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Law and Civil Society in Cambodia and Vietnam: A Gramscian Perspective

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ABSTRACT *Commentators have long struggled to understand state-society relations in Asia within the framework of the dominant liberal-democratic conceptualisation of civil society. This article examines the relevance of Antonio Gramsci's theory of civil society for understanding contemporary Cambodia and Vietnam, with reference to both legal and social frameworks. Such an analysis illuminates important aspects of state-society relations in Southeast Asia that tend to be overlooked by dominant liberal and Marxist perspectives. This article argues, however, that the utility of Gramsci's conception of civil society for understanding state-society relations in Cambodia and Vietnam, by retaining the notion of civil society as a realm associatively separate from the state, is limited.*

In an essay on civil society in Malaysia, Ramasamy (2004) suggested that the application of a Gramscian understanding of civil society to Asia illuminates aspects of civil society that are overlooked by liberal perspectives. Unlike liberal theories that regard civil society as autonomous from the state, Gramsci recognised that civil society may constitute a space in which the state is engaged in a struggle with other actors to dominate popular ideas, values and norms: civil society is an "arena of contestations" (Ramasamy, 2004). This article examines the relevance of Gramsci's theory of civil society for two mainland Southeast Asian countries: Cambodia and Vietnam. These two countries offer fertile and diverse terrain upon which to critically evaluate Ramasamy's proposition.

This article begins by clarifying Gramsci's concept of civil society. It then briefly outlines why Ramasamy believes Gramsci's theoretical framework is useful for understanding civil society in Southeast Asia. The article then examines civil society in Cambodia and seeks to understand how, if at all, Gramsci's theory provides insights into Cambodian civil society. This discussion is followed by a similar exploration of the nature and limits of civil society in Vietnam and the utility of the Gramscian approach. In examining civil society in the two countries, reference is

made both to formal legal and regulative frameworks and to everyday realities. The discussion is limited to local civil society organisations.

The outcome of this analysis is to suggest that Gramsci's theory does indeed illuminate important aspects of civil society in Southeast Asia. It draws our attention to the notion of civil society as a realm of ideas, values and norms; the essentially political nature of civil society; and the potential for civil society to be a terrain for struggle over, and transformation of, the state. At the same time, it has to be acknowledged that Gramsci's theoretical framework has generally been applied most successfully to Western political regimes with liberal-style civil societies. It is principally for this reason that Gramsci's theory is of greater assistance in understanding state-society dynamics in Cambodia than in Vietnam.

Gramsci and Civil Society

Like liberal and Marxist theorists, Gramsci used the term civil society to denote "... the public space between large-scale bureaucratic structures of state and economy on the one hand, and the private sphere of family, friendships, personality, and intimacy on the other" (Adamson, 1987: 320).[1] This space includes, for example, recreational groups, trade unions, churches and political parties (Alagappa, 2004). Gramsci acknowledged that, although the categories of state and civil society are analytically separable, in reality their boundaries are blurred and they may be indistinguishable (Nielsen, 1995: 43). Beyond this limited definition, Gramsci's conception of civil society is rather unclear as he failed to provide a precise definition of the term or to explore in detail the nature and limits of its boundaries (Ehrenberg, 1999: 209).

The crucial difference between Gramsci's conception of civil society and many others lies in the degree of autonomy that civil society enjoys and, more broadly, in the nature of its relationship to the state. Liberal theories emphasise the autonomous nature of civil society. For example, Weller (2005: 5) observed that "[t]he idea that NGOs should represent society to the state, from a position of independence, characterizes much of the literature [on civil society]." In contrast, Gramsci identified the realm of civil society as a crucial space in which the state can dominate popular ideas, values and norms. For Gramsci, the state does not simply control society through coercive or regulatory means. It exercises ideological hegemony by manufacturing cultural and ideological consent in civil society (see Femia, 1981: 31-5). Gramsci explains (cited in Hoare and Nowell Smith, 1971: 12),

> What we can do ... is to fix two major superstructural "levels": the one that can be called "civil society," that is the ensemble of organisms commonly called "private," and that of "political society" or the "state." These two levels correspond on the one hand to the function of "hegemony" which the dominant group exercises throughout society and on the other hand to that of the "direct domination" or command exercised through the state and "juridical" government....

