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Comparative Analysis of Civil Society and State Discourse on Disabled People's Rights and Welfare in Southeast Asia 2010–16

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ABSTRACT

Over the next quarter century it is likely that Southeast Asian countries will experience high levels of growth in the number of disabled people. It is therefore significant that, over the past decade, the region's governments have at last ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD). At this critical juncture, and in the face of ongoing human rights issues in several territories, this study presents comparative analysis of state and civil society organisations' (CSOs') discourse on CRPD implementation. The findings show that while governments have espoused a participatory approach to fulfilling their CRPD obligations, contemporary practice falls short. Disabled people currently experience barriers to shaping policy and accessing social welfare. There is a "disconnect" between state and civil spheres that hampers effective implementation based on partnership working and knowledge exchange. In turn, this raises issues of legitimation, performativity and the endurance of the Medical Model of Disability across the region.

KEYWORDS

Disabled people; civil society; rights; welfare; discourse; Southeast Asia

Introduction

This paper presents a comparative analysis of state and civil society organisations' (CSOs') discourse on human rights implementation for disabled people in ten Southeast Asian (SEA) countries (Timor Leste, Philippines, Singapore, Indonesia, Malaysia, Vietnam, Thailand, Myanmar, Cambodia and Laos). This matters, because according to official estimates, there are 17,150,000 disabled people¹ living in the region (UNESCAP, 2015). Moreover, a demographic shift towards an ageing population means that over the next quarter century it is likely that the SEA countries will experience the greatest international growth in the number of disabled people. Yet, as the United Nations notes, many are currently denied their human rights (HR): "common concerns include impunity for serious rights violations [...and] the ill treatment and poor legal protection of ... persons with disabilities"²

The present locus of enquiry is timely in a number of regards, not least because of the changing political economy of the region. First, there are concerns about the impact on

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Table 1. Selected Social Indicators: Southeast Asian Countries

	Human Development Index ^a	Regime Type ^b	No. of Disabled People (UNESCAP, 2015, p.5)	Date Ratified CRPD	% Population aged 65+	
					2015	2050
Timor Leste	128	Flawed democracy	48,243	not ratified	5.6	5.4
Philippines	117	Flawed democracy	1,442,586	15-Apr-08	4.6	9.7
Singapore	9	Flawed democracy	100,000	18-Jul-13	15.5	33.9
Indonesia	108	Flawed democracy	6,008,641	30-Nov-11	5.2	14.0
Malaysia	62	Flawed democracy	359,203	19-Jul-10	5.9	16.8
Vietnam	121	Authoritarian	6,074,543	05-Feb-15	6.7	21.0
Thailand	89	Authoritarian	1,478,662	29-Jul-08	10.1	30.1
Myanmar	150	Flawed democracy	1,276,000	07-Dec-11	5.4	13.3
Cambodia	136	Flawed democracy	301,629	20-Dec-12	4.1	12.8
Laos	139	Authoritarian	56,727	25-Sep-09	3.8	9.6
Total			17,146,234		(mean 6.5)	(mean 17.3)

^aThe Human Development Index (HDI) is a summary measure of average achievement in key dimensions of human development: a long and healthy life, being knowledgeable and having a decent standard of living. The HDI is the geometric mean of normalised indices for each of the three dimensions. Technical notes <https://hdr.undp.org/en/content/human-development-index-hdi>.

^bRegime type classification is taken from The Democracy Index, a comprehensive index compiled by the UK-based Economist Intelligence Unit that measures the state of democracy in 167 countries. For a full discussion see <https://country.eiu.com>.

disabled people of the post-2008 global economic downturn. Second, there have been key developments in human rights law. Thus, while the Association of South East Asian Nations' (ASEAN)'s past failure to ratify major UN human rights treaties has undoubtedly arrested progress, over the past decade all member governments (with the exception of Timor Leste) have ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) (Table 1).³ In addition, as a collective ASEAN states have taken their own, albeit faltering, steps to advance disabled people's rights with the publication of the ASEAN strategic plan ("Community Vision 2025"). This sets out the self-stated goal of creating "equitable access to opportunities for all and ... protect[ing] the human rights of ... persons with disabilities" (ASEAN, 2015, para. 12.2).

Viewed in the context of SEA governments' past failings, such developments naturally raise the question as to whether they constitute genuine progress, or whether they are little more than an exercise in symbolic politics conducted by state elites. To explore this we examine the process of rights implementation. This is equally as important as "snapshot" studies of the HR situation at any point in time because it offers a systemic perspective. Specifically, by analysing state-civil society dynamics in countries' responses to their CRPD obligations we gain insight into the ability of territorial policy systems to adapt, address citizens' concerns and secure future progress. Civil society holds the key (Phan, 2012, p. 182), but governments across the region have also espoused a participatory approach to the CRPD (e.g. "effective engagement with civil society ... is essential to mainstream human rights in Philippine society"; Government of the Philippines, 2012, p. 18). Accordingly, this study provides needed insight into the extent to which contemporary practice is consonant with participatory rights implementation. This is not only required by the CRPD but also the UN Universal Periodic Review (UPR), the evaluation process conducted under the auspices of the Human Rights Council (OHCHR, 2011). The UPR submissions provided by the hundreds of civil society organisations constitute a rich data source, one that forms the basis of the following analysis.

