

# The ASEAN Charter is not holy scripture

By Randy W. Nandyatama

*ASEAN should consider revising its Charter, particularly as it relates to regional compliance mechanisms and the ASEAN Secretariat, to maintain its relevance and credibility.*

ASEAN has continued to develop its institutional structure despite, or perhaps because of, its rather minimalist origin as a regional organisation. The 2007 ASEAN Charter is key evidence in this regard. The trajectory was, of course, neither linear nor automatic. Two distinct patterns of ASEAN's institutional development are worth noting.

First, ASEAN reformist impulses and policies often correspond to the need to tackle a regional crisis, including over the group's legitimacy. The drive behind the ASEAN community and the subsequent Charter, for instance, grew from the perception that ASEAN was irrelevant in responding the 1997 Asian financial crisis. ASEAN's subsequent modernisation plans to build a regional community through the Bali Concord II and a legal personality through the Charter largely came out of the post-crisis environment.

Second, ASEAN tends to progress along with the regional doxa—the dominant system of



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meaning historically augmented into regional mechanisms, policies, and interactions, namely non-interference, consensus, pacifistic approach to regional problems, and incrementalism. In other words, ASEAN's institutional development cannot be fundamentally detached from regional norms and practices. The Charter, while signalling a far-reaching regional framework transformation, was accepted by the member states because it allowed them to maintain their autonomy, as shown by the absence of non-compliance mechanisms in the document.

But as the ASEAN-anchored regional architecture is under severe strain by internal and external challenges, particularly the US-China tension and the violence in Myanmar, the group should consider two important points.

First, ASEAN has a reputational problem.

The group always emphasised its ‘brand’ as one of the most successful regional institutions through its ability to convene inclusive regional forums to keep the peace. This brand is in jeopardy today as it remains unable to address the Myanmar crisis and as regional countries look to non-ASEAN options like AUKUS and the Quad. Former Indonesian foreign minister Marty Natalegawa clearly argues that **“developments in Myanmar no longer simply constitute a litmus test for ASEAN, but an existential threat”** to its centrality. Analysts argue that AUKUS **“brings new risks that threaten to further marginalize”** the group.

Second, ASEAN has some catching up to do in terms of addressing non-traditional security challenges. With the lingering style of producing declarations without clear and detailed plans and resources, ASEAN has struggled to meaningfully help its member under crises. During the pandemic, for example, ASEAN has created the COVID-19 Response Fund and the ASEAN Centre on Public Health Emergencies and Emerging Diseases. However, the process of getting there took too much time, and they ultimately could not deliver tangible results. Analysts noted that the Response Fund **“doesn’t have comprehensive guidelines, which means states are unable to draw from it promptly when making policy decisions”**. At the end of the day, just like in the early days of the Asian financial crisis, every member must find a way to stand on its own feet.

ASEAN, therefore, need to reconsider parts of

its Charter, particularly in recalibrating its regional *doxa* and improving its institutional design.

One of the most important areas in need of serious improvement is the role of the ASEAN Secretariat. The current provisions only cover the Secretariat’s personnel and budgetary management more broadly. All policy ideas come from the member states, with the Secretary-General often playing the secretary role than the general, as is often joked about in regional capitals. What we need instead is a stronger, more inclusive, and empowered Secretariat capable of proposing, managing, and implementing policies and engaging and involving the wider public.

With an enhanced Secretariat, ASEAN can be more agile in responding to complex challenges and provide a clear mechanism to deliver tangible results. For instance, the Secretariat can both promote a common foreign and security policy and help coordinate its implementation. Likewise, regional bodies can also have a bigger role in implementing ASEAN policies through their ability to formulate derivative guidelines and engage with relevant stakeholders, especially in facing pressing challenges like atrocities prevention and climate crisis.

Second, ASEAN should consider better incentive and disincentive mechanisms for member states and dialogue partners to respect and comply with existing rules and policies. The current Charter only highlights the role of the Secretary-General and the

Secretariat in identifying and reporting problems to the ASEAN Summit. ASEAN still lacks the capacity to provide clear carrots and sticks.

Therefore, it is essential to increase ASEAN's financial capability and strengthen its rule compliance mechanisms, including considering sanctions regime for serious breaches of the Charter for example. While membership expulsion might be a sensitive topic given what is happening in Myanmar, ASEAN needs to consider various forms of punitive mechanisms and scenarios in the future. Moreover, a Charter that can equip the organisation to provide financial stimulus and development projects can be a valuable toolkit for building a stronger set of credibility and compliance mechanisms.

After fifteen years, it is high time for ASEAN to review and reflect on its Charter. Realising that the Charter is not a holy scripture is an essential first step. ASEAN should be more agile in navigating the increasingly complex and competitive political terrain.

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