Through this hegemony, the subaltern classes consent to their own subordination. Gramsci gave this exercise of ideological domination by the state over civil society

"at least equal standing with state-organised coercion" (Ehrenberg, 1999: 209). The two sectors – state and civil society – mutually reinforce each other to the advantage of certain groups, classes and institutions (Buttigieg, 1995: 6). Where hegemony is not complete and "spontaneous consent has failed," the "apparatus of state coercive power" enforces discipline directly (Gramsci, cited in Hoare and Nowell Smith, 1971: 12).

Gramsci argued that civil society embodied the potential for radical social transformation. Like Marx, Gramsci saw civil society as constituted by class divisions and market relations. However, unlike Marx, Gramsci did not see civil society as simply an obstacle to overcome. Gramsci argued that the state's hegemony over civil society is never complete. Civil society is always "an arena of constant competition, conflict and clash of ideas" (Ramasamy, 2004: 202). Whoever controls the arena of civil society succeeds in manufacturing consent for political domination (Ramasamy, 2004: 203). For this reason, civil society constituted "a crucial site to undermine existing values and inculcate new ones" (Alagappa, 2004: 29).

The Application of Gramsci's Theory to Southeast Asia

For Ramasamy, Gramsci's theory is valuable for understanding civil society in Malaysia. First, Gramsci does not presuppose, as many liberal theorists do, that the state and civil society are necessarily on antagonistic terms. Rather, there is an "integral relationship between both in the enforcement of domination" (Ramasamy, 2004: 203). Closely related to this proposition is the fact that certain segments of civil society support rather than oppose the state. This insight is important in the context of SE Asia as it draws attention to the associational, as well as ideological, links that civil society may have with the state.

Ramasamy is also attracted by Gramsci's lack of clarity over the boundaries between state and civil society. Ramasamy (2004: 203) explained, "the state is not something aloof from civil society, but rather it will seek to dominate civil society through various means." For Ramasamy (2004: 214), the nature of civil society as a "coveted terrain for the purposes of political legitimacy" lends insight into why the state of Malaysia attempts to constrict and marginalise non-state forces from taking an active part. Finally, Ramasamy (2004: 206) emphasised that Gramsci sees civil society as "an arena of contestations of ideas and thoughts." This provides Ramasamy with a way of understanding social conflict and tensions in modern-day Malaysia.

Ramasamy is by no means the first author to draw upon the work of Gramsci in order to further understand state-society relations in Asia (e.g. Chong, 2006: 289-93; Girling, 1984; Hilley, 2001; Rodan, 1996, 1997; Sim, 2006). Girling (1984), for example, has drawn upon Gramsci's work to understand why the bureaucratic polity endured for so long in Thailand and to venture predictions on Thailand's political future. More recently, Sim (2006: 149) has used Gramsci's theory to explain why authoritarianism has endured in Singapore, contending that "Gramsci's theory [of civil society] offers us a less epistemologicaily biased paradigm that can be utilised equally to understand and criticize authoritarian tendencies in the West and non-West." Authors who have drawn upon Gramsci to understand state-society relations in Asia, however, have often done so rather enthusiastically, without paying equal or

adequate attention to the limitations of such an approach. This article seeks to evaluate the benefits and limitations arising out of the application of a Gramscian theoretical framework to Southeast Asia.

In this article, the relevance of Gramsci's theoretical framework for understanding state-society relations in Southeast Asia is examined through an application of such a perspective to two Southeast Asian nations, Cambodia and Vietnam. For each of the two countries, this article will briefly discuss the modern history of civil society and outline the legal framework pertaining to civil society. To illustrate the discussion, examples will draw upon two widely recognised civil society actors – the media and trade unions. Finally, this section will examine the limits of Gramsci's theory in the context of civil society in Cambodia and Vietnam.

