Disarmament in Asia and the Pacific, the UN Office on Drugs and Crime (UNODC) and the UN Office of Counter-Terrorism have organized regional workshops and capacity-building activities and helped to coordinate the sharing of experiences and good practices. In September 2017, the Regional Centre organized a workshop to discuss synergies between the region's efforts to implement Security Council resolution 1540 (2004), the Chemical Weapons Convention and the Biological Weapons Convention.

Furthermore, ESCAP, the UN Office for Disaster Risk Reduction and UNDP have cooperated closely with the ASEAN Secretariat and member States to support their efforts to prevent and address challenges related to climate change and disaster

⁴ The report has the symbol A/73/328-S/2018/592, sect. II, is available at <https://undocs.org/A/73/328> and was consulted on September 2, 2022.

risk reduction, management and recovery, including through the implementation of the ASEAN-UN Joint Strategic Plan of Action on Disaster Management, and the ASEAN Agreement on Disaster Management and Emergency Response, which is based on the Sendai Framework for Disaster Risk Reduction 2015-2030⁵.

This report summarized above and respecting its original terminology was considered by the UN General Assembly (UNGA) and led to a resolution adopted under Agenda item 128 entitled Cooperation between the United Nations and regional and other organizations (q) Cooperation between the United Nations and the Association of Southeast Asian Nations Draft resolution (A/73/L.71).

The representative of Singapore, speaking on behalf of all ASEAN members, introduced on December 20, 2018 draft resolution A/73/L.71. He mentioned three points summarized below. First, the establishment of ASEAN was an exercise to deepen regional integration and economic cooperation. Thanks to ASEAN, a region that was marked in the past by confrontation and conflict has been transformed into a region that operates on the basis of consultation and consensus. ASEAN has played an indispensable role in bringing about peace, prosperity and growth to South-East Asia. ASEAN is forecast to become the fourth-largest economy in the world by the year 2030.

Secondly, ASEAN's efforts for regional integration have been complemented and amplified by the international community. ASEAN's rapid transformation could not have been achieved without the support of the international community, particularly its 10 dialogue partners. ASEAN recognizes that closer collaboration with its external partners is necessary to tackle the challenges of an increasingly interdependent and interconnected world. The ASEAN member States will continue to build strategic trust and mutual confidence through open lines of communication in order to maintain an open, inclusive and ASEAN-centric regional architecture.

Thirdly, the relationship between ASEAN and the UN is mutually reinforcing. The UN provides the multilateral rules-based framework that allows regional organizations like ASEAN to flourish. At the same time, ASEAN contributes to global peace and security and sustainable development by strengthening habits of cooperation and respect for international law at the regional level⁶.

The resolution introduced by Singapore was updated to reflect the progress made in the implementation of the Plan of Action to Implement the Joint Declaration on Comprehensive Partnership between ASEAN and the UN (2016-2020), including in areas such as peacekeeping operations, cybersecurity and disaster management.

The document introduced by Singapore was characterized as being simple, straightforward, not contentious, balanced and substantive. It had over 70 co-sponsors, including members of the European Union, and was adopted by consensus. It was adopted in its final form by consensus on 20 December 2018 under the symbol A/RES/73/259 and distributed worldwide on 23 January 2019⁷.

⁵ A new report was submitted to the UNGA in 2020.

⁶ For the full text of the statement, see <https://undocs.org/en/A/73/PV.63> consulted on September 8, 2022.

⁷ The full text of the resolution is permanently available at <https://undocs.org/en/A/RES/73/259>. A similar resolution was submitted in 2020 during the 75th session of the UNGA.

For the purposes of this article which is conceived from the perspective of multilateral diplomacy the resolution introduced by Singapore has a special significance. This comprehensive document with a long preamble and 27 operative paragraphs has a complex substance going far beyond the objectives of the present article. It has the merit of containing a welcoming element by the UNGA of an ASEAN document which was not sufficiently publicized even in ASEAN area, but which is highly useful for diplomatic and educational reasons, as it tries to answer an essential question about the existence of ASEAN values which, by their very nature, are meant to guide ASEAN's activities, in tandem with universal values to be considered in the next section of this article.

The document referred to by the UNGA is the ASEAN Declaration on Culture of Prevention for a Peaceful, Inclusive, Resilient, Healthy and Harmonious Society, which complements the culture of peace agenda of the UN. The Declaration was adopted by the 31st ASEAN Summit on 13 November 2017 in Manila, Philippines. The document is remarkable by the fact that it contains 6 specific references to values. They refer to the determination of ASEAN countries: to further strengthen peace-oriented values in the region; to foster a culture of prevention through values-based education as well as lifelong learning, quality basic social services, youth engagement and sports; promoting a culture supporting the values of moderation; to celebrate the diversity in cultures, heritage, religions and values; strengthening the existing values-based education in schools and institutions; inculcating shared values such as peace, harmony, intercultural understanding, the rule of law, good governance, respect, trust, tolerance, inclusiveness, moderation, social responsibility, and diversity⁸.

This list of values deserves to be well known both in the ASEAN area and at the global level, as it contributes to the international reputation of this regional organization.

