

SPECIAL REPORT | NOVEMBER 2023

ASEAN'S



Critical Assessment
and Practical Reforms

EDITED BY

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ASEAN's Critical Assessment and Practical Reforms

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Thanks to our KAS & AVI Team and all of our esteemed authors.

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CONTENTS

MESSAGES	6
-----------------	----------

FOREWORD	7
-----------------	----------

ACKNOWLEDGEMENT	8
------------------------	----------

NOTES ON CONTRIBUTORS	9
------------------------------	----------

INTRODUCTION	12
---------------------	-----------

Ms. Molika Sun & Mr. Linasopharith Ton

SECTION 1 - ASEAN POLITICAL SECURITY COMMUNITY	21 - 49
---	----------------

Chapter 1 - ASEAN's Tryst with Community-Building: Towards Comprehensive Dispute Settlement	22
<i>Dr. Mohor Chakraborty, Assistant Professor, University of Calcutta</i>	

Chapter 2 - ASEAN's Peacekeeping Force: A Justification and Potential Framework	36
<i>Mr. Richard Ouch, Research Fellow, Asian Vision Institute</i>	

SECTION 2 - ASEAN ECONOMIC COMMUNITY	51 - 79
---	----------------

Chapter 3 - A Post-Pandemic Critical Assessment of ASEAN Economic Community Through Investment Integration	52
<i>Dr. John Paolo R. Rivera, Asian Institute of Management</i>	

Chapter 4 - Economic Integration the ASEAN Way: How to Narrow Development Gap.....	66
<i>Mr. Tim Hildebrandt & Dr. Werner A. Halver</i>	

SECTION 3 - ASEAN SOCIO-CULTURAL COMMUNITY

81 - 107

Chapter 5 - Towards People-Oriented and People-Centred ASEAN Community: An Assessment of ASEAN's and the Philippines' Gender-related Commitments	82
<i>Ms. Eylla Laire M. Gutierrez, PhD. Candidate at Ritsumeikan Asia Pacific University, Japan</i>	
Chapter 6 - ASEAN's Ionic Bond: Reimagining ASEAN's Human Rights Framework	96
<i>Mr. Charles O. De Belen, Legal and Legislative Head of the Senior Citizens Partylist in the House Representatives, the Philippines</i>	

CONCLUSION

108

Mr. Chhayheng Soth

MESSAGES

The Association of Southeast Asian Nations (ASEAN) stands as a testament to the power of regional cooperation and diplomacy in an increasingly complex and interconnected world. The international landscape is undergoing rapid and complex changes, including shifts in power dynamics, emerging geopolitical challenges, economic fragmentation, disruptions to supply chains, technological advancements, climate crisis, and other emerging non-traditional security threats. ASEAN's response to these changes will determine its ability and resilience to navigate the evolving multiplex world.

Since its inception, ASEAN has made significant strides in fostering dialogue and peace, enhancing economic integration, promoting mutual understanding and trust among its member states. However, no endeavour is without its challenges, and this publication seeks to critically examine the existing weaknesses and potential threats that could hinder ASEAN's ability to effectively address both regional and global issues.

As we embark on this exploration, it is imperative to recognise that ASEAN's journey towards a cohesive and integrated community is not devoid of obstacles. The evolving landscape of international relations, economic complexities, and sociocultural diversity poses intricate challenges that require thoughtful introspection. This publication endeavours to uncover these loopholes in ASEAN's working mechanisms, policies, and initiatives across its three key pillars—the ASEAN Political-Security Community (APSC), ASEAN Economic Community (AEC), and ASEAN Socio-Cultural Community (ASCC).

With a lens focused on evidence-based analysis, this collaborative effort between the Konrad-Adenauer-Stiftung Offices in Cambodia and the Philippines, along with the Asian Vision Institute (AVI), strives to provide a comprehensive assessment of ASEAN's strengths and weaknesses. By convening esteemed scholars, researchers, and experts well-versed in the intricacies of ASEAN's operations, this initiative aims to offer insightful recommendations for practical reforms that can fortify the organisation's foundational pillars.