Civil Society in Cambodia

The legal and institutional framework for civil society in Cambodia today was created during the 1990s.[2] The signing of the Paris Peace Agreements in October 1991 committed Cambodia to the establishment of a liberal democratic regime, including a market economy, pluralist political system and the protection of basic human rights (see United Nations, 1991). During the period 1991-93, in which the United Nations Transitional Authority in Cambodia (UNTAC) was assigned with the task of monitoring and assisting Cambodia's "transition to democracy," civil society organisations in Cambodia proliferated.

The re-emergence of civil society in the 1990s was due in part to the establishment of a relatively conducive legal framework and in part to the availability of large amounts of international aid. The development of a new constitution formed part of the 1991 Paris Peace Agreement. This constitution, as Ghai (1993: 5) has observed, "...has little relationship to recent legal and political practices and traditions in Cambodia." The *Constitution of the Kingdom of Cambodia 1993* (Cambodia, 1999) provides citizens with freedom of expression, the press, publication and assembly. Article 42 provides Khmer citizens with the right to establish associations and political parties. There is as yet no law pertaining specifically to civil society organisations (for the legal framework, see Kao Kim Hourn, 2000). The second and strongest impetus behind the proliferation of indigenous non-state organisations in the 1990s appears to have been the provision of large-scale financial and technical assistance by international donor agencies. Many foreign non-governmental organisations (NGOs) helped establish civil society organisations in Cambodia that were later repatriated to Khmer control. In mid-2000, there were more than 400 indigenous NGOs in Cambodia (Downie and Kingsbury, 2001: 59). Many of these organisations, however, remain heavily dependent on foreign aid and heavily influenced by foreign agendas and values (Brown, 1997; Kao Kim Hourn, 2000).

The critical role played by civil society in calculating certain values and ideas that operate to support the liberal democratic regime in Cambodia has been recognised by UNTAC and the development profession. Indeed, it is through civil society that "good governance," encompassing transparency, accountability, elimination of corruption, coercion and nepotism and a respect for human rights, is promoted (Downie and Kingsbury, 2001: 57).

The practice of promoting civil society as a means of sustaining a certain form of political and economic regime has been criticised in an African context, where Williams and Young (as quoted in Jenkins, 2001: 250) see it as:

> a backdoor attempt to transform...societies from the ground up by substituting a new understanding of individual political subjectivity – for it is only through such a novel basis for the "self" that the accompanying features of an open political sphere and a "neutral state" can perform the roles assigned to them in liberal political theory and neo-liberal economic policy.

The Gramscian undertones of civil society in Cambodia are clearly discernible: civil society operates as "...as a vital force in forming public opinion, constructing consent and generating a *de facto* legitimation" (Nielsen, 1995: 45). Civil society has been deployed by UNTAC and by development agencies as a means of overcoming and transforming the traditional political and cultural dimensions of authority and citizenship in Cambodia.

The promotion of a liberal-style civil society in Cambodia, however, has not gone uncontested. Applying Gramsci's theoretical framework, it is possible to identify values, ideas and norms within civil society that compete with the dominant discourse and ideology. Despite the legal and institutional safeguards that have been erected for civil society in Cambodia, the arena continues to be the subject of fierce and sometimes violent struggles between various state and social actors. This "contestation" is exemplified through the experiences of Cambodian trade unionists. Although freedom of association is a legally recognised right, several leaders of the trade union movement have been murdered in the past few years and many have received death threats.[3] Similarly, the press regime in Cambodia has been described as "probably one of the most liberal in the world" (Sotharith, 2002: 34). However the *Law on Press Regime 1995* enables the government to suspend publications or even to arrest editors if the publication endangers "national security," "political stability" or in the case of defamation (see arts 5, 7(11) and 12 of the *Law on Press Regime 1995*, Cambodia, 1995). Without concise definitions, these provisions have enabled the government to unduly restrict freedom of the press. According to Sotharith (2002: 34), it remains "very dangerous for [journalists] to criticise some top leaders, including members of the National Assembly, members of Government and other powerful people." At least six journalists have been killed in the last decade and others have been jailed (Sotharith, 2002: 34). Evidence for the deployment of violence against trade unionists and journalists suggests the involvement of members of government or, at the very least, of the government's acquiescence in a "culture of impunity" in relation to such acts (ICFTU, 2004).