One of the most prestigious characterizations of ASEAN is to be found in the Statement by María Fernanda Espinosa Garcés, President of the 73rd Session of the UN General Assembly on 30 July 2019 at a reception in New York to mark ASEAN Day. The area covered by this regional organization was described “as a peaceful, stable and resilient region with vibrant, sustainable economies; and an outward-looking region within our global community of nations”.

In the same statement it was pointed out that ASEAN's vision “has great resonance with the 2030 Agenda for Sustainable Development, and as we work towards implementation, there is much inspiration we can draw from the “ASEAN Way” of compromise, consensus, and consultation”.

Thailand was commended in the same document “for its able and forward-looking leadership as Chair of ASEAN for 2019. Your theme “Advancing Partnership for Sustainability” speaks to opportunities for both the region and the wider world, in the areas of harnessing and regulating technology, increasing connectivity and

⁸ The full text of the Declaration is available at <https://asean.org/asean-declaration-on-culture-of-prevention-for-a-peaceful-inclusive-resilient-healthy-and-harmonious-society/>, accessed on September 10, 2022.

cooperation, and moving towards sustainable security and development. It is vital that we build stronger partnerships at all levels to manage these transitions – and to ensure that people are always at the heart of our efforts”, said María Fernanda Espinosa Garcés⁹.

Conceptual Framework

All ASEAN members took part in the UN Millennium Summit which on September 8th 2000 adopted by consensus the United Nations Millennium Declaration.

This Summit was the largest gathering of world leaders in history as of the year 2000. Over 150 world leaders representing 189 countries participated in the Millennium Summit, including 100 heads of state, 47 heads of government, three crown princes, five Vice presidents, three Deputy Prime Ministers, and 8,000 other delegates¹⁰.

The main document adopted by the Summit – the Millennium Declaration – contains eight sections related to the following: Values and Principles; Peace, Security and Disarmament; Development and Poverty Eradication; Protecting our Common Environment; Human Rights, Democracy and Good Governance; Protecting the Vulnerable; Meeting the Special Needs of Africa; Strengthening the United Nations.

In resolution 55/2 containing the UN Millennium Declaration section I dedicated to Values and Principles starts as follows: “We, heads of State and Government, have gathered at United Nations Headquarters in New York from 6 to 8 September 2000, at the dawn of a new millennium, to reaffirm our faith in the Organization and its Charter as indispensable foundations of a more peaceful, prosperous and just world”.

The part of this section related specifically to values reads as follows in paragraph 6:

“We consider certain fundamental values to be essential to international relations in the twenty-first century. These include:

- Freedom. Men and women have the right to live their lives and raise their children in dignity, free from hunger and from the fear of violence, oppression or injustice. Democratic and participatory governance based on the will of the people best assures these rights.

- Equality. No individual and no nation must be denied the opportunity to benefit from development. The equal rights and opportunities of women and men must be assured.

- Solidarity. Global challenges must be managed in a way that distributes the costs and burdens fairly in accordance with basic principles of equity and social justice. Those who suffer or who benefit least deserve help from those who benefit most.

⁹ For the full statement see <https://www.un.org/pga/73/>, accessed on September 11, 2022.

¹⁰ Statistical data have been taken from https://en.wikipedia.org/wiki/Millennium_Summit, accessed on October 5, 2022.

- Tolerance. Human beings must respect one other, in all their diversity of belief, culture and language. Differences within and between societies should be neither feared nor repressed, but cherished as a precious asset of humanity. A culture of peace and dialogue among all civilizations should be actively promoted.

- Respect for nature. Prudence must be shown in the management of all living species and natural resources, in accordance with the precepts of sustainable development. Only in this way can the immeasurable riches provided to us by nature be preserved and passed on to our descendants. The current unsustainable patterns of production and consumption must be changed in the interest of our future welfare and that of our descendants.

- Shared responsibility. Responsibility for managing worldwide economic and social development, as well as threats to international peace and security, must be shared among the nations of the world and should be exercised multilaterally. As the most universal and most representative organization in the world, the United Nations must play the central role.

7. In order to translate these shared values into actions, we have identified key objectives to which we assign special significance.”¹¹

In a simple classification, values can be divided into universal, regional, national and individual. Universal values are independent of time, place, language and culture. They have a high relevance today and their existence has to be attentively scrutinized in global and regional instruments. Facts are expected to testify to their presence in current international relations more eloquently than the words through which they are expressed in legal or political instruments.

By their very nature universal values rise above the diversity of individual roles of countries. They are able to strengthen the existing order and help build up a better one. Universal values are meant to be gradually reflected in the laws and philosophical doctrines, in education, language, rules and norms. The UN has a vital role to play in giving tangibility to universal values¹².

Guided by universal values, member states are constantly called upon by the UN to strengthen regional and international peace and security for the benefit of all. The growing interdependence between nations is an imperative reality and all states are expected to conduct their relations on the basis of the universal values and to shape their behaviour in harmony with these values. Their fundamental objectives can be peacefully achieved only if they are in accordance with universal values and are able by their substance to reflect common aspirations and are clear enough to be largely supported by meaningful international cooperation.

One of the simple explanations of the high practical significance of values in general was expressed by Mahatma Gandhi, leader of the Indian independence movement and pioneer of the philosophy and strategy of non-violence. He said,

¹¹ The Millennium Declaration is permanently available at <https://undocs.org/en/A/RES/55/2>.