The fundamental inquiries set forth in this publication are not only an intellectual pursuit but also a pragmatic call to action. How can ASEAN rejuvenate itself in the face of evolving regional and global dynamics? What reforms can be implemented to foster seamless regional integration, ensuring that ASEAN remains relevant in an ever-changing world? Perhaps most importantly, what concerted efforts are necessary to actualise an ASEAN Community that is genuinely people-oriented and people-centred, placing the well-being of its citizens at the heart of its mission?

The depth of expertise assembled for this endeavour reflects the shared commitment to the vision of a stronger, more resilient ASEAN. By examining the APSC, AEC, and ASCC through a critical lens, these scholars and practitioners seek to illuminate the path forward. Their thoughtful analysis is intended to serve as a compass guiding ASEAN member states and stakeholders towards innovative solutions that address the identified gaps.

Dr. VANNARITH CHHEANG

President of Asian Vision Institute

FOREWORD

In an ever-shifting global landscape filled with complex geopolitical transformations and escalating international issues, the Association of Southeast Asian Nations (ASEAN) stands at a pivotal moment. Meant to serve as a stabilizing force in Southeast Asian politics, economics, and social cohesion, the ASEAN is now grappling with a slew of unprecedented challenges. These range from global geopolitical tensions, exemplified by Russia's war against Ukraine, to regional dilemmas like food and energy crises. Additionally, crises such as Myanmar's political instability and rising tensions between global superpowers like the U.S. and China increasingly expose internal divisions and fractures. These issues impact each of the ASEAN's ten member nations in unique ways, but collectively push the organization towards a tipping point that demands decisive actions.

It is not merely about the ASEAN surviving these turbulent times; it's about the organization reassessing and recalibrating its role in this rapidly evolving world context. The need for resilience is paramount, but so is the imperative to remain a significant influencer in shaping its destiny and that of its member countries. To realize such ambitious objectives, ASEAN's policy frameworks and initiatives need to be precisely crafted, efficiently carried out, and regularly evaluated.

This is precisely the mission of this publication, "ASEAN Critical Assessment and Practical Recommendations," a collaborative venture between the Asian Vision Institute (AVI) and the Konrad-Adenauer-Stiftung (KAS) in Cambodia and the Philippines. As an organization strongly committed to promoting multilateralism, KAS wants to contribute to strengthening ASEAN as a relevant actor in the region, that is able to deliver and overcome its internal divisions. This collection of analytical articles offers an in-depth examination of ASEAN's capabilities and limitations across its three core pillars: Political-Security, Economic, and Socio-Cultural Communities. By doing so, it presents pragmatic recommendations that align with both regional and global currents.

Given the urgent need for policy solutions grounded in rigorous analysis and empirical evidence, this work aims to serve as an invaluable resource for policymakers, academics, and all stakeholders vested in ASEAN's future. View it as an invitation to engage in candid dialogue, a catalyst for collective reflection, and most importantly, a roadmap toward meaningful change.

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ASEAN has lived up to its original purpose of ensuring a peaceful and stable region. However, it has also been challenged by fierce criticism over various matters. As we value the indispensable roles and values of the ASEAN missions, we wish to see the regional organisation remain resilient and become even more efficient and effective. It is this faithful purpose that we mobilise eminent scholars across the region who share this common compassion. The report project took off in January 2023 to November 2023. Within a span of 11 months, we have developed the whole book manuscript from conceptualisation process to the publishing of the book. This process required a dedicated editorial board, production team, and authors to be fully committed in delivering insightful evidence-based research amidst their paramount workload in a very tight timeline.

With that we would like to express sincere thanks especially to the team of KAS and AVI for their collaboration in leading this initiative. Namely, Dr. Daniel Schmuecking (former Country Director of KAS Cambodia and the Philippines) for his initiation, Mr. Jason Chumtong (Country Director of KAS Cambodia) for his encouragement, Dr Vannarith Chheang and all the Directors of AVI Centres, especially Mr. Menghour Lim (Director of Mekong Centre for Strategic Studies of AVI) for their guidance, and all relevant management team for their enormous support.