Ideas, norms and values in Cambodian civil society are also contested through non-violent means. An excellent example is the way in which "traditional" political, cultural and social values offer an alternative view of state-society relations to the now dominant liberal democratic view. Civil society in Cambodia today can be understood within the context of a Gramscian-style contestation between indigenous political values and practices and more recent Western liberal and democratic ones. For example, some historians have emphasised that the indigenous, feudal and

"traditional" values of Khmer society were based on values of non-confrontation, patron-client relationships and deference to authority (see Adas, 1992: 89; Mehmet, 1997: 676; for a different view, see Vickery, 1984). Before colonisation, Khmer elites relied on charismatic and symbolic rather than rational-legal power. Day (2002: 91-2) argued that the origins of power were spiritual and moral rather than social. Writing on political ideology in Cambodia since independence from France in 1953, Slocomb (2006: 376) observed that the Cambodian elites have "historically assumed the passive acquiescence of the masses...and relied upon the unifying forces of Khmerness, the spiritual sense of belonging to a discrete cultural group, to legitimise their use of power." Today, proponents of a liberal-style civil society often criticise the way Cambodian elites continue to exploit "traditional" political and social values, both as an unconscious process of drawing upon existing cultural repertoires and the result of conscious manipulation. For example, liberal-democratic notions of the government's accountability to its citizens are undermined by the Royal Government's employment of "old patterns of governance," in which development is seen as an act of royal beneficence. Recent examples of these "traditional" values and practices include distributions by the Royal Palace of rice and clothing to the poor peasants and "handouts" of personally funded schools and clinics by prime ministers (Curtis, 1998: 129). Another form of contestation is over the nature and role of civil society itself. The government has historically adopted an attitude of "suspicion and mistrust" towards civil society and has shown limited tolerance for "loyal opposition" or organisations that it regards as anti-government (Curtis, 1998; Downie and Kingsbury, 2001; Kao Kim Hourn, 2000).

Through applying Gramsci's theoretical framework, it becomes clear that civil society is indeed an arena of contestation in Cambodia. However, there are three principal limits to Gramsci's theory that are underscored by the above discussion. First, neither Gramsci nor Ramasamy clearly define the state. In the Cambodian context, it is facile to say that the state is promoting one ideology and civil society another. There is indeed, as explored above, a symbiotic relationship between UNTAC's promotion of a liberal-democratic political structure and its support for civil society. There are also strong indications that segments of the state seek to influence and limit civil society so that it does not constitute a veritable challenge to the state's legitimacy. However, it must be acknowledged that the state is not a unitary actor. Rather, it can be regarded as composing a variety of institutions and actors with different agendas, values and ideologies. In Cambodia, there are clearly elements of both the state and of civil society that are not "civil" and pursue their interests through violent means. Conversely, there are certainly elements within the Royal Government and state institutions that seek to respect and promote the liberal-democratic values as embodied in the Constitution.

Secondly, it is difficult in the Cambodian context to identify which ideology is the dominant one seeking hegemony and which are the subordinate ones. While formally the values of "good governance" and human rights may be institutionalised and thus dominant, it is questionable to what extent these ideologies have penetrated society beyond those citizens who have been exposed to foreign NGOs. Applying a Gramscian understanding whereby citizens consent to their own subordination, it is perhaps more accurate to see indigenous ideologies and political values as dominant. Thirdly, one must ask whether Gramsci's theory of civil society, based on concepts

he inherited from liberal and Marxist perspectives, proves useful in understanding Cambodian society simply because Cambodia has now adopted Western-style political and economic structures. In other words, Gramsci wrote principally about civil society in Western capitalist societies and polities so it is of little surprise that his theory is applicable, at least to some degree, to contemporary Cambodia which now – at least in a formal sense – shares this heritage. Whether the utility of Gramsci's conception of civil society extends beyond Western-style liberal democracies is explored in the next section.