¹² See the key-note speech by Kofi A. Annan published under the title *Universal values can help bridge the world's divides*, available at <https://www.kofiannanfoundation.org/news-releases/kofi-a-annan-universal-values-can-help-bridge-the-worlds-divides/>, accessed on September 15, 2022.

“Your beliefs become your thoughts. Your thoughts become your words. Your words become your actions. Your actions become your habits. Your habits become your values. Your values become your destiny.”¹³

There is no consensus in the doctrine of international law on the real existence of universal values. For instance, professor David Kennedy from the Institute for Global Law and Policy, Harvard Law School, Cambridge, MA, wrote the following: “If we step back for a moment, we could say that international law promises to play a series of quite distinct functions in international society. Many look to international law for the expression of universal values, most commonly in the human rights canon. But we now know that people disagree about the most fundamental things, that values are not universal, and that even human rights can often be part of the problem as of the solution.” The same author concludes that “Exercising our critical muscles, we can discourage being carried away by the dream of universal values”¹⁴.

A significant warning about some inappropriate interpretations of universal values was expressed on 28 September 2019 by an ASEAN Member State. Taking the floor in the general debate of the 74th session of the UNGA, Prak Sokhonn, Cambodia’s Deputy Prime Minister and Minister for Foreign Affairs and International Cooperation, said the emergence of a multipolar world should pave the way to peaceful coexistence. But some powers, under the pretext of universal values, are fomenting a new form of global division that recalls the worst moments of the Cold War. Using humanitarian reasons as a pretext to interfere in domestic affairs or to provoke regime change is deceptive and deceitful, he said, adding that increasingly serious threats to global security and the planet’s future are a direct consequence of weakening multilateralism¹⁵.

This warning is instructive. Reading and interpreting realistically world developments, the UN of the twenty-first century has the historic duty of encouraging a positive step towards a process of active solidarity by promoting values, attitudes and specific initiatives capable of improving inter-State relations.

Peace-oriented Values

Google indicates there are about 276,000,000 results for ASEAN in October 2022. In accordance with the same source, there are about 6,020,000,000 results for the world values, while for the expression “ASEAN and universal values” there is only one significant result. This result is from the article by R. Parker in 2016 and cited by three other authors¹⁶.

R. Parker advocates for the necessity to formulate a definition that addresses both core ASEAN and universal values.

¹³ The quotation is available at <https://www.goodreads.com/quotes/50584->, accessed on September 14, 2022.

¹⁴ See *New Approaches to International Law. The European and the American Experiences*. Published by T.M.C. ASSER PRESS, The Hague, Springer-Verlag Berlin, Heidelberg, 2012, p. VIII.

¹⁵ See <https://www.un.org/press/en/2019/ga12198.doc.htm>, accessed on September 30, 2022.

¹⁶ See for the full text of the article https://research.acer.edu.au/cgi/viewcontent.cgi?article=1020&context=ar_misc, accessed on September 9, 2022.

We proceed in the following pages to an analysis of the ASEAN Charter which contains three specific references to values¹⁷.

Article 1, paragraph 1 of the ASEAN Charter starts by proclaiming that “The Purposes of ASEAN are: 1. To maintain and enhance peace, security and stability and further strengthen peace-oriented values in the region”; This is the first text of this legal instrument related not only to values in general but to the “peace-oriented values” which are not listed in the Charter.

The second reference to values appears in article 2 of the Charter dedicated to principles. Paragraph 2 of this article stipulates that “2. ASEAN and its Member States shall act in accordance with the following Principles: (l) respect for the different cultures, languages and religions of the peoples of ASEAN, while emphasizing their common values in the spirit of unity in diversity”;

The existence of “common values” in ASEAN is presumed without being defined in the text.

The third reference to values is contained in article 35 entitled ASEAN identity which reads as follows: “ASEAN shall promote its common ASEAN identity and a sense of belonging among its peoples in order to achieve its shared destiny, goals and values.”

We will take now each universal value proclaimed in the UN Millennium Declaration and will try to answer the question if, how and in what context these values are reflected in the fundamental documents guiding at present the activities of ASEAN on regional and global arenas.

Freedom is mentioned four times in the ASEAN Charter, the first time in its preamble, in a paragraph reading as follows: “ADHERING to the principles of democracy, the rule of law and good governance, respect for and protection of human rights and fundamental freedoms”; This text is remarkable by its similarity with the language used on the same issue in the UN Millennium Declaration.

This idea is repeated in article 1 about purposes, in a separate sub-paragraph reading as follows: “7. To strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms, with due regard to the rights and responsibilities of the Member States of ASEAN”;

The third time the concept of fundamental freedoms appears in the article about principles, in a sub-paragraph reading as follows: “(i) respect for fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice”.

The fourth (last) time the reference to fundamental freedoms is contained in article 14, in its first sub-paragraph reading as follows: “1. In conformity with the purposes and principles of the ASEAN Charter relating to the promotion and protection of human rights and fundamental freedoms, ASEAN shall establish an ASEAN human rights body”.

¹⁷ The official text of the ASEAN Charter is permanently available at <https://asean.org/storage/images/archive/publications/ASEAN-Charter.pdf>.