In summary, the current research aims are: 1. To compare the priority ("issue-salience" – see below) that civil society organisations and governments attach to different policy issues affecting disabled people across the region; 2. To compare both sides' use of language (or "framing") in their discourse on rights implementation; and 3. At an individual country level,

to summarise the issues and challenges in relation to CRPD implementation, as informed by textual analysis of CSO and state reports to the UPR. Accordingly, the remainder of the paper is structured thus: following an outline of the research context, attention centres on social theory, and the study methodology. This is followed by discussion of the research findings. The study's implications and avenues for future related research are outlined in the conclusion.

Research Context: Rights, Welfare and Disabled People in Southeast Asia

The officially recognised percentage of disabled people in the populations of the ten states analysed in this study varies from 4.8 per cent (Laos) to 15.8 per cent (Singapore), although, as the latest United Nations report observes, differences in the way that the respective governments define and count “disabled people” mean “it remains difficult to quantify trends with high levels of accuracy” (UNESCAP, 2015, p. 5).⁴ Nevertheless, a key factor linked to the number of disabled people is life expectancy – and in this region the demographic trend is magnifying the impact of this factor. Projections indicate that by 2050 those aged over 65 years will constitute approximately one-in-three of the population in countries such as Singapore and Thailand, and one-in-four in Malaysia and Vietnam. As Ebrahim (1997, p. 1035) observes, “SEA is having to face the problems of a rapidly aging population more quickly than other areas of the world”.

While mindful that “the disability identity is not one merely associated with the ageing process” (Stevens, 2013, p. 319), it is nevertheless the case that the incidence of disability does increase with age. While there is no immanent causality, the reason lies in the distinction between “impairment” and “disability” (Oliver, 1996, p. 22). Biological factors mean the ageing process leads to an increase in the prevalence of impairment. In turn, as the following analysis underlines, the reason that this results in an increase in disability stems from the failure of states in SEA, and beyond, to adapt contemporary social organisation and apply the Social Model of Disability (Shakespeare & Watson, 2002). In consequence, increasing longevity in the region does mean that the number of disabled people is likely to grow significantly (Table 1).

SEA countries are therefore a context that creates significant challenges for welfare provision (Croissant, 2004, p. 520). In turn, this raises difficult questions of distributive justice, intergenerational equity and providing welfare tailored to disabled people's needs (Jeevanandam, 2009), not least because across the region, “poverty rates are still high, [this is] especially [true] for... persons with disabilities” (ILO, 2013, p. 3). It is also the case that official data often understate the actual numbers of disabled persons and the range and magnitude of the obstacles they face, meaning that the welfare challenges may be even greater than the foregoing suggests. This is particularly worrying because, as recent work in Vietnam suggests, almost a third (30 per cent) of disabled people are below the poverty line (Van Minh et al., 2015, s71).⁵

It is also the case that a number of countries in SEA have a questionable record on human rights. As a leading international human rights body concludes, “grave violations of fundamental human rights are a daily reality”. Disabled and non-disabled citizens face a situation where “freedom of expression and association is routinely denied in many countries. [... Moreover] [l]egal frameworks for the protection of human rights are weak, allowing abuses to be carried out with impunity and leaving victims ... with little opportunity for redress”.⁶

A full discussion of the prevailing situation in the ten countries studied here is beyond the present purposes, but selective reference to the empirical evidence reveals widespread contemporary failings and ongoing challenges. For example, in Cambodia, it was noted that “people, including children and vulnerable adults with medical needs and psycho-social disabilities, are regularly rounded up in the streets and held in poorly equipped facilities” (OHCHR, 2016, p. 3), while in the Philippines the latest UN report concludes that “persons with disabilities continue to face discrimination... Public spending for persons with disabilities appears insufficient and that situation is bound to worsen” (UNCESCR, 2016, p. 11). This malaise also needs to be viewed in the wider context of governing practices and authoritarian politics in parts of the region. For example, human rights abuses cannot be separated from the extended periods of military or monarchical rule and single party dominance that, over recent years, have characterised countries such as Laos, Cambodia, Singapore, Vietnam, Myanmar and Malaysia (for a discussion, see Hicken, 2008).

Over the past decade all SEA governments with the exception of Timor Leste have nevertheless ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) (Table 1). This Convention requires states to ensure a participatory approach to implementation (inter alia: “civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process”, Article 33). This study’s specific focus on civil society discourse on HR implementation responds to Mackie’s (2013, p. 295) call to address “significant gaps between the academic debates on human rights, the actual language and protocols of the bodies devoted to ensuring the achievement of basic human rights [... and] the language of activists”. It is in the latter regard that civil society organisations (CSOs) have expressed concern that ratification of the new rights framework is largely a “top-down” bureaucratic exercise by those in power. This has led to repeated calls for governments to address this issue.

For observers such as Thio (1999), it is inappropriate to view the region solely in terms of “Western models” of human rights because across SEA, as elsewhere, they are essentially cultural constructs. Given such concerns, it is important to note that the legal and policy framework on disabled people’s rights encompasses not only the United Nations’ CRPD, but also the ASEAN Human Rights Declaration, complemented by constitutional law and domestic enactments. Examples include: the Constitution of Vietnam (which stipulates that “disabled persons should receive the State social assistance”, Article 67) and Law No. 4/1997 on Persons with Disabilities in Indonesia (which establishes a quota for the employment of persons with disabilities in the public and private sectors, Article 14).