Civil Society in Vietnam

Since the early 1950s, the Vietnamese Communist Party has sought to curtail the public sphere in Vietnam in order to impose a proletarian dictatorship and build socialism (Marr, 1994). Embracing "Marxism-Leninism with Ho Chi Minh Thought," the Party has historically shown little tolerance for civil society. As Femia (1981: 145) explained, the orthodox Marxist antipathy for civil society arises out of an opposition to the early liberal philosophy perception of "individuals as essentially autonomous entities, secure in their individuality beyond communal ties and references. It was the individual . . . who served as the fundamental unit of political life." This is difficult to reconcile with socialism, which "implicitly gives society precedence over the individual and assumes their common subordination to the state." For Marx, the competitive principles of civil society would either overtly or covertly overwhelm the state and the class that is dominant in the economic sphere would gain control over the state's machinery (Kaviraj, 2001: 300-1). Until relatively recently, this orthodox attitude has been reflected in Vietnamese Communist Party discourse, in which the term "civil society" (*xã hội dân sự; xã hội công dân*) has appeared only occasionally in official publications and usually with disapproval (Marr, 1994: 24).

In the 1950s, the Socialist Republic of Vietnam developed a network of organisations to ensure that the ruling Party penetrated every sector and level of society. All social organisations were subsumed into mass organisations (*đoàn thể*) under the umbrella organisation of the Vietnam Fatherland Front (VFF or *mặt trận tổ quốc Việt Nam*). Autonomous organisations were prohibited. Conceptualised as "transmission belts," mass organisations were theoretically to serve the dual functions of transmitting Party policies and directives to members whilst simultaneously providing the Party with an accurate assessment of the concerns and attitudes of members. In practice, emphasis has been placed historically on the duty of the organisations to persuade their members to support and implement Party lines and policies (Kornai, 1992: 40).

The transition in Vietnam to a "socialist-oriented market economy" since the mid-late 1980s has weakened the Party's grip on society (McCormick, 1999: 153; Thayer, 1992: 110; 1995: 39). This burgeoning social space has led, since the mid-1990s, to the proliferation of organisations concerned with a variety of issues such as welfare, education, professional advancement, the environment and revival of traditions (Beaulieu, 1994; Dixon, 2004: 22; Marr, 1994; Sidel, 1995). In 2000, there were over 200 nationally registered domestic associations in Vietnam, in contrast to 124 a decade earlier. Locally registered associations have proliferated from over 300 in 1990 to over 1400 in 2000. The last decade or so has also witnessed the emergence of

hundreds of non-registered voluntary associations based on kinship and communal ties (Luong, 2005).

Vietnam does not have a legal framework conducive to the emergence of a civil society. Article 69 of the *Constitution of the Socialist Republic of Vietnam 1992* provides citizens with the right to freedom of speech, freedom of the press and the right of assembly and association "in accordance with the law."[4] As the latter phrase foreshadows, these rights are circumscribed by legislation.[5] Article 3 of *Decree 88/ 2003/ND-CP* requires that all "associations" acquire approval by the "competent state authority" before commencing activities (Government of Vietnam, 2003a). An "association" is defined in article 2(1) of this *Decree* as,

> voluntary organizations of citizens; organizations of Vietnamese of the same professions; the same genders for the common purposes of gathering and uniting members, regular activities, non self-seeking, aiming to protect members' legitimate rights and interests, to support one another for efficient activities, contribute to the country's socioeconomic development, which are organised and operate according to this decree and other relevant legal documents." A "competent state authority" is defined in article 15 (Government of Vietnam, 2003a).

Under the various decrees already noted, state authorities have significant discretion in determining whether to grant approval. The existing laws emphasise that the State retains a critical role in "monitoring" and "guiding" associations.[6]

It is clear from the legal regime and from official rhetoric that, as Marr (1994: 9) observed, in the early 1990s the Party "still intends to play an interventionist role in society, on all fronts, at every level." Marr (1994: 9) emphasised that "the idea that the state should limit operations to what it can do best, or what others in society refuse to do, is alien not only to Vietnamese officials but also to many intellectuals critical of the regime." This observation is supported by Wischerman's fieldwork in 2001, from which he concluded "officials insist on directing, guiding and controlling all societal organisations" (Wischerman, 2003: 886). As Tran Thi Lanh (1994) has explained, "if we understand an NGO to be an independent body not linked to Party or State, it is clear that in Vietnam there are difficulties associated with the acceptance of this definition." Among the Vietnamese associations that do exist legally, there continues to be a widespread perception of a bias on the part of state officials and organisations against non-state activities (Wischerman, 2003: 885). Finally, bringing the story up to date, Adam Fforde (2005: 150) noted that there is little evidence to suggest that the Party considers non-state organisations to be positive or long-term contributors to social and economic development.