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Dr. WERNER A. HALVER



Photo: ASEAN Indonesia 2023

INTRODUCTION

MMs. Molika Sun & Mr. Linasopharith Ton

The Association of Southeast Asian Nations (ASEAN) is a regional intergovernmental organisation established on 8 August 1967 by five founding countries, including Indonesia, Malaysia, the Philippines, Singapore, and Thailand, to ensure peace, stability, and prosperity in the Southeast Asia region amid intra-regional conflicts. The association was later joined by the other six Southeast Asian countries, namely Brunei in 1984, Vietnam in 1995, Laos and Myanmar in 1997, Cambodia in 1999, and recently Timor-Leste.

The relevance of ASEAN in global affairs cannot be overlooked due to its political, economic, and social significance. The Southeast Asian region is geographically connected with the Indian Ocean to the west and the South and East China Sea to the east. These sea passages, not to mention the natural resources underneath them, carry a magnitude of economic importance, for one-third of the world's seaborne trade happens in Southeast Asian waters.

Additionally, ASEAN is home to nearly 650 million people with a combined GDP of over USD 3 trillion. It presents itself as a potential market for the global supply chain and a lucrative destination for foreign investment. More importantly, ASEAN's tenets and mechanisms (e.g., the ASEAN Way¹ and ASEAN Regional Forum²) have ensured peace and stability in the region for nearly half a century.

¹ ASEAN Way is a principle in which regional conflicts should be peacefully resolved in an unanimous manner.

² ASEAN Regional Forum (ARF) a regional platform to discuss issues related to politics and security among its 27 member countries.

ASEAN's principal goal is to promote regional integration and collaboration among the ASEAN Member States (AMS) to establish a unified market and production base, foster regional peace and stability, and boost economic competitiveness. Therefore, in 2003, ASEAN announced its three ambitious initiatives (pillars), namely the ASEAN Political-Security Community (APSC), the ASEAN Economic Community (AEC), and the ASEAN Socio-Cultural Community (ASCC). Four years later, the three pillars were institutionalised into the ASEAN Charter.

For more than 50 years, ASEAN has brought peace, stability, and development to the region. However, this achievement cannot be premised to generalise its overall success. Empirically, ASEAN critics have evaluated the relevance of ASEAN by dividing its journey into three different periods. Firstly, it is from when ASEAN was established in 1967 to when it fulfilled its main objective of resolving intra-regional disputes in 1980. That period was the most successful interval for ASEAN because the five founding countries could overcome their differences without external interference. Secondly, it is from 1980 to when ASEAN had ten members when Cambodia joined the association in 1999. The period was a failure for ASEAN because the AMS chose to prioritise their national interest over the regional one, resulting in slow economic integration. Finally, it is from 2000 to the present, characterised by mixed success and failure amid great power rivalries.

Even though ASEAN has achieved tremendously in international politics, it has been criticised for its sluggish economic integration and less effective decision-making due to the unanimous decision-making and non-interference principles. For instance, ASEAN was accused of using the principle of non-interference as a pretext to avoid confronting regional problems, particularly the disputes in the South China Sea (SCS) and the violence on the Rohingya ethnic group in Myanmar. The prolonged political crisis in Myanmar, caused by the military coup, has intrigued pundits to question the efficacy of ASEAN's conflict management and resolution mechanisms.

These intra-ASEAN problems have been exacerbated by the post-COVID-19 economic stagnation, the geopolitical turmoil of the Russia-Ukraine war, and the intensifying US-China competition. To maintain its relevance and resilience at this critical juncture, ASEAN must act more decisively to realise its goals and revitalise its three pillars by developing effective and pragmatic policies and mechanisms with careful strategic consideration, successful implementation, and proper evaluation.

This edited book volume examines how ASEAN might reinstate itself to overcome the political, economic, and social impediments hindering it from addressing regional and global challenges. The book aims to address these questions: How can ASEAN revitalise itself? What are the practical reforms to foster regional integration? What efforts should be undertaken to realise a people-oriented and people-centred ASEAN Community?