Social Theory

In addition to being a tenet of the legal and policy framework on disabled people’s rights, co-working between civil society organisations and government is also supported by social theory on knowledge exchange and democracy. For example, complementarity theory (Klijn & Skelcher, 2008) emphasises how politicians attempt to cope with complexity by using civil society networks to increase involvement in policy implementation, which strengthens both input legitimacy and policy efficacy through the pursuit of shared goals. In turn, this is echoed in the deliberative democracy paradigm. This is concerned with the shaping of public policy. As Cohen (1997, p. 70) explains, “not simply a form of politics, democracy, on the deliberative view, is a framework of social and institutional conditions that facilitates

free discussion among equal citizens – by providing favourable conditions for participation, association, and expression”. Lastly, while not without its critics (see Hohendahl & Silberman, 1979), Habermas’ Theory of Communicative Action (1994, pp. 7–8) makes a further, powerful statement that validates the current attention to rights discourse and the deliberative input of civil society in relation to disabled people’s rights. Thus, both the prevailing legal framework on rights and social theory underline that sole attention to state accounts of implementation offers but a partial view. Accordingly, this study explores civil society views alongside the official discourse of state elites.

Methods

In methodological terms, a focus on policy discourse is apposite because of what the policy science literature dubs “frame alignment” (Snow, Worden, & Benford, 1986). This underlines the way in which the likelihood of successful collaborative policy implementation increases at the point at which the frames of key policy actors – such as government and civil society – are aligned (“frame resonance”). This has two components – the level of attention to individual topics (“issue-salience”) and the meanings attached to these references (“framing”).

In methodological terms, the present analysis offers a transferable discourse-based approach to studying human rights implementation. To this end, the second cycle UN Universal Periodic Review (UPR) constitutes a rich and unique dataset that informs understanding of the role of civil society as a political space for resistance to the oppression of disabled people and the realisation of their human rights. According to its proponents, it provides the opportunity for each state to set out the actions it has taken to advance human rights. It also makes provision for civil society input. This matters for understanding and addressing the multiple and interconnected issues facing disabled people in SEA. Specifically, the UPR allows for non-governmental or civil society organisations to submit formal written submissions to the HRC. The UN policy guidance is clear: “the UPR should ensure the participation of all relevant stakeholders, including non-governmental organizations” (OHCHR, 2011, p. 7).

The epistemological grounding of the present attention to civil society accounts is standpoint theory, specifically, the notion of “situated knowledge” (Stoetzler & Yuval-Davis, 2002). This argues that the first-hand accounts, in this case from organisations representing disabled people affected by oppression and discrimination in the communities in which they reside, are a valuable complement to administrative studies of case law and institutional procedures. The discourse analysis was operationalised by examining issue-salience and framing in government submissions, as well as a stratified random sample of 385 reports by civil society organisations for the second cycle UPR 2010–15. Examination of issue-salience was done using content analysis (Krippendorff & Bock, 2008) – or, measuring the frequency of key words, ideas or meanings in the policy documents. A particular type of content analysis derived from electoral studies was used. This divided the texts (electronic copies of the UPR reports) into “quasi-sentences” (or, “an argument which is the verbal expression of one political idea or issue”, Volkens, 2001, p. 96). Dividing sentences in this manner controlled for long sentences that contained multiple policy ideas. In other words, it counted single references to selected topics – rather than the total number of sentences related to an issue. To achieve this outcome, electronic copies of UPR submissions were used and the number of references to each policy topic (“quasi-sentences”) was logged

into a database. The net effect was to produce a breakdown of the level of attention to (and thus indicator of prioritisation of) policy topics among competing issues and agendas in political discourse. In addition to complementarity effects, the underlying rationale here is grounded in the literature on political agenda setting (Cobb & Ross, 1997). This asserts that the greater the focus on and prioritisation of an issue, probabilistically, the greater the likelihood it will ultimately translate into effective policy outcomes.

Aside from the frequency with which policy topics were referred to in the texts, attention also centred on “framing”, or the language used by policy actors. Effectively this is a “schemata of interpretation” (Goffman, 1974, p. 27). It tells us about the inherent meanings and messages in the text – as well as criticality in relation to policy ideas. The frames were derived from the CRPD (e.g. participation, rights, protection, tackling discrimination, exclusion, support/help/assistance, access, justice, representation, and needs).

Overall, the present paper makes an original contribution by examining two overlooked aspects of human rights implementation in the region. Accordingly, the next section presents region-wide analysis. It is followed by individual country-level summaries of the issues related to CRPD implementation, as identified in civil society organisations’ discourse.

Study Findings – Regional Analysis

The principal finding that emerges from the following region-wide analysis is the significant disjuncture in governments’ and CSOs’ use of language (or policy “framing”) on CRPD implementation (Table 2). As noted, this matters because it tells us that the key values, themes, underlying motives and principles associated with governments’ implementation of the CRPD differ from those of civil society organisations representing disabled people in SEA states. The analysis also shows that there is a “disconnect” when “issue-salience” (or, the level of attention attached to individual policy topics and issues) is considered (Table 3). For the new CRPD signatory states, addressing this “disconnect” constitutes a key challenge. Its endurance over future UPR cycles will raise questions about ongoing issues of legitimacy, representation and accountability in rights implementation.