It should be reminded that the ASEAN Intergovernmental Commission on Human Rights (AICHR) was inaugurated by the ASEAN Leaders on 23 October 2009 at the 15th ASEAN Summit in Cha-Am Hua Hin, Thailand. The current functioning of the AICHR illustrates ASEAN's practical commitment to advance strategies to consolidate the regional cooperation on human rights. The AICHR is considered as an integral component of ASEAN organizational structure and a permanent institution with overall responsibility for the promotion and protection of human rights in ASEAN.

Equality is mentioned five times in different contexts in the ASEAN Charter. The first reference to equality appears in the preamble of this multilateral treaty which reads as follows: "RESPECTING the fundamental importance of amity and cooperation, and the principles of sovereignty, equality, territorial integrity, non-interference, consensus and unity in diversity".

The same idea is present in article 2 about principles, its paragraph 2 having the following formulation:

"2. ASEAN and its Member States shall act in accordance with the following Principles: (a) respect for the independence, sovereignty, equality, territorial integrity and national identity of all ASEAN Member States";

The third reference to equality appears in the ASEAN Charter in a different context in article 11 the relevant part of which reads as follows:" 1. The Secretary-General of ASEAN shall be appointed by the ASEAN Summit for a non-renewable term of office of five years, selected from among nationals of the ASEAN Member States based on alphabetical rotation, with due consideration to integrity, capability and professional experience, and gender equality."

The same idea is repeated in the same article 11 in paragraph 6 which says: "The four Deputy Secretaries-General shall comprise: (a) two Deputy Secretaries-General who will serve a non-renewable term of three years, selected from among nationals of the ASEAN Member States based on alphabetical rotation, with due consideration to integrity, qualifications, competence, experience and gender equality";

The last (fifth) reference to equality is contained in article 42 which has a special significance for obvious operational reasons. This article says: "1. Member States, acting as Country Coordinators, shall take turns to take overall responsibility in coordinating and promoting the interests of ASEAN in its relations with the relevant Dialogue Partners, regional and international organizations and institutions. 2. In relations with the external partners, the Country Coordinators shall, inter alia: (a) represent ASEAN and enhance relations on the basis of mutual respect and equality, in conformity with ASEAN's principles";

Solidarity is mentioned only once in the ASEAN Charter in its preamble part in a separate paragraph in which the ASEAN Member States declare that they are "CONVINCED of the need to strengthen existing bonds of regional solidarity to realize an ASEAN Community that is politically cohesive, economically integrated and socially responsible in order to effectively respond to current and future challenges and opportunities".

The fact that solidarity is mentioned only once in this multilateral treaty should not be understood as a lacuna in the overall legal arsenal binding ASEAN countries. The first substantive preamble paragraph of the ASEAN Declaration (Bangkok Declaration) signed in Bangkok on 8 August 1967 by the five initial members of ASEAN says that the signatories are “MINDFUL of the existence of mutual interests and common problems among countries of South-East Asia and convinced of the need to strengthen further the existing bonds of regional solidarity and cooperation”¹⁸;

Diplomats familiar with the evolution of this regional organization cogently remind that “ASEAN developed more complex institutional frameworks after the launch of the ASEAN Charter in 2008, built organically on the solidarity established over previous decades”.¹⁹

It is also appropriate to bring to public attention the high diplomatic significance of the Treaty of Amity and Cooperation in Southeast Asia (TAC) of 24 February 1976. This treaty is a unique multilateral legal instrument with a total of 36 contracting parties, including not only the ASEAN Members but also USA, China, Russia, India, the European Union, and with more countries ready to join it²⁰.

For the purposes of this article it should be reminded that Article 1 of this exemplary legal instrument says: “The purpose of this Treaty is to promote perpetual peace, everlasting amity and cooperation among their peoples which would contribute to their strength, *solidarity* and closer relationship.” (emphasis added)²¹. It is probably the only case in the history of multilateral treaties when the value of solidarity appears in the very first article of a treaty of such political and diplomatic importance. During the current increasingly unsettled and challenging world, the topicality of this provision about solidarity does not require special demonstration.

Analysing the relevance of solidarity for ASEAN, authors with a deep knowledge of its functioning remind that “even when there were sharp disagreements between Myanmar and its fellow ASEAN countries, Myanmar decided that sticking with ASEAN was preferable to opting out. ASEAN camaraderie helped to create this deep sense of solidarity, which would prove to be useful in crises”²².

The values of *tolerance* and *respect for nature* do not appear *expressis verbis* in the ASEAN Charter. However, they are reflected in other ASEAN documents binding all its members, as well as in global instruments endorsed by the ASEAN countries. Such an instrument is, for instance, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief proclaimed by UN General Assembly resolution 36/55 of 25 November

¹⁸ The full text of Bangkok Declaration is permanently available at <https://asean.org/the-asean-declaration-bangkok-declaration-bangkok-8-august-1967/>.

¹⁹ See Kishore Mahbubani, Jeffery Sng, *quoted work.*, electronic version, see note 2, *supra*.

²⁰ See note 19 *supra*.

²¹ The full text of the Treaty is available at <https://asean.org/treaty-amity-cooperation-southeast-asia-indonesia-24-february-1976/>, accessed on September 11, 2022.

²² See note 19 *supra*.

1981²³. In Respect for nature is amply reflected in the 2030 Agenda for Sustainable Development approved by 193 UN Member States, including all ASEAN members²⁴.

