

Socio-Legal Analyses of the Politics of Rights Mobilization in Asia

The Politics of Rights and Southeast Asia. By Lynette J. Chua. Cambridge, UK: Cambridge University Press, 2022. 68 pp. Paperback \$20.00
doi:10.1017/als.2024.6

Lynette Chua examines mobilization of rights that expand freedoms and opportunities for the relatively powerless in Southeast Asia in the latest digital publication in the *Cambridge Elements* series. Monographs in the *Elements* series are relatively short, combining “original research” with “comprehensive coverage of the key topics in disciplines spanning the arts and sciences.”¹ Brevity and self-contained presentation of a field of study combined with enough original material for more advanced scholars offer a series ideal for digital readers but extremely demanding for contributors. Chua makes a notable effort to achieve these goals by reviewing a vast array of existing research on rights mobilization across Southeast Asia within an original conceptual framework adapted from classic socio-legal theory. The result is an informative overview with helpful insights for further development.

The *Element* explores “[h]ow . . . we understand rights in regions comprising disparate cultures” (p. 4). Interest in mobilization of rights is fundamental to socio-legal studies and has generated a vast body of research in multiple disciplines and countries, but the field lacks detailed unifying theory. The particular focus of the *Element*’s overview is Southeast Asia, not only because of relatively recent interest among socio-legal scholars in the region and an exponentially growing number of studies, but also because of the region’s extreme diversity—unmatched in Europe or the Americas, where most socio-legal theory has been developed. Southeast Asia presents exceptional challenges for theory development, and thus may suggest new more robust approaches. Generalization requires identification of common elements and core concepts that illuminate social practices for making rights active across the region. As Chua notes, regional variation includes distinct political and social histories, multiple languages—often within the borders of a single country—competing religions, and different patterns of foreign intervention, all of which profoundly influenced the region’s legal cultures. Thus, her description of the field of research is intended to identify and illustrate fundamental elements and processes constituting rights mobilization as well as a range of consequent interactions between mobilizers and targeted “resisters.” In turn, her generalizations may suggest more robust comparisons of legal mobilization not only across Southeast Asia, but globally.

The *Element*’s theory-building flows from a distinct perspective. Like classical sociological theorists from the nineteenth century onward, Chua directs attention away from “law on the books” to the way in which rights are used—practices grounded in experience: cultural norms, relationships, and perceptions. Here, however, theorizing is more focused. Southeast Asia is historically and culturally diverse, but “as a whole falls short of the aspirations of dignity, respect and equality that lie behind the bills of rights enshrined in domestic constitutions and international treaties.” Authoritarian governance is a regional characteristic that creates extraordinary political challenges for rights advocacy on behalf of the relatively powerless. She terms her perspective “the politics of rights”—a phrase popularized in American political scientist Stuart Scheingold’s classic work, *The Politics of Rights, Lawyers, Public Policy and Political Change* (1974), which describes the complexities and contradictions of civil rights advocacy in the US. The “politics of rights”

¹ <https://www.cambridge.org/core/publications/elements>.

signals the *Element's* focus on bottom-up mobilization by disadvantaged groups which “use rights to seek redress or recognition from powerful parties” (p. 5).

Three principal lines of inquiry provide structure for the *Element's* theory-building: structural conditions influencing emergence of rights mobilization, processes of rights mobilization, and outcomes. Each is considered in a subsection of the book and further divided into subsections that focus on the influence of factors yielding contrasting forms of mobilization or outcomes. For example, social controls which are characteristic of particular political or institutional structures (assumed to be mostly authoritarian) are located on a dimension that is “blatant” to “overt.” Processes of mobilization are described in terms of “coordination,” “openness,” and “formality,” while outcomes may be “instrumental” or “cultural,” among other distinctions. These layered distinctions facilitate the task of discovering commonalities across the vast range of existing research on rights mobilization across Southeast Asia. At the same time, the monograph's compressed format and complex organizing structure, which also considers combinations of these distinctions, can be challenging for a reader, in part because many of the concepts are new and in part because the structure is not driven by a unifying theory of mobilization.²