Across the region, the lead frame in the state discourse was “rights” (44.2 per cent), followed by “protection”. The latter accounted for just under a fifth of quasi-sentences (16.2 per cent), compared to being the sixth-ranked frame in the civil society discourse (accounting for 6.2 per cent of quasi-sentences). Overall, the state discourse emphasised a number of

Table 2. Region-wide Framing in Second Cycle UPR Reports: State and Civil Society Discourse Compared ($N = 2,576$)

	State	CSO	CSO	State
	Rank	Rank	%	%
Participation	7	3	11.1	3.7
Empowerment	11	12	0.3	1.1
Independence	9	10	2.1	2.7
Rights	1	1	37.2	44.2
Protection	2	5	6.7	17.5
Anti-discrimination/exploitation	10	4	11.1	2.3
Exclusion	12	7	3.1	0.2
Support/help/assistance	6	11	0.7	4.4
Access/overcome barriers	3	2	19.4	7.1
Justice	4	8	2.6	7.0
Representation	8	6	3.2	3.5
Needs	5	9	2.5	6.4

Table 3. Region-wide Policy Issue-salience in Second Cycle UPR Reports: State and Civil Society Discourse Compared ($N = 2,616$)

Policy Area	CSO	State	CSO	State
	ranking	ranking	%	%
Law	2	2	14.0	22.4
Health	6	4	5.2	11.6
Education	1	3	36.5	17.5
Poverty/social security	4	7	9.9	5.6
Public services	5	6	8.1	7.5
Transport	9	9	4.2	0.8
Social care	8	5	4.5	8.5
Monitoring, data	7	8	5.1	1.5
Work/employment	3	1	12.5	24.6

frames (“help”, “protection” and “needs”) that resonate with the Medical Model of Disability. As Reiser (2006, p. 135) explains, this outdated conception “sees the disabled person as the problem... The focus is usually on the impairment ... with the medical and associated professions’ discourse of cures, normalization and science”. Combined, such frames account for over a quarter of the state discourse (28.8 per cent), compared to less than a tenth for civil society organisations (9.8 per cent). Examples of such framing include these samples from official government statements that place the response to the disabled squarely and solely in the context of humanitarian protection of the vulnerable: “rehabilitation centres were established for humanitarian purposes to help the vulnerable people including ... disables, orphans, and people with mental illness” (Government of Cambodia, 2012, p. 24); and “the protection of people with disabilities is included as an integral part in the Labor and Social Welfare Strategic Plan” (Government of Laos, 2015, p. 17).

In contrast, civil society organisations placed greater emphasis on tropes consonant with the Social Model of Disability. This regards disability as a function of “the loss or limitation of opportunities to take part in the normal life of the community on an equal level with others due to social barriers” (Reiser, 2006, p. 135). Accordingly, combined, the frames “participation”, tackling “discrimination”, “exclusion” and “access/overcoming barriers” accounted for almost half (44.7 per cent) of civil society quasi-sentences, compared to just 13.3 per cent in the state discourse.

Thus, although the CRPD underlines the need for disabled people’s participation in decision-making, the present findings indicate that across the region progress has been limited. In this respect, the current analysis aligns with work by Nguyen et al. (2015, p. 753) who point to the need to “strengthen participatory knowledge production through the work of monitoring rights in order to inform practices and policies related to disability”. Thus, for example, the CSO discourse alludes to “persons with intellectual or psycho-social disabilities at a high risk of being excluded from political processes...” (CDPO, 2012, p. 19) and the fact that “most commonly, civil society organisations working on disability issues are never invited to voice their opinions within formal discourse or participate in decision-making... The government sees persons with disabilities as charity recipients rather than as rights holders” (MILI, 2015, p. 3).

Furthermore, the current data underline how shortcomings in disabled people’s participation link to a dearth of “descriptive representation” in public life. This refers to the situation whereby disabled people themselves are present as parliamentarians, managers, officials and so on (see Philips, 1995). Currently across the region disabled people often remain excluded

from, or marginalised in, such positions of influence. This shortcoming is highlighted in the United Nations' Incheon Strategy for the Asia-Pacific region on disability-inclusive development (UNESCAP, 2012), which calls for "close attention to the representation of marginalized groups such as persons with disabilities" (UNESCAP, 2012, p. 11). The civil society discourse echoes this – for example, "there is no PWD [person with a disability] in the Senate". It also advocated government use of quotas, recommending that the law require the "appoint[ment of] at least one PWD" (COMANGO, EMPOWER, & AWDM, 2013, p. 6).

As noted, there is also a state–civil society "disconnect" when "issue-salience" (or, the priority attached to individual policy topics and issues) is compared across the region (Table 3). For civil society organisations, greatest attention was placed on improving disabled people's access to education. This was ranked first, compared to third in the state discourse. This again underlines that, compared to state UPR submissions, civil society discourse is more aligned to the Social Model. The latter acknowledges education's foundational role, and how it holds the potential to address the patterns and processes of discrimination and oppression facing disabled people in the region (see Thaver & Lim, 2014). Examples of the civil society discourse include: in Timor-Leste "we note the persistence of discrimination in the access to school, especially for ... children with disabilities" (IIMA & VIDES, 2011, p. 2); and in Malaysia, "there is an obvious lack of special education schools for children with disabilities ... the concept of inclusive education, including children with disabilities into mainstream schools is scarcely practiced" (WVM, 2013, p. 3).