In accordance with a realistic assessment expressed in a well-documented book, “The culture of tolerance has not always prevented inter-ethnic violence in ASEAN area but it has prevailed”. The same authors believe that “Southeast Asia seems to have both the deepest diversity and the greatest levels of tolerance”. A relevant example is mentioned: “Indonesia’s track record of promoting tolerance and understanding among different religious communities is excellent”. In the same context, it was pointed out that “This culture of coexistence between Islamic religion and Hindu myths is part of the culture of tolerance of difference that Indonesian society has developed”²⁵.

While the value of *shared responsibility* is not included in this specific formulation in the ASEAN Charter, its genuine meaning is expressed in terms whose real significance is nearly identical with that expressed for this value in the Millennium Declaration. In accordance with article 1 on principles “2. ASEAN and its Member States shall act in accordance with the following Principles: (b) shared commitment and collective responsibility in enhancing regional peace, security and prosperity”.

Article 41 of the ASEAN Charter refers to shared responsibility in the following terms: “1. Member States, acting as Country Coordinators, shall take turns to take overall responsibility in coordinating and promoting the interests of ASEAN in its relations with the relevant Dialogue Partners, regional and international organizations and institutions.”

Nine references to “shared commitment” are contained in the document entitled Joint Statement of the ASEAN-U.S. Special Leaders’ Summit: Sunnylands Declaration Sunnylands, California, 15-16 February 2016. In paragraph 8 of the document the parties expressed their “Shared commitment to maintain peace, security and stability in the region”²⁶.

A clear reference to shared responsibility is to be found in a programmatic document entitled Sochi Declaration of the ASEAN-Russian Federation Commemorative Summit to Mark the 20th Anniversary of ASEAN-Russian Federation Dialogue Partnership “Moving Towards a Strategic Partnership for Mutual Benefit”.

Article 1 of this document expresses the commitment of the parties to “Further strengthen the Dialogue Partnership based on the principles of equality, mutual benefit and shared responsibility to promote peace, stability, security, prosperity,

²³ The Declaration is permanently available at <https://www.ohchr.org/EN/ProfessionalInterest/Pages/ReligionOrBelief.aspx>.

²⁴ The 2030 Agenda is permanently available at <https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf>.

²⁵ See note 20 *supra*.

²⁶ The full text of the Joint Statement is available at <https://asean.usmission.gov/tag/joint-statement/>, accessed on September 20, 2022.

economic growth, sustainable development and social progress in the Asia-Pacific region with a view to working towards a strategic partnership”²⁷.

Another important document fully relevant from the perspective of universal values is the ASEAN Human Rights Declaration adopted on 18 November 2012 by the heads of state and government of this regional organization²⁸.

In various formulations, in conformity with the specific context of the document, the value of freedom is mentioned in this Declaration 8 times, equality 6 times, tolerance 2 times, respect 4 times and responsibility 7 times.

An original element of the Declaration is the emphasis put on peace which in the UN doctrine is considered to be a supreme value of humanity. Peace is mentioned 7 times in the Declaration and a special article is dedicated to the right to peace which makes this document unique among similar global and regional instruments. Article 38 of the Declaration stipulates that “Every person and the peoples of ASEAN have the right to enjoy peace within an ASEAN framework of security and stability, neutrality and freedom, such that the rights set forth in this Declaration can be fully realized. To this end, ASEAN Member States should continue to enhance friendship and cooperation in the furtherance of peace, harmony and stability in the region”.

As our article deals with ASEAN and universal values it should be also reminded that in accordance with article 7 of the Declaration under consideration “All human rights are universal, indivisible, interdependent and interrelated”.

It can be asserted that the values proclaimed in the Millennium Declaration (Freedom, Equality, Solidarity, Tolerance, Respect for nature, Shared responsibility) are also universal, indivisible, interdependent and interrelated. It can be illustrated by examples offered by the diplomatic practice of ASEAN member States.

In 2018 the delegation of Thailand, taking the floor in the UNGA’s general debate, expressed “solidarity with the Government and people of Indonesia for the terrible loss of lives, injuries and damages following the catastrophic earthquake and tsunami that hit the island of Sulawesi.”²⁹

As far as the respect for nature is concerned, the Thai delegation announced in the same diplomatic forum that “Thailand is the first Asian country to join a global initiative to clean up the oceans around tourist hotspots like Koh Samui, Koh Tao and the famous Phuket. We are working on raising public awareness on climate change. We are also cooperating with other countries in the region to mitigate the risks of natural disasters like what just happened in Indonesia”³⁰.

A serious challenge about the practical relevance of the values of tolerance and solidarity in the ASEAN area is illustrated by the tremendous difficulties emerging from the situation of Rakhine State in Myanmar. We will present a few positions expressed on this issue by some ASEAN Member States using UN

²⁷ The Sochi Declaration is available at <https://www.asean.org/storage/2016/05/Sochi-Declaration-of-the-ASEAN-Russia-Commemorative-Summit-Final.pdf>, accessed on September 20, 2022.

²⁸ The ASEAN Human Rights Declaration is permanently available at https://www.asean.org/storage/images/ASEAN_RTK_2014/6_AHRD_Booklet.pdf.