Notwithstanding conceptual complexity, the *Element's* resulting characterizations achieve insightful coherence. The concluding sections address the interplay of mobilization, power, and the status of rights in Asian societies where rights are not a “hegemonic structure.” Descriptions of subtle adaptations of mobilization to the limitations of formal law, resistance by the powerful, complex cultures in which rights have uncertain legitimacy, are illuminating. In one notable analysis, her examination of the liberal/left critique of “rights hegemony”—a condition that is said to create illusory openings for the relatively powerless that are in fact pitfalls for those who become entrapped by the limits of law—concludes that alternatives to this dilemma are made possible by a “repository of identities that Southeast Asians switch, use and present as situationally cued and in commensuration with politics of rights at play” (p. 43). In plural legal cultures, formal rights provide only one source of social practices for resolving conflict or solving problems. Other sources of authority may become active when groups or individuals shift identity, such as a switch in identity from aggrieved villager defending individual property rights against illegal state seizure to guardian of forest spirits who is resisting sacrilege and violation of religious precepts. Thus, assumption of an identity can be strategic, and rights mobilization may be balanced against mobilizing alternative forms of authority. The ability to manipulate multiple identities and competing sources of authority is one of the characteristics that seem to set Southeast Asia's plural legal cultures apart. Yet, better understanding of mobilization of identities and rights in Southeast Asia may encourage closer examination of rights mobilization practices in Western countries in which avoidance of law and alternative ways of resolving conflict are common in spite of the pervasiveness of legal rights (see e.g. Engel and Engel, 2010). If so, Chua's *Element* may offer useful points of comparison.

² For example, it is difficult to imagine other scholars employing this multilevelled, and somewhat idiosyncratic, taxonomy without a great deal more elaboration of its utility for generating hypotheses. Contrast, for example, Scheingold's far simpler and more transparent conceptual structure that provides insight into a similar range of topics. To be sure, Scheingold had the advantage of describing a highly unified legal culture within a single country. Better comparisons might be previous efforts to generalize about rights mobilization across cultures: Marshall & Hale (2014); Halliday, Karpik & Feeley (2012); Munger, Cummings & Trubek (2013). Theories developed to explain a wide variety of social movements provide another point of comparison (e.g. Tarrow, Tilly & McAdam (2001)).

The *Element's* overview of rights mobilization in Southeast Asia will be helpful to readers seeking broader knowledge of rich cultures of rights being created by indigenous practices in the region, but two concerns may bear further thought. The first is its exclusive focus on “bottom-up” mobilization of rights. Chua acknowledges that rights mobilization encompasses social practices that are not “bottom-up,” because the powerful mobilize rights, too, employing many strategies, some of which are detailed in her discussion of social control.³ Mobilization of rights through the lens of this binary will, of course, present challenges for classification (where the *Element* offers little guidance) and omit many instances that cannot be easily classified as bottom-up or top-down that inform the “constitutive” or taken-for-granted influence rights on social practices.

A second concern is omission of the profound influence of globalization on rights mobilization. Missionaries, NGOs, and trained organizers have a long history in Southeast Asia's popular activism and, more specifically, mobilization for rights. Commercialization of domestic economies, internationally funded development projects, social media, and the increasing influence of human rights conventions and recourse to international agencies may disrupt, limit, and sometimes lead to replacement of indigenous social practices while suggesting new forms of resistance. Rights mobilizations, including some described in the *Element*, have been led by organizers trained in strategies developed in Latin America, the US, or the Philippines, supported by internationally funded NGOs, inspired by media reports of practices abroad, or pivoted on knowledge of international human rights, and even purposeful avoidance of legal rights precisely because of the limitations of law reflect the pervasive influence of globalization.

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³ She suggests using “emic” (subjective, participant-observer) sensibilities to understand the motives and perceptions that lead to particular practices and “etic” (objective, structural) sensibilities to judge the politics or interests benefited by rights mobilization, but she does not offer guidance about distinguishing relevant “rights mobilizers” from “rights resisters.” Chua is not alone in failing to address the problem, which pervades much of the “cause lawyer” literature as well.