Before addressing the questions, we should understand the background and progress of each pillar. The first pillar is APSC, which aims to create a community where ASEAN people live in peace with one another and the world. This pillar functions as directed by the APSC Blueprint 2025, which lays out 290 action lines in five sections: (1) rule-based, people-oriented, and people-centred community; (2) peaceful, secure, and stable region; (3) ASEAN centrality in a dynamic and outward-looking region; (4) strengthened ASEAN institutional capacity and presence; and (5) implementation and review. According to the mid-term review (MTR) of the APSC Blueprint 2025, 96 per cent of the action lines were acted upon, with only 12 action lines to be completed. The 12 action lines are mostly the long-term ones in sections 1 and 2, and their areas of focus include reinforcing the rule of law and legal infrastructure, improving the role of the Secretary-General of ASEAN in ARF, bolstering public participation in post-conflict reconstruction, etc.

The MTR identified four challenges impeding the achievement of APSC: a lack of public awareness of APSC among ASEAN citizens, difficulties in promoting the ASEAN centrality among the Plus countries³, debility

3 ASEAN's Plus countries include Australia, China, India, Japan, New Zealand, Korea, Russia, and the US.

in cross-pillar coordination, and diversity of the legal system and capacity of AMS. As a way forward to deal with these challenges, APSC will examine the 12 action lines to catalyse their implementation, foster cooperation on cross-pillar issues, and update the Blueprint in response to the changing geopolitical landscape. Although it is difficult to measure the “political-security community-ness” among AMS, it is explicit that the political leadership of AMS has become closer to one another through various APSC platforms such as the East Asia Forum (EAF), ARF, and the ASEAN Defence Ministers’ Meeting (ADMM). More importantly, ASEAN’s solidarity and unity towards its people-centred goal has exponentially strengthened, particularly during the fight against the COVID-19 pandemic.

The second pillar is AEC, which aims to create a single and production-based market for the ASEAN Community where goods, services, investment, capital, and skilled labour can flow freely. This pillar functions as directed by the AEC Blueprint 2025, which comprises 29 sectoral cooperation (elements) and five aspirations (characteristics), including (1) a highly integrated and cohesive economy; (2) competitive, innovative, and dynamic ASEAN; (3) enhanced connectivity and sectoral cooperation; (4) resilient, inclusive, people-oriented, and people-centred ASEAN; and (5) global ASEAN.

According to the MTR of the AEC Blueprint, 54.1 per cent of the characteristics were completed, with 34.2 per cent in progress, 9.2 per cent not started, and 2.5 per cent withdrawn. The MTR highlighted key achievements of AEC, such as enhancing the seamless movement of goods, services, investment, capital, and skilled labour within ASEAN (characteristic A); increasing the competitiveness of ASEAN (characteristic B); improving economic connectivity (characteristic C); reinforcing the resilient and equitable economic development of ASEAN (characteristic D); and continuing to integrate ASEAN into the global economy (characteristic E). Despite these achievements, AEC must continue to improve the priority areas such as simplifying the customs procedures, harmonising standards and regulations, removing non-tariff barriers, eliminating tariffs, improving regulatory cooperation and environment, enhancing the mobility of skilled labour, promoting digital technology, and liberalising trade, investment and financial sectors.

The third pillar is ASCC, which aims to build an inclusive, resilient, sustainable, and dynamic ASEAN Community by principally focusing on humanitarian assistance and environmental pollution and disaster management. This pillar functions as directed by the ASCC Blueprint 2025, which has 964 activities and five characteristics, including (1) engaging and benefiting the ASEAN’s people, (2) inclusiveness, (3) sustainability, (4) resilience, and (5) dynamic. According to the MTR of the ASCC Blueprint, 71.8 per cent of the activities have been implemented, with 24.8 per cent completed. The activities of ASCC focus on capacity building (29.5% of total activities), research and publication (23.9%), public outreach (21%), policy formation (19.2%), and groundwork (6.5%).

The MTR showed the key outcomes of ASCC, such as lifting millions out of poverty, providing families with safe drinking water and improving sanitation, saving the lives of infants, and enhancing school attendance among school-age children. To continue fostering its implementation, ASCC will enhance awareness and engagement with relevant stakeholders of ASEAN (characteristic A), increase social protection against pandemics (characteristic B), formulate indicators and measuring methods to demonstrate the outcome quality (characteristic C), ensure impactful interventions towards the end term of the Blueprint (characteristic D), and decrease the number of those who are not in education, employment or training (characteristic E).