The second-ranked policy area for both CSOs and government was disability law. Yet textual analysis reveals an important qualitative difference in framing. Much of the government discourse is descriptive and concerned with rote-like listing of enactments (e.g. "since 2009, the National Assembly has enforced and amended many laws with a view to creating a strong legal foundation for the exercise of human rights. New laws include the Law on Persons with Disabilities (2010)...", Government of Vietnam, 2014, p. 22). In contrast, the civil society discourse is more critical – for example, "stop the arbitrary arrest and detention of ... people with mental disabilities" (LDN, 2015, p. 1), and "the implementation of the 2009 Disability Law is still not full and effective. Many enforcement mechanisms or implementation processes are not outlined in the law" (DPOC, 2014, p. 3).

Discourse on the employment of disabled people was ranked first (24.6 per cent of quasi-sentences) in the state discourse, but ranked third (12.5 per cent) in the civil society discourse. Again, there is a qualitative difference. The state language is often framed in terms of economic rationalism and maximising competitiveness and economic output – for example, "equal opportunities to persons with disability in livelihood, employment, [and] income generation" (Government of Cambodia, 2012, p. 27); and "enhance the employability of and employment opportunities for persons with disabilities" (Government of Singapore, 2015, p. 12). This links to wider debates on disability and the potentially negative effects of capitalist economies (see Yates & Roulstone, 2013; Heath, 2015). In contrast, the civil society discourse emphasises marginalisation and exclusion in the labour market, as well as poverty and inequality. As one CSO put it, "in many cases, multiple discrimination occurs due to a combination of factors which increase the vulnerability of disabled people" (IIMA & VIDES, 2011, p. 8).

Allied to the foregoing, poverty and income maintenance was the fourth-ranked policy area in the civil society discourse, but ranked a lowly seventh in the state discourse. Extant work in the region underlines the way that "disability plays an important role in persistent

poverty” (Peters et al., 2015, p. 1105). Thus, for example, Masset and White’s study (2004, p. 279) in Vietnam shows how disabled people are “relatively disadvantaged and experience less rapid progress than other population groups, suggesting the need for targeted efforts to support these disadvantaged groups”. Accordingly, poverty was the principal trope in the civil society reports to the UPR. For example, one highlighted how “up to 80% of people with disabilities [live] in urban areas and 70% of rural people with disabilities rely on family, relatives and social assistance, 32.5% are poor [and...] 24% live in temporary housing” (TASVHO, 2013, p. 4). CSOs also highlighted shortcomings in the implementation of basic social security measures. In the case of the Philippines, an alliance of CSOs also pointed to failings in welfare provision: “policies and laws intended to help vulnerable groups in terms of their basic needs are poorly implemented or not enforced. For example, pharmacies refuse to comply with the law granting discounts for medicines for persons with disabilities” (CHRP, 2012, p. 14).

A further key issue emerging from the analysis was the need for comprehensive equalities data in order to monitor and enforce disabled people’s legal rights. Recognising the importance of this issue, CSOs afford it almost four times the level of attention it is given in states’ UPR submissions – for example, “insufficient data has been collected on children with disabilities and collection mechanisms remain fragmented. Inadequate coordination between relevant ministries has prevented the creation of a comprehensive disaggregated database” (FSMIC, 2013, p. 5).

Overall, comparative analysis across the ten states studied here reveals that the Philippines, Malaysia, Vietnam and Cambodia have the greatest degrees of concordance between state and civil society discourse on rights implementation.⁷ In contrast, the greatest frame dis-alignment – or dissonance – is evident in Singapore and Thailand,⁸ but there is no obvious correlation between the level of dissonance and country-specific factors such as Development Index Score, regime type or number of disabled people in the population (Table 1). Rather, the key finding is that frame dis-alignment is a pathology affecting each of the states analysed. This is consistent with the conclusions of the ASEAN strategic plan (“Community Vision 2025”). It too points to a region-wide problem and calls for action to create “an inclusive community that promotes high quality of life, equitable access to opportunities for all and promotes and protects human rights of ... persons with disabilities” (ASEAN, 2015, p. 25). The likely reasons for the inter-country variation in the level of state–civil society dissonance are complex. They are contingent on the mobilisation of disabled people’s interests in civil society, as well as the individual histories and policy legacies in each of the ten polities. To gain further insights on this, attention now turns to the contrasting ways that state and civil society articulate ideas about CRPD implementation in each country.

Findings: Individual Country-level Summaries of UPR Discourse

Indonesia

A “disconnect” between the state and civil society discourse is clearly evident in the Indonesian data. Aside from rights (47 per cent of quasi-sentences, principally ratification of the CRPD), the lead frames in the government discourse were “protection” and “access/overcoming barriers” (17.4 and 9.4 per cent, respectively). The lead policy areas were law and

employment (32.2 and 17 per cent). In contrast, CSOs emphasised “participation” (12.1 per cent) and tackling “exclusion” (9.1 per cent), as well as education and public services/welfare (both 18.8 per cent). Notwithstanding new disability legislation (Undang-Undang Republik Indonesia, 2014), civil society organisations were particularly concerned with failings in mental health care. As one complained, “conditions are particularly horrific for the tens of thousands of Indonesians with psycho-social disabilities who spend their lives shackled (*pasung*) instead of receiving community-based mental health care”. Intersectionality is also to the fore in the discourse – specifically, discriminatory treatment against women with disabilities. Notably, CSOs called on government “to address the vulnerability of women with disabilities to violence and the difficulties they face in accessing justice” (Komnas Perempuan, 2012, p. 2).