The extent to which Vietnam has, or is experiencing the emergence of, a "civil society" composed of local rather than international NGOs remains the subject of contention.[7] Differing interpretations by commentators may be explained in some part by the pace of transformation in Vietnam. Dixon (2004: 16) attributed the differing interpretations to the fact that commentators are "touching" the system in different places and to different extents.[8] As the pace and extent of political, social and economic change in Vietnam is very uneven, this gives rise to very different perspectives on state-society relations.

There is some evidence that the Party will tolerate organisations that operate outside the existing legal framework provided they limit their focus to economic and social affairs (see Thaveeporn, 2001). There is also evidence that some organisations continue to operate even though they occupy an ambiguous legal position in relation to the state (Beaulieu, 1994). Blanc (2004: 163), for example, has described the local associations working on HIV/AIDS as occupying "a shadowy realm" between those with HIV/AIDS and the Vietnamese state. However, the Vietnamese leadership will not tolerate associations that express disagreement with Party policies or have the potential to constitute political opposition (Koh, 2001: 370). Examples of organisations that have been repressed include the Club of Former Resistance Fighters (*Câu lạc bộ những người kháng chiến cũ*), a group of war veterans who criticised the Party's policies in the 1990s, and the recent case of the Vietnam People's Association Against Corruption (*Hội Nhân Dân Việt Nam Chống Tham Nhũng*), a group of citizens who petitioned the Party for registration as a legal association.[9]

The most obvious way in which a Gramscian conception of civil society illuminates aspects of civil society in Vietnam is its emphasis on the potential of civil society to act as an arena in which dominant values and ideologies may be contested. The Party is well aware, as Gramsci was, of the potential for segments of civil society to challenge the dominant ideology and to potentially undermine the ruling regime. From this awareness stems the Communist Party's determination to continue to control ideas and to ensure "non-socialist" principles are suppressed (Marr, 1994: 11; Hansson, 2003). It is for this reason that the Party is so suspicious of, and reluctant to allow the free activities of, foreign NGOS that promote democratisation, "civil society" and human rights.

Gramsci's concept of the symbiotic relationship between the state and civil society is applicable to some degree in Vietnam. As discussed above, Gramsci argued that the state seeks to exercise ideological hegemony through manufacturing consent among its citizens in the social realm. The Vietnamese Communist Party's attempts to inculcate socialist values into society have been a critical element in the socialist project. Moreover, it is possible, to some extent, to identify ways in which the state exercises ideological control over social organisations. While one is hesitant to apply the notion of ideological hegemony to organisations that are under the formal or *de facto* regulation of the Party, such an application does illuminate the extent to which citizens consent to dominant values and support the hegemonic status of the Vietnamese state. For example, where "non-state" associations do exist legally, they often see their role as assisting rather than criticising or challenging the state. Some years ago, Marr (1994: 14) observed that Vietnamese active in the "public sphere" do not regard themselves as "asserting civic power from state power;" rather they "prefer to infiltrate the state, find informal allies, and build networks that may conceivably be seen as fulfilling state, public and private objectives simultaneously." The tendency of many NGOs in Vietnam to work within the strictures imposed upon them by the Party, both legally and more informally (for example, by conceiving of their roles in terms of social service but less so in terms of advocacy), can perhaps be regarded as an example of consent within society to its own boundaries, its relationship with the state, the limits of its role *vis-à-vis* the state and to the nature of the regime itself.