²⁹ The full statement is available at <https://gadebate.un.org/generaldebate73/en/>, accessed on September 25, 2022. For the full texts of all statements made in the general debate of the UNGA’s 73rd session see https://gadebate.un.org/sites/default/files/gastatements/73/sg_en.pdf. The names of countries appear in alphabetical order.

³⁰ See note 29, *supra*.

documents and respecting the nuances and the terminology of original statements dictated by political attitudes of diplomatic representatives.

In 2018, in its statement in the UNGA's session, the delegation of Malaysia said: "In Myanmar, Muslims in Rakhine state are being murdered, their homes torched and a million refugees had been forced to flee, to drown in the high seas, to live in makeshift huts, without water or food, without the most primitive sanitation. Yet the authorities of Myanmar including a Nobel Peace Laureate deny that this is happening"³¹.

The delegation of Singapore reminded in the same debate that ASEAN Member States are "committed to the peaceful resolution of disputes through multilateral processes. The situation in Rakhine State in Myanmar is a grave concern. The crisis is complex and deep-rooted and will not be resolved overnight. There are accounts of brutal and shocking atrocities. "We condemn all human rights violations. We expect the Independent Commission of Enquiry established by the Government of Myanmar to carry out impartial investigations expeditiously and hold those responsible fully accountable. The voluntary return of displaced persons to Myanmar in a safe, secure and dignified way should commence without undue delay. Ultimately, a political solution needs to be found, involving reconciliation, fairness, justice, and better prospects for all communities. Only then can there be a durable solution to this complex inter-communal problem"³².

On September 28, 2019 the delegation of Myanmar said it shared the international community's concern about the violence in Rakhine state, stating that attacks by the Arakhan Rohingya Salvation Army had triggered the current humanitarian crisis there. The Government of Myanmar prioritizes repatriation and is cooperating with Bangladesh, the United Nations Development Programme (UNDP), the Office of the United Nations High Commissioner for Refugees (UNHCR) and ASEAN to that end³³.

Is there a collective position of ASEAN inspired by solidarity and tolerance on this issue?

There is an inconclusive answer formulated in the Joint communique of the 52nd session of the ministerial meeting of the ministers of foreign affairs of ASEAN Member States which took place in Bangkok and is dated 31 July 2019.

In the relevant paragraphs of this document the following points deserve attention: "We discussed and received a briefing from Myanmar on the humanitarian situation in Rakhine State. We reaffirmed our support for a more visible and enhanced role of ASEAN to support Myanmar in providing humanitarian assistance, facilitating the repatriation process and promoting sustainable development. "There is no doubt that providing humanitarian assistance is an act of solidarity which deserves legitimate appreciation.

However, this document in its entirety is mostly descriptive and procedural, does not condemn religious intolerance and the demands addressed to Myanmar

³¹ For the statement of Malaysia see the document mentioned on note 29 *supra*.

³² For the statement of Singapore see note 29 *supra*.

³³ See the UN press release of September 28, 2019, available at <https://static.un.org/press/en/2019/ga12198.doc.htm>, accessed on October 3, 2022.

authorities are not imperative. The document is a good collection of wishes, but it does not contain deadlines and specific modalities of implementation.

On a relatively optimistic note, it should be mentioned that the ministers of foreign affairs of the ASEAN Member States” looked forward to the continued and effective dialogue between Myanmar and Bangladesh to facilitate the repatriation process of displaced persons from Rakhine State.” They “stressed the need to find a comprehensive and durable solution to address the root causes of the conflict and to create a conducive environment so that the affected communities can rebuild their lives”. Yet, Myanmar is not firmly requested, but just “encouraged” to continue to implement the remaining recommendations of the final report of the Advisory Commission on Rakhine State³⁴.

In a report by the UN Secretary General on the situation of human rights in Myanmar, dated 20 August, 2019, under the symbol A/74/311, a document considered during the 74th session of the UNGA, it is noted that “Even though the primary responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity lies with the Government of Myanmar, the international community, through the United Nations, should provide all means of assistance to ensure that Myanmar is meeting its responsibility in a manner that is consistent with international law and standards”³⁵.

The value of shared responsibility was firmly promoted by Singapore who had the chairmanship of ASEAN in 2018. In a statement made during the 73rd session of the UNGA the delegation of Singapore called the UN “the ultimate bastion of multilateralism”. In its opinion “Our work in ASEAN is rooted in our belief that regional organizations can demonstrate how multilateralism can continue to be relevant and beneficial to all our peoples”³⁶.

On the similar note, on September 30, 2019, the delegation of Thailand, a country which has the chairmanship of ASEAN for that year, said: “Growth and prosperity requires peace. Political and economic advancements require stability. Technology requires conscience. Environment requires hard work and sacrifice. Progress requires sustainability. These tautological notions are age-old, yet their achievement remains elusive. The most recalcitrant question is not the why, but the how – how to achieve those requisites in order to reach the desired objectives.”³⁷

Conclusions

It is rewarding to learn that the topic of universal, regional and individual values is on the ASEAN’s agenda for the future. Indeed, as announced on 26 June 2020 in the Chairman’s Statement of the 36th ASEAN Summit there is “progress made by the ASEAN Senior Officials Meeting on Youth (SOMY) in

³⁴ The full text of the ASEAN Joint Communique is available at <https://asean.org/joint-communique-52nd-asean-foreign-ministers-meeting/>, accessed on September 20, 2022.