By examining the three pillars of ASEAN, this edited book volume aims to examine the debility or loopholes in ASEAN’s current working mechanisms, policies, and initiatives and make recommendations for workable reforms.

This book aims to provide a critical assessment of ASEAN based on each pillar through evidence-based studies to identify potential challenges preventing ASEAN’s future relevance and provide policy

recommendations to tackle the respective challenges.

The book is divided into three parts – APSC, AEC and ASCC. Each has two chapters. Chapter 1 focuses on APSC's dispute settlement in the context of SCS by elaborating on the impingement of SCS on the progress of APSC, ASEAN's response to the dispute, challenges of ASEAN's conflict settlement mechanisms, and recommendations to address the challenges. Chapter 2 discusses the justification for establishing an ASEAN Peacekeeping Force (APF) by highlighting its significance, structure, relevant capacities, and challenges to build the APF by looking up to the UN Peacekeeping Force and the EU-Commission Security and Defence Policy as examples. Chapter 3 explains the investment integration in AEC by revisiting potential immediate actions that AMS can take towards investment facilitation and integration, AEC's centrality in regional trade blocs such as the Regional Comprehensive Economic Partnership (RCEP) and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), and the plausibility in harmonising investment incentives in the region. Chapter 4 demystifies the development gap in AEC by reviewing ASEAN's journey towards regional economic cooperation and integration and referring to the AEC Blueprint 2025 to provide policy recommendations to enhance economic cooperation and integration, which can help narrow the development gap. Chapter 5 examines the gender-related issues in ASCC by analysing the implications of the people-oriented and people-centred principle of the ASEAN Community on women, the existing policies and frameworks of ASEAN and the Philippines on gender-related commitments, and practical reforms to revitalise the people-focused ASEAN Community. Chapter 6 explores the pragmatic viability of establishing the ASEAN Human Rights Court (AHRC) by balancing the protection of human rights and the ASEAN Way. It also studies the importance of AHRC in strengthening ASCC and APSC.

BOOK SUMMARY

Chapter 1: ASEAN's Tryst with Community-Building: Towards Comprehensive Dispute Settlement

The South China Sea (SCS) conflict remains a significant concern for ASEAN Member States. It is a highly complex issue as the competition involves geopolitical strategies and national interests of all ASEAN claimant states and China. The dispute could affect ASEAN's organisational unity. For this reason, negotiation is considered an optimal solution because it will not affect regional security and stability. On the contrary, it enhances trust-building with dialogue partners. Although the framework for the China-ASEAN Code of Conduct and the Single Draft Negotiating Text that will function as the foundation for further negotiations on provisions of the Code have been signed, the timeline for its completion is still uncertain.

This chapter has the following objectives for conflict resolution: (1) To assess the dynamics of the SCS dispute affecting ASEAN's organisational unity, thereby impeding integration and community-building along the pillar of the political-security community; (2) To analyse the emerging trajectories of the dispute and ASEAN's responses; (3) To identify the factors and challenges responsible for impeding a negotiated settlement to the issue; and (4) To recommend practical and feasible solutions to address the challenges, while tracing the opportunities.

ASEAN must maintain the precarious balance between organisational centrality and member-state inclusiveness while adhering to the fundamental organisational ethos in its journey through trials and tribulations as it begins its tryst with revitalising the community-building process.

Chapter 2: ASEAN Peacekeeping Force: A Justification and Potential Framework

The idea of an ASEAN regional peacekeeping cooperation was initially suggested in 1994; however, it has never received much attention from the member states due to the history of traumatised experiences with colonisation. Besides, its fundamental principles of non-interference and respect towards state sovereignty make it reluctant to take a larger security role in the region. However, throughout the decades,

the concept of peacekeeping has undergone major changes. Recent development has seen a greater focus on tackling conflicts at their roots rather than simply preventing armed conflicts.