The ways in which a Gramscian approach to civil society illuminates aspects of civil society in Vietnam, however, are outnumbered by the limitations of such an approach. The first and most obvious difficulty with Gramsci's conception of civil society in the Vietnamese context is that Gramsci believed his theory applied to states where socialist revolutions had not occurred. In socialist states, according to Gramsci, "civil society was to disappear by virtue of a genuine and egalitarian cultural union of state, civil society, and private sphere" (Adamson, 1987: 333). Vietnam's socialist revolution, however, was not followed by the peaceful and natural dissolution of civil society. Rather, civil society was, and continues to be, actively suppressed by legal and coercive means.

The second limit of the Gramscian theory in relation to Vietnam is the lack of any real "civil society" realm in Vietnam. Gramsci adopted a conceptual distinction between the state and civil society as an associational realm independent from the state – civil society was conceived of as a *space*. Yet, in Vietnam, there is no real "civil society" in terms of an institutionalised legal realm that guarantees autonomy and freedom of action for non-state organisations – even as an analytical tool, Gramsci's theory is thus limited. The retention of the state-civil society dichotomy by Gramsci (and by Ramasamy), even if only in associational and not ideological terms, circumscribes the relevance of his theory for states where such boundaries are elusive.

It is also important to recognise that the state-civil society dichotomy – central to Gramsci's theory – risks obscuring realms in which contestation is indeed taking place between various actors over the shape of the state and over the precise boundaries between "state" and "society." A weakness in Ramasamy's essay is his presumption that, in "authoritarian" regimes, because civil society is significantly constrained there is therefore very little space for contestation between state and society (Ramasamy, 2004: 206). In Vietnam, however, despite the absence of a conducive legal framework, there are many arenas in which "boundaries, rights, jurisdictions and power distribution between state and societal agencies are debated, contested and resolved (at least temporarily)" (Kerkvliet, 2003a: 28). The sharp delineation between "state" and "society," a feature of any conception of civil society, often serves to obscure important sites for political contestation and social organisation within the state itself. Kerkvliet (2003b: 8-9), for example, has warned readers not to dismiss institutions that are superficially controlled by the Party as they risk "overlooking a lot of what is actually going on and the political significance of that organisation." Taking this reasoning further, Gainsborough (2002: 707) concluded:

> When political change occurs in Vietnam, as it inevitably will, one lesson from much of the rest of Asia is that a broadening of the political space is likely to come from changes within state institutions, rather than from the rise of an assertive civil society as imagined in the West.

An application of Gramsci's theoretical framework to Vietnam fails to elucidate this critical arena of contestation.

Practical examples of contestation within Vietnamese state structures can be found within the state-affiliated trade union structure, the Vietnam General Confederation

of Labour (VGCL or *Tổng liên đoàn lao động Việt Nam*) and within the state-owned and regulated media. Since the 1980s, the VGCL has been encouraged by the Party to adopt a more active role in representing the interests of its members. As the VGCL enjoys more autonomy and a greater role as workers' representative, tensions and contestations have emerged over the precise nature of its relationship to the state and the limits of its mandate to defend and advance the interests of workers. At times, VGCL officials have called upon the Party to allow trade unions greater autonomy or even openly criticised Party policies that impact harshly upon workers (Landau, 2004; Lee, 2006: 426). The Vietnamese media, formally state-owned and controlled, is also an arena of contestation. Heng (2001, 2004: 149-50) has highlighted ways in which members of the Vietnamese media, operating within an "ideologically sound framework" test censorship limits and subtly challenge aspects of the state's agenda. In this way, they struggle against state restrictions from within the system: media can be "of the state or for the state and yet against the state" (Heng, 2004: 154). These brief examples highlight the importance of identifying or formulating and applying theories that elucidate rather than obscure important aspects of Vietnamese political and social dynamics.

Conclusion

Gramsci's theory of civil society provides an important counterweight to normatively charged liberal theories in which a strong civil society is regarded as the panacea for many of the political, economic and social ills facing Asian states today. Gramsci reminded us that civil society is not apolitical and that the realm of civil society, just like the political and economic realms, is permeated by ideological, sectoral and material interests. He also highlighted the way the state achieves domination and legitimation not only through coercive and regulatory means, but also through influencing social ideas, values and norms. His conception of the state exercising dominance but not hegemony over civil society provides an important clue as to where to look for contestations occurring within contemporary Southeast Asian states. Gramsci's ideas are particularly relevant to Cambodia where there is a legally protected realm for civil society and where there are clear contestations and clashes between competing ideologies and interest groups over the nature and boundaries of the Cambodian state.

