



Counterpoint Southeast Asia

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Should the ASEAN Charter be revised?

By Yongwook Ryu

Serious discussions within ASEAN for a charter started in the early 2000s—cemented in the **2004 Vientiane Action Programme**—even though the idea seems to have **originated** in 1974. The key cause for this was the proliferation of ASEAN-centred mechanisms since the mid-1990s but there was a **lack of policy coordination** among them, as Malaysia acknowledged. Following the **work** of the Eminent Persons Group tasked with drafting the document and extensive consultations, a charter giving ASEAN a formal legal personality materialised in 2007.

The reception to the Charter was a mixed bag; both optimism and criticism co-existed. But since then, as new

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regional challenges—from the Myanmar crisis to the US-China strategic competition—continue to polarise the region, some argue that the Charter is perhaps due for a review and even revision.

To address this question, the Centre on Asia and Globalisation (CAG) invited three Southeast Asian analysts to debate this question. They presented their arguments in a webinar on November 25, 2022 (view the [video](#) here). Collectively, while the arguments reflect some of the optimisms and criticisms we have seen since 2007, there are crucial aspects worth noting on whether the Charter needs to be revised.

Sharon Seah, Senior Fellow at the ISEAS Yusof-Ishak Institute, argues that ASEAN's decision-making approach based on consultation and consensus (codified in Article 20) has made the organisation slow, dysfunctional, and ineffective. This problem has been vividly shown in the current political impasse in Myanmar where ASEAN has been unable to make any meaningful progress.

The crisis, of course, exposes more than just ASEAN's inefficient decision-making—it also shows the deep disagreement within the group itself. Some members strongly argue that the military must be kept as part of political reconciliation out of necessity. Others believe that the military should be excluded as they have committed war crimes. And yet others still have a more benign and sympathetic understanding of Myanmar's military government.

This crisis underscores how difficult it is to create a genuine community when the constituting members do not share fundamental political values and practices. **Randy Nandyatama**, Assistant Professor at Gadjah Mada University, goes one step further and argues, “with the lingering style of producing declarations and giving no clear and detailed framework, ASEAN has often struggled to provide meaningful help to its member states facing immediate crises”. As such, he recommends that the Charter be revised; specifically, to strengthen the ASEAN Secretariat and give it more implementation power. He believes that “with an enhanced secretariat, ASEAN can be more agile in responding to increasingly complex challenges and providing a clear mechanism for delivering tangible results”.

Sharon's advice is perhaps more balanced in this regard. While she views that a Charter revision will not be a panacea, she encourages a rethink of the decision-making and implementation rules in such a way to make the organisation more people-oriented. She further suggests the need to “give more voice to ASEAN's elected representatives in the decision-making process, strengthening the ASEAN Inter-Government Commission on Human Rights, and establish dispute settlement mechanisms in all fields of ASEAN cooperation”.

Imelda Deinla, Associate Professor at the Ateneo School of Government, on the other hand, thinks that the Charter is not the main reason why ASEAN is often ineffective. She argues instead that, “what needs to change are

the habits and practices in ASEAN. Informal rules and institutions, while giving flexibility and due consideration to the diversity among members, could also be frustrating the growth of ASEAN and its institutions”. She sees the fundamental problem as about the lack of political consensus and will to strengthen the organisation’s capacity, improve compliance with existing agreements and obligations, and to punish breaches of the Charter.

This reflects what has been one of the biggest disappointments about the Charter. Those who worked on the Charter had hoped to take ASEAN from the political realm to the legal one, but ASEAN has remained political in a post-Charter world. Ironically, what is needed is a political will to make the group more legal and rules-based, which will remain unlikely until there is a greater degree of shared values, practices, and collective identity. All of these are under great strain today due to both internal (for example, Myanmar) and external (for example, US-China rivalry) factors.

To end on an optimistic note, initiatives to boost ASEAN’s institutional development historically came when there was a perception that ASEAN is irrelevant. ASEAN is yet again facing such a juncture, and one only hopes that its leaders can assemble their collective wisdom to reinvent ASEAN to realise the fundamental vision of a peaceful and prosperous regional community with shared values and a collective identity.

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