Malaysia

Aside from rights (43.7 per cent of quasi-sentences), the lead frames in the state discourse were “protection” and “access/overcoming barriers” (18.5 and 9.5 per cent, respectively), and the principal policy area was law (22 per cent), whereas for CSOs the lead frames were “anti-discrimination” (28.1 per cent) and “participation” (14 per cent), and the lead policy area was education (41 per cent). Textual analysis reveals the full nature of the disjuncture. For government, the emphasis is on listing existing enactments, whereas the principal civil society concern is highlighting their shortcomings – for example, “the Federal Constitution does not prohibit discrimination on the basis of physical or mental disability, and children with disabilities continue to face difficulties in accessing education” (CRCM, 2012, p. 1). A further issue dominating the CSO discourse is the barriers to disabled people accessing public services, such as health care. For example, as one CSO observed, “significant gaps exist in the public healthcare system for children with disabilities, largely because there are few skilled healthcare providers able to work with children with disabilities and few screening tools to detect disabilities at an early stage” (WVM, 2013, p. 3).

Timor Leste

The country’s developing democracy is subject to a number of challenges (not least because there is no longer an opposition party represented in the state legislature). These uncertainties are reflected in the CSO discourse. The lead frame is rights followed by “access to services/overcoming barriers” (25.5 per cent), and tackling “discrimination” (17 per cent). Moreover, CSOs place emphasis on the policy areas of education and employment (50 and 13.2 per cent, respectively). In contrast, “justice” and “independence” predominated in the framing of government discourse (14.1 and 9.3 per cent, respectively), with law and health being the lead policy areas (26.7 and 18.2 per cent, respectively). As noted, Timor-Leste has yet to sign the CRPD and analysis of the civil society discourse paints a bleak picture. It underlines the urgent need for ratification. As one CSO put it, Timor-Leste must urgently act to “combat discrimination ... and adopt provisions from the United Nations conventions regarding the protection of people with disabilities into national policies and legislation” (OPHR, 2011, p. 5). In general, the discourse illustrates how the country’s problems are manifold and deep-rooted. As an alliance of CSOs explained, “representation and participation of disabled people in public life in Timor-Leste is very low with almost no program

of integrated protection, access to public life, access to education, health treatment, and social security” (OPHR, 2015, p. 7). In such a context, the evident dis-alignment in the state and civil society UPR discourses does not augur well.

Philippines

Aside from “rights”, the lead frame for CSOs was “access/overcoming barriers to services”, followed by “participation” (17 and 13.5 per cent, respectively), while the main policy areas were education and tackling “poverty/income” (28 and 14.7 per cent, respectively). In contrast, the government discourse was dominated by references to “rights” (60.8 per cent – principally, repeated reference to signing the CRPD) and “justice” (9.9 per cent). The foremost policy areas were law and employment (29.8 and 23.2 per cent, respectively). Against this backdrop, a leading CSO provides a clear summary of the current situation facing the country’s disabled people:

[There is] multiple exclusion in areas needing participation and accessibility. As a result, there continues to be serious impact on access to justice, independent living, inclusive education for all, poverty reduction and political participation – all undermining the inherent dignity and worth of Filipinos with disabilities [with the net effect that...] persons with disabilities have seriously limited opportunities to participate in governance and the conduct of public affairs (PCCRDP, 2011, p. 8).

Tackling “poverty” is also a key issue in the civil society discourse. For example, one CSO expressed its “concern at [what it viewed as] the lack of any type of financial support from the government to these families with disabled relatives” (IIMA, 2012, p. 11). Overall, the civil society discourses conclude that the problems can be traced to a lack of political will combined with a failure to act. In short, as one CSO put it, this constitutes a “lack of decisiveness and haphazard approach by State agents in following-up the implementation of the accepted recommendations from the last UPR” (PAHRA, 2012, p. 4).

Singapore

Aside from “rights” (36.5 per cent), the lead frame for CSOs was “anti-discrimination”, followed by “access/overcoming barriers to services” (30.1 and 12.7 per cent, respectively). The lead policy areas were employment and law (35.7 and 25.7 per cent, respectively). In contrast, in the state discourse the lead frame was “protection”, followed by disabled people’s “needs” (25.2 and 17.6 per cent, respectively). Employment and care were the lead policy areas (38.4 and 20.7 per cent, respectively). Notably, the CSOs’ discourse places particular emphasis on what they view as ineffective anti-discrimination laws. As one put it, “these have no real effect due to the lack of punitive measures or complaint recourse” (DPAS, 2015, p. 9). A number of CSOs also highlighted the intersection between disability and gender in relation to welfare. For example, one responded that “a large proportion of women drop out of the workforce because they take on caregiving responsibilities for disabled family members... When such women reach retirement age, many become impoverished due to insufficient savings” (SCSS, 2015, p. 3).

Frustration with the barriers to services and employment is a further trope in the civil society discourse – for example, “there is no adequate holistic planning... Employment is the greatest concern. We ask the government to become more committed to providing

children with disabilities with better education and to increasing the employment opportunities” (SCSS, 2015, p. 3). The discourse also laments the legacy of the Medical Model of Disability – for example, “many persons with disabilities are used to being beneficiaries of charity and are not comfortable with giving feedback about policies that are meant to support them. More should be done by the Government to engage persons with disabilities on a policy level” (DPAS, 2015, p. 4).

Myanmar

Under its 2008 Constitution Myanmar is a multi-party democracy, but in reality substantial political power still resides with the military. It is in this context that “rights” were the lead frame (44.7 per cent) in the civil society discourse, followed by “access/overcoming barriers to services” and “participation” (12.8 and 10.6 per cent, respectively). The foremost policy areas were education and law (69.2 and 10.2 per cent, respectively). In contrast, the state discourse emphasised “protection”, followed by “justice” (20.9 and 7.5 per cent, respectively), and the policy areas of law and employment (36.9 and 26.5 per cent, respectively). Since 2012, political reforms in this transitioning country have resulted in some progress in areas such as freedom of expression. Despite this, CSOs continue to express frustration at the slow rate of change – for example, “Myanmar has failed to show significant progress on the limited commitments it made to reform during its first UPR ... [including...] failure to prevent discrimination and incitement to discrimination, hostility and violence including against persons with disabilities” (MILI, 2015, p. 1). According to the civil society discourse, part of the malaise stems from poor law enforcement – for example, “incitement to violence is directed at persons with disabilities ... measures to prevent or at least mitigate such incitement are non-existent. Those who advocate hatred ... are not properly investigated or held to account” (MILI, 2015, p. 1).

Vietnam

With the Leninist Communist Party of Vietnam holding the reins of power, Vietnam is a one-party state. Although the legislature is becoming more vocal in policymaking, this is far from a fully functional democracy. Unsurprisingly, in this challenging context “rights” (39 per cent) is the lead frame for CSOs, followed by “access/overcoming barriers to services” and “participation” (25.5 and 10 per cent, respectively). The foremost policy areas are law and “public services/welfare” (29.6 and 12.3 per cent, respectively). In contrast, the state discourse centres on the Medical Model tropes of “protection” and “help” (16.2 and 8.9 per cent, respectively). Law and education are the main policy areas emphasised in the government discourse (21.7 and 21.4 per cent, respectively). Notably, civil society organisations highlight low public awareness of disability issues, and identify this as a key barrier to the full realisation of disabled people’s rights. As one put it, “there is [a public] awareness matter. Although policies and laws have seen significant changes to ensure human rights for people with disabilities ... but so far this awareness has not changed” (TASVHO, 2013, p. 2). Notwithstanding recent improvements in compulsory phase education (Kham, 2015; Nguyen et al., 2015), another core theme is the barriers facing disabled people trying to access public services – for example, “there still exist many difficulties in the country’s socio-economic conditions [... including] disabled people’s lack of opportunities to get

access to information, educational and health care services. They have fewer opportunities for studying” (VWU, 2013, p. 3).

Ongoing barriers to disabled people’s participation in public decision-making are another strand of the CSO discourse. Thus, for example, one organisation demanded “programs for the comprehensive social inclusion of people with disabilities ... equal opportunities for people with disabilities in order to get their voices heard and remove the barriers to their access to local services” (VRCS, 2013, p. 1). The present findings also reveal problems with the enforcement of disability law. As one CSO observed, “the implementation of policy measures and legislation to ensure the human rights of people with disabilities is poor, ... specific mechanisms to implement policy measures and legislation for people with disabilities are very problematic” (TASVHO, 2013, p. 2).

Thailand

Following a military coup in 2014 the ruling junta replaced the bicameral legislature with an appointed a 200-seat National Assembly. While national elections are promised for 2017, citizen rights remain a key issue. Rights for disabled people are no exception. They were the lead frame in the civil society discourse (44.4 per cent), followed by tackling “discrimination” and “access/overcoming barriers” (22.2 and 11.1 per cent, respectively). The foremost policy areas were education and “poverty/income” (42.9 and 16.7 per cent, respectively). In contrast, the state discourse gives most attention to “protection”, followed by disabled people’s “needs” (25.2 and 17.6 per cent, respectively). Employment and law (30.2 and 19.4 per cent, respectively) were the lead policy areas. The civil society discourse is forthright in its condemnation of the current situation facing disabled people: “the effects of disability-based discrimination are more prevalent in education, employment, housing, transport, cultural life, and access to public places and services. In many cases, multiple discriminations occur due to a combination of factors which increase the vulnerability of these groups” (IVOWED, 2010, p. 4).

Laos

One of the five remaining communist countries in the world, Laos is home to another of the region’s authoritarian regimes. Unsurprisingly, this places constraints on civil society criticality. One civil society organisation described the current situation in the following terms: “the government of Laos continues to severely restrict fundamental rights, including freedom of speech, association, and assembly” (HRWL, 2014, p. 2). Against this repressive backdrop, the lead frames for CSOs were “rights” (35.8 per cent), tackling “discrimination” and “access /overcoming barriers to services” (both 23 per cent). The lead policy areas were education and employment (both 22.2 per cent). By contrast, the state discourse emphasised “rights” (principally signing of the CRDP), “protection” (44.2 and 18 per cent, respectively), as well as “law” and “health” (21 and 9.5 per cent, respectively). A consistent theme in the civil society discourse is the ineffectiveness of the country’s legal system – for example, the demand “that Laos makes certain that national and regional authorities properly investigate cases of human rights abuses and strive to hold perpetrators of human rights violations accountable before the law” (CSW, 2014, p. 3).

Cambodia

Aside from rights, for CSOs the lead frame was “access/overcoming barriers to services”, followed by “participation” (34.2, 28.3 and 15.3 per cent, respectively). The lead policy areas were education and law (48.2 and 14.5 per cent, respectively). In contrast, the state discourse centred on the frames of “protection”, tackling “discrimination” (12 and 7.3 per cent, respectively) and policy on “law” and “health” (37.3 and 83.3 per cent, respectively). The civil society discourse is widely condemnatory of the government’s policy failings. Education is repeatedly criticised – for example, “children with disabilities remain highly discriminated against in their access to education” (MISFC, 2013, p. 7); and “persons with disabilities generally belong to the poorest among the poor with very limited access to resources, basic social services, education, vocational training and employment” (DPOC, 2014, p. 4). As a consequence, families often have to make good current inadequacies in state welfare and social policy. The discourse also underlines the intersectional nature of disabled people’s rights issues, notably, gender equality. As Cordia (2014, p. 549) observes, “the burden of care for a disabled relative traditionally falls on women: mothers, wives, sisters ... the role of women and discrimination towards people with disabilities are sanctioned by social hierarchy, perceptions of weakness, and the concept of ‘karmic merit’ thereby having adverse impacts on women carers”.

Conclusion

The present marks a critical juncture for disabled people’s rights in SEA. Developments such as the CRPD naturally prompt the question as to whether they constitute genuine progress, or whether they are little more than an exercise in symbolic politics conducted by state elites. As the present analysis underlines, civil society holds the key to this question: without full civil society participation there cannot be effective rights implementation. This is not only because a participatory approach is required by the CRPD (Article 32), but also because social theory predicts that it will allow politicians to cope with complexity in policy formulation through knowledge exchange with CSOs, thereby strengthening input legitimacy and efficacy through the pursuit of shared goals.

It is in this context that this study makes an original contribution by presenting new empirical data on contemporary practice in territorial rights implementation across ten countries. It is true that, as many of these countries have only recently ratified the CRPD, it is too soon to expect dramatic progress, but the shortcomings revealed in the above analysis present key challenges owing to their systemic nature. Crucially, they stem from the public policy-making process itself. The present study underlines that, notwithstanding governments’ espousal of participation, current practice falls short of full and effective engagement with civil society. In short, it shows how disabled people continue to experience barriers to shaping policy and accessing social welfare. There is a “disconnect” between state and civil spheres; one that is hampering effective implementation based on partnership working and knowledge exchange.

The findings also reveal how this applies at both regional and individual country levels. For example, states’ greater emphasis on frames such as “help”, “protection” and “needs” – as well as policy areas such as health and care – points to the endurance of the Medical Model of Disability across the region. In contrast, the civil society discourse places emphasis on

frames that resonate with the Social Model (including tackling “participation”, “discrimination”, “exclusion” and “access/overcoming barriers”). A survey of the extant literature on the region suggests that disabled people are not the only “minority” group to be affected in this way. For example, reference to the literature on gay, lesbian, bi- and trans- sexual people reveals similar issues. Thus, in Vietnam “LGBT people have been subjected to a form of social subordination and denied parity of participation” (Horton, 2014, p. 968).

Given the contemporary challenges and shortcomings identified in this study, it is apposite to reflect upon the conditions in which disabled rights might actually be promoted and respected. Future practice in the region needs to move beyond the legitimisation and performativity that is evident today. In definitional terms, “legitimation” refers to “communicative actions aimed at managing the public’s perception that government actions are effective in promoting their desired ends, whether that is in fact true” (Moore, 2001, p. 712). The fact that SEA states are recent signatories to the CRPD is no excuse. As we move into the third phase of Universal Periodic Review, the current data point to legitimisation as a significant barrier to securing disabled people’s rights. It is a failing also captured by the term “performativity” (Price & Shildrick, 1999). This can be applied to governments across the region because their UPR submissions can, in large measure, be viewed as bureaucratic exercises that do not match up to the transformative programs based on thoroughgoing engagement with civil society required by the CRPD.

As a benchmark study the present discussion also highlights a number of avenues for future research. For example, discourse analysis of civil society’s role in securing disabled people’s rights might extend to other world regions, thereby providing comparators to the present analysis. Another area of future work is to develop qualitative political-actor accounts of the way in which civil society mobilisation is shaped by contextual factors. Three types of contextual factors are suggested here: 1. regime type (i.e. the extent to which political systems are democratic or authoritarian); 2. The nature of the economy and the role of capitalism in the realisation and/or frustration of rights; and 3. The role of social attitudes, norms and issues of cultural diversity. Whether such work ultimately reports on implementation success or policy failure will, in large measure, depend upon the extent to which future governments address the issues of civil society engagement, frame dissonance and legitimisation that have been identified in this study. In this regard, the widespread and enduring nature of the problems outlined in the foregoing account of contemporary CRPD implementation does not bode well.

Notes

1. From an international perspective the preferred term varies across and between territories. This paper uses the term “disabled people” because it is embraced by the disabled people’s movement (for a discussion, see Shakespeare & Watson, 2002). Alternatives include “persons with disabilities”.
2. <http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/AsiaPacificProgramme11-12.aspx>
3. The CRPD echoes the provisions of the Universal Declaration on Human Rights (Art. 25, 1).
4. For a technical discussion of the reliability of disability statistics in the region, see UNESCAP (2015, p. 5).
5. Compared to 15.3 per cent of non-disabled people (Mont & Nguyen, 2011, p. 28).
6. <http://www.amnestyusa.org/our-work/countries/asia-and-the-pacific>
7. Correlation coefficients of 0.85314, 0.72027, 0.63636 and 0.63636, respectively.
8. Correlation coefficients of 0.08391 and 0.14685, respectively.

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