In this chapter, the author recommends that ASEAN establish an ASEAN Peacekeeping Force (APF). Calls for ASEAN to take on a larger security role within the region have persisted since its existence. Despite some critical obstacles, it is not impossible to establish an APF because it is a possible way to tackle conflicts at their roots and keep security in the region from migrant crises, terrorism, and subnational conflicts.

It is a fact that ASEAN chose to pursue a third way of conflict resolution based on consensus and dialogue rather than promoting the establishment of an active regional peacekeeping force. Besides, capacities among AMS to contribute towards an APF vary, with some unable to provide military or civilian resources equally. Even so, the foundational framework has already been partially laid out. AMS have also been increasingly involved in peacekeeping operations on an international scale, contributing resources towards the United Nations and bilateral peacekeeping operations. The operationalisation of peacekeeping centres throughout the region has also developed the capacity of the member states.

This chapter seeks to justify the establishment of an APF and showcase what it would look like. The analysis will be conducted on its significance, relevant capacities within ASEAN, the benefits that an APF could bring, the challenges associated with it, and finally, what it would look like, drawing examples from the United Nations Peacekeeping Force (UNPKF), the European Union's Common Security and Defence Policy (EU-CSDP), and relevant subsets.

Chapter 3: A Post-Pandemic Critical Assessment of ASEAN Economic Community Through Investment Integration

A success factor of the ASEAN Economic Community (AEC) is foreign direct investments (FDI). In the AEC Blueprint 2025, FDIs can facilitate regional cohesion, positioning it as a global, competitive, and resilient investment destination capable of generating substantial returns and economic benefits to the member states' economies. Before 2020, both inter- and intra-regional trade, FDIs, and monetary flows had surged due to the rapid expansion of the global trade in goods, services, and FDIs via trade and investment liberalisation policies, preferential trading arrangements, creation of production networks, and mutual recognition arrangements. However, they were disrupted by the COVID-19 pandemic, impacting AEC's economic, political-security, and socio-cultural facets.

In the post-pandemic era, the AEC has demonstrated resilience, evidenced by the faster growth of member economies relative to other regions. In achieving a higher share of FDIs compared to pre-pandemic periods, this chapter discussed and assessed reforms the AEC must implement to revitalise its investment climate facilitation to deepen regional integration anchored on changes in the global economy in a post-pandemic scenario, stiffer competition from other regions, and persistent economic headwinds.

In revitalising the AEC through investment facilitation, the chapter revisited potential immediate actions the ASEAN Member States can take towards investment facilitation and integration, emphasising AEC's centrality in larger regional integration blocs such as RCEP and CPTPP. It explores the AEC's plausibility in harmonising regional investment incentives and serving as a benchmark for investment integration.

Chapter 4: Economic Integration the ASEAN Way: How to Narrow Development Gap

The ASEAN Way is a code of conduct that has evolved within ASEAN and can be described as a distinct way of regional cooperation and integration. It represents a conscious rejection of Western diplomatic ideas. In contrast to a Western/European style focusing on formal procedures and solutions, the ASEAN Way emphasises informality, pragmatism, patience, evolution, and consensus. While some European scholars have criticised the concept of a distinct ASEAN or Asian way of diplomacy, it remains a distinctive political

process fostered by frequent interactions within the association.

The European Union, with its Single Market, Monetary and Economic Union, is often touted as the prime example of regional economic integration. While the economic advantages of the European way of regional economic integration, such as higher GDP levels or lower development disparities between member countries, have been validated by research, the question is whether economic integration following the ASEAN Way can be as successful as integration following the European way. This question remains pressing, especially as the deadline for the AEC Blueprint 2025 draws ever closer, while many deep-rooted structural problems like the development gap among ASEAN member countries remain unresolved.

Therefore, this paper examines ASEAN's journey towards regional economic cooperation and integration and critically reviews the AEC Blueprint 2025 to provide practical recommendations for enhanced economic cooperation and integration among member countries to address the development gap.

Chapter 5: Towards People-Oriented and People-Centred ASEAN Community: An Assessment of ASEAN's and the Philippines' Gender-Related Commitments

The drive towards ASEAN revitalisation requires insights into socio-cultural aspects that influence regionalism and community building. Promoting women's economic, social, psychological, and political empowerment is crucial in realising a people-oriented and people-centred ASEAN Community. This chapter considers the implications of the people-focused and people-centred principle of the ASEAN Community on women. Despite women comprising 50 per cent of ASEAN's population, studies suggest that little has been achieved in promoting women's economic, social, and political rights since ASEAN's declaration of commitment to advancing women's rights in 1988.