The application of Gramsci's theory of civil society to Cambodia and Vietnam highlights its limitations. While Gramsci recognised the deficiencies inherent in the state-society dichotomy, he failed to offer a means for surmounting this analytical obstacle. His perception of civil society as a realm associatively separate from the state limits the utility of his theory to Western-style liberal democratic regimes where there is a clear institutional, legal and conceptual space for civil society. In states like Vietnam, where the boundaries between state and society are associatively, as well as conceptually, ill-defined and elusive and the most important contestations often occur *within* the state, Gramsci's theory is of limited relevance.

The above exploration of the limits of the "civil society" paradigm for understanding state-society relations in Cambodia and Vietnam is a salutary

reminder that there remains a paucity of theories that have the ability to elucidate areas of contestation – particularly in the realm of ideas, values and ideologies – within contemporary Asian states. While Ramasamy's effort to look beyond dominant theories is admirable, one hopes that future attempts to identify useful theories are grounded in a thorough understanding of Asian history, politics and society rather than continuing to struggle with ill-fitting theories based on the European experience. Perhaps, then, aspects of state-society relations in Southeast Asia will become clearer.

Notes

[1] The history of civil society and the various strands of the concept will not be discussed here as they are explored exhaustively elsewhere. See, for example, Kaviraj and Khilnani (2001), Lee Hock Guan (2004) and Alagappa (2004).

[2] This article cannot provide a detailed history of civil society in Cambodia. There are limited sources on this subject available, but see Downie and Kingsbury (2001) and Curtis (1998: 110-49).

[3] Those murdered include Chea Vichea (President of the Free Trade Union of the Workers of the Kingdom of Cambodia) on 22 January 2004 and Ros Sovannareth (President of the Trinonga Komara Garment Union) on 7 May 2004. See, for example, Amnesty International, 2005).

[4] As amended by *Resolution 51-2001-QH10* (2001) [Phillips Fox trans.] (Government of Vietnam, 2001). It should be noted that constitutions in socialist legal systems are essentially broad policy documents, reflecting certain priorities and objectives of the various stages on the road to socialism. They are not, in contrast to liberal-democratic societies, "intended to serve as permanent documents reflecting the timeless political and philosophical values of a given society" (Duiker, 1992: 331).

[5] The main legal framework for civil society in Vietnam includes *Decree 102/SL/L004 (1957) on the Right to Set Up Societies* (Government of Vietnam, 1957); *Decree 35/1992/ND-CP (1992) on Some Measures to Encourage Scientific and Technological Activities* (Government of Vietnam, 1992); *Decree 177/1999/ND-CP on Promulgating the Regulation on Organisation of the Social Funds and Charity Funds* (Government of Vietnam, 1999); *Decree 88/2003/ND-CP (2003) Providing for the Organisation, Operation and Management of Associations* (Government of Vietnam, 2003a); *Circular 01/2004/TT-BNV Guiding the Implementation of a Number of Articles of the Government's Decree 88/2003/ND-CP* (Government of Vietnam, 2003b). This list does not include decrees and circulars pertaining only to foreign non-governmental organisations.

[6] See, for example, Part XI "Responsibilities of the State Management Agencies Towards Associations," in Government of Vietnam (2003b).

[7] See, for example, Kerkvliet's (2001) categorisation of studies of Vietnam's political system and state-society relations into three broad interpretations. See also the identification by McCargo (2004: 11) in a recent book of "How far does Vietnam have a civil society, autonomous from the state?" as one of the central questions enabling a "rethinking" of Vietnam.

[8] It is interesting to note that Wischerman found considerable differences between "issue-oriented organizations" in Hanoi and those in Ho Chi Minh City. He observed differences in the nature of the organisations; in the type of issues they focused on; in their relationship with, and manner of approaching, the state; and in the degree of independence they enjoyed. These regional differences merit greater academic attention.

[9] For the original application to the authorities, see www.ykien.net/vdhchongtn.html (downloaded 26 May 2005).

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