³⁵ The report of the UN Secretary-General is available at <https://undocs.org/en/A/74/311> under the symbol A/74/311 - E - A/74/311 and was considered by the Third Committee during the 74th session of the UNGA.

³⁶ See note 32 *supra*.

³⁷ For a summary of the Thai statement, see <https://static.un.org/press/en/2019/ga12199.doc.htm>, consulted on October 2, 2019. The full statement is available at http://www.mfa.go.th/main/en/news3/6885/10_9544-Statement-by-the-Minister-of-Foreign-Affairs-of-th.html, accessed on October 2, 2022.

undertaking the second phase of the ASEAN Youth Development Index, which seeks to assess the domain of ASEAN Awareness, Values and Identity”.

The domain of values can be interpreted in a large sense by including the six universal values analysed in this article from the perspective of ASEAN’s legal and diplomatic perspective, as well as regional or individual values reflected in the current work of this organization which have to be further defined and developed.

For the present, ASEAN Member States can be congratulated for the successful reflection of the six universal values in their legal and political instruments and for the clear determination to further elaborate on regional and individual values. A promising example in this regard is offered by the same Chairman’s Statement mentioned above in which it is outlined that the ASEAN Summit itself encouraged partnerships with relevant ASEAN bodies and regional and international institutes to further promote the culture of peace and moderation in ASEAN³⁸.

Peace as a supreme value was analysed in the light of the ASEAN’s conceptual background in section III of this article. It will be interesting to follow how moderation, as an ASEAN value will be further developed having in mind that it has been already recognized by ASEAN that this value “guides action which emphasizes tolerance, understanding, dialogue, mutual respect and inclusiveness and is a tool to bridge differences and resolve disputes.”

It can be anticipated that the debate on universal values with the participation of ASEAN countries will continue during the future sessions of the UNGA under the agenda item on the promotion of a democratic and equitable international order. Resolution 65/223 adopted by the UNGA on 21 December 2010 contains frequent references to matters related directly or indirectly to universal values. In an appropriate context, these references concern *inter alia* the following : the right to an international economic order based on equal participation in the decision-making process, interdependence, mutual interest, solidarity and cooperation among all States; international solidarity, as a right of peoples and individuals; the promotion and consolidation of transparent, democratic, just and accountable international institutions in all areas of cooperation, in particular through the implementation of the principle of full and equal participation in the decision-making mechanisms³⁹.

In a realistic approach, it should be recognized that the direct references to universal values in global and regional documents are not frequent, their substance is not always explained and the UN is far away from a necessary process of codification and progressive development of such values.

³⁸ The full text of the Chairman’s Statement of the 36th ASEAN Summit is available at <https://asean.org/storage/2020/06/Chairman-Statement-of-the-36th-ASEAN-Summit-FINAL.pdf> and was consulted on August 28, 2020. See also The Langkawi Declaration on the Global Movement of Moderates adopted on the occasion of the 26th ASEAN Summit in Langkawi, Malaysia, on 27 April 2015, available at <https://asean.org/wp-content/uploads/2012/05/LANGKAWI-DECLARATION-ON-THE-GLOBAL-MOVEMENT-OF-MODERATES-Final.pdf> and visited on August 28, 2020.

³⁹ For the full text of the resolution, see <https://undocs.org/en/A/RES/65/223>, accessed on October 1st 2022.

So being the case, an important playing role has to be attributed to the educational system in order to make public opinion more interested, more familiar and knowledgeable about the complex content of universal values as proclaimed by the UN Millennium Summit in the Millennium Declaration.

For such educational activities, useful guidance can be found in the UN resolutions on relevant matters in particular in the one entitled Education for Justice and the rule of law in the context of sustainable development. The resolution with this title was already adopted by ECOSOC and was also endorsed by the UNGA during its 74th session⁴⁰.

It can be also expected that when the process of revision of the ASEAN Charter will be launched, the diplomats and lawyers involved in this process would try to elaborate more on the content of peace-oriented values already present in this constitutive instrument and will do that having in mind the six fundamental values proclaimed in the Millennium Declaration, namely freedom, equality, solidarity, tolerance, respect for nature and shared responsibility.

ASEAN could initiate a very useful process of codification and progressive development of universal values by taking inspiration from the activity of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States which after 7 years of work adopted in 1970 a document entitled Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations⁴¹.

Having in mind the experience of the Committee which drafted the Declaration on friendly relations it should be reminded that such a process demands a long period of time and the final result may not be at the expected qualitative level.

The history of the work undertaken within the framework the Council of Human Rights for the codification of the right to peace is fully eloquent about many legal and political difficulties which cannot be underestimated while trying to prepare a consensus document dedicated to a universal value already considered to be a supreme value of humanity⁴².

An auspicious occasion for further developments in the promotion of universal values was offered by the celebration in 2021 of the International Year of Peace and Trust decided by the UNGA on 12 September 2019. In accordance with resolution A/RES/73/338 co-sponsored by many countries including Thailand, “the International Year of Peace and Trust constitutes a means of mobilizing the efforts of the international community to promote peace and trust among nations based on, *inter alia*, political dialogue, mutual understanding and cooperation, in order to build sustainable peace, solidarity and harmony”⁴³.

⁴⁰ The full text of the resolution is available at <https://undocs.org/E/CN.15/2019/L.10/REV.1>, accessed on October 1st, 2022.

⁴¹ The Declaration on Friendly Relations is permanently available at <https://www.un.org/ruleoflaw/files/3dda1f104.pdf>.

⁴² The Declaration on the Right to Peace was adopted on December 19, 2016 and is available on a permanent basis at <https://www.refworld.org/docid/589c72134.html>.

⁴³ For the full text of the resolution adopted on September 12, 2019, see <https://undocs.org/en/A/RES/73/338>.

The process of preparation and celebration of this Year has offered ASEAN Member States the opportunity to make a legal effort to further define trust as a value binding them in their mutual relations, having in mind that trust is a central part of all human relationships, including partnerships, business operations, politics and diplomatic practices. The concept of confidence-building measures which is already familiar in multilateral diplomacy practiced under the UN auspices was expected to provide some useful guidance in defining trust.

Such an initiative by ASEAN was supposed to be in full harmony with the invitation addressed by the UNGA to all Member States, organizations of the UN system, other relevant international and regional organizations and civil society, including non-governmental organizations, individuals and other relevant stakeholders, to facilitate the observance of the International Year of Peace and Trust, in an appropriate manner and to disseminate the advantages of peace and trust, including through educational and public awareness-raising activities. COVID-19 pandemic has generated tremendous difficulties in an appropriate implementation of the program of this Year.

Such being the case, state and private universities and research institutes worldwide could continue to have a valuable contribution in this noble, humanistic process of promoting peace and trust as supreme universal values in a world characterized by the current global vulnerabilities, perplexities and discontinuities.

Bucharest, October 8, 2022

GENERAL (SELECTIVE) BIBLIOGRAPHY

- Annan, Kofi A., *Universal values can help bridge the world's divides*, <https://www.kofiannanfoundation.org/news-releases/kofi-a-annan-universal-values-can-help-bridge-the-worlds-divides/>;
 ASEAN Charter, <https://asean.org/storage/images/archive/publications/ASEAN-Charter.pdf>;
 Bangkok Declaration, <https://asean.org/the-asean-declaration-bangkok-declaration-bangkok-8-august-1967/>;
 Chairman's Statement of the 36th ASEAN Summit, <https://asean.org/storage/2020/06/Chairman-Statement-of-the-36th-ASEAN-Summit-FINAL.pdf>;
<https://asean.org/asean-declaration-on-culture-of-prevention-for-a-peaceful-inclusive-resilient-healthy-and-harmonious-society/>;
<https://asean.org/treaty-amity-cooperation-southeast-asia-indonesia-24-february-1976/>;
https://research.acer.edu.au/cgi/viewcontent.cgi?article=1020&context=ar_misc;
<https://undocs.org/en/A/73/PV.63>;
<https://undocs.org/en/A/RES/73/259>;
<https://www.goodreads.com/quotes/50584->;
<https://www.ohchr.org/EN/ProfessionalInterest/Pages/ReligionOrBelief.aspx>;
<https://www.un.org/pga/73/>;
<https://www.un.org/press/en/2019/ga12198.doc.htm>;
 Joint Statement, <https://asean.usmission.gov/tag/joint-statement/>;
 Mahbubani, Kishore, Jeffery Sng, *The ASEAN Miracle: A Catalyst for Peace*, National University of Singapore Press, 2017;
 Natalegawa, Marty, *Does ASEAN Matter?: A View from Within*, I SEAS – Yusof Ishak Institute, Jakarta, 2019;

- New Approaches to International Law. The European and the American Experiences*, T.M.C. ASSER PRESS, The Hague, Springer-Verlag Berlin, Heidelberg, 2012;
- Official ASEAN, <https://asean.org/>;
- Official site of the US Mission to ASEAN, <https://asean.usmission.gov/our-relationship/official-reports/>;
- Report A/73/328-S/2018/592, sect. II, <https://undocs.org/A/73/328>;
- Sochi Declaration, <https://www.asean.org/storage/2016/05/Sochi-Declaration-of-the-ASEAN-Russia-Commemorative-Summit-Final.pdf>;
- Thai Statement, <https://static.un.org/press/en/2019/ga12199.doc.htm>;
- The 2030 Agenda, <https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf>;
- The ASEAN Human Rights Declaration, https://www.asean.org/storage/images/ASEAN_RTK_2014/6_AHRD_Booklet.pdf;
- The ASEAN Joint Communique, <https://asean.org/joint-communique-52nd-asean-foreign-ministers-meeting/>;
- The Declaration on Friendly Relations, <https://www.un.org/ruleoflaw/files/3dda1f104.pdf>;
- The Declaration on the Right to Peace, <https://www.refworld.org/docid/589c72134.html>;
- The Langkawi Declaration on the Global Movement of Moderates, <https://asean.org/wp-content/uploads/2012/05/LANGKAWI-DECLARATION-ON-THE-GLOBAL-MOVEMENT-OF-MODERATES-Final.pdf>;
- The Millennium Declaration, <https://undocs.org/en/A/RES/55/2>;
- UN Secretary-General Report, <https://undocs.org/en/A/74/311>, A/74/311 - E - A/74/311;
- Weatherbee, Donald E., *ASEAN's Half Century: A Political History of the Association of Southeast Asian Nations*, Rowman & Littlefield Publishers, New York, 2019.