To address this issue, this chapter critically reviews ASEAN's gender-related commitments vis-à-vis the Philippines' gender-related domestic policies. The Philippines' recognition as the top Asian country in bridging gender gaps proves exceptional compared to its neighbouring ASEAN Member States. The comparison of regional-domestic commitments offers insights into how gender initiatives at the regional level can be improved to cater to the needs of women in ASEAN. This chapter also examines and surveys existing policies, frameworks, and commitments of ASEAN alongside those of the Philippines. The study specifically assesses whether these initiatives facilitate women's empowerment (i.e., economic, social, psychological, and political facets) in ASEAN. The findings suggest practical reforms in promoting a revitalised, people-oriented, and people-centred ASEAN Community.

Chapter 6: ASEAN's Ionic Bond: Reimagining ASEAN's Human Rights Framework

In 2009, ASEAN created the ASEAN Intergovernmental Commission on Human Rights (AICHR) to promote and protect human rights in the region. This was followed in 2012 by the ASEAN Human Rights Declaration (AHRD), which provides a framework for regional human rights cooperation.

However, even with these landmark developments, the limitations in the AICHR's and AHRD's mandate, authority, and structure, predicated on ASEAN's preoccupation with the ASEAN Way, have severely constrained ASEAN from addressing the deteriorating human rights situation in the region. The failure to protect human rights is primarily due to the perceived conflict between the ASEAN Way and the protection of universal human rights, the institutional constraints placed on the AICHR, and ASEAN's preoccupation with socioeconomic development over civil and political rights. As a result, ASEAN was considered a "black hole" or the "last frontier" in human rights protection in the world.

This chapter evaluates the viability and pragmatism of creating a regional human rights court, or the ASEAN Human Rights Court (AHRC), and proposes systems and mechanisms for the AHRC to strike a balance between the protection of human rights and the ASEAN Way by understanding ASEAN's history, motivations, and needs for the future. Finally, the chapter explains how the creation of the AHRC is necessary for ASEAN to achieve its socio-cultural and political-security aspirations under the ASEAN Socio-Cultural and Political-Security Community Blueprints of 2025.







SECTION 1

ASEAN POLITICAL SECURITY COMMUNITY



Photo: South China Sea -The naval vessel at sea.
Canasta/Shutterstock.com

CHAPTER 1

ASEAN's Tryst with Community-Building: Towards Comprehensive Dispute Settlement

Dr. Mohor Chakraborty

Introduction

In the global South, the Association of Southeast Asian Nations (ASEAN), founded in 1967, has evolved and maintained its viability as one of the most successful exemplars of a regional organisation, attempting to integrate its ten members, which are disparate in terms of socio-economic, political, and military levels of development. While the organisation envisages the establishment of the principles of solidarity, cohesion, and community-building along the three pillars– Political-Security Community, Economic Community and Socio-Cultural Community– the sojourn has not been bereft of its share of opportunities and challenges.

Along the trajectory of the ASEAN Political-Security Community (APSC) pillar, this chapter primarily focuses on a maritime dispute pertaining to conflicting claims to sovereignty in the strategically significant South China Sea (SCS) among five ASEAN states¹ on the one hand and China on the other hand. The conundrum has not only exacerbated the volatility of the Indo-Pacific littoral domain but also catapulted ASEAN's institutional role and centrality in addressing and mediating the debate and scrutiny. The issue poses a direct

¹ Brunei, Indonesia, Malaysia, the Philippines, and Vietnam.

challenge to ASEAN's cohesiveness as a political-security community, in keeping with the spirit and tenets of the ASEAN Charter, following the ASEAN Way. The problem is also compounded further, considering the differences among the ASEAN Member States concerning their national interests, capabilities, level of socio-economic development, resource endowment, and whether they share overlapping sovereignty claims with China. Notwithstanding these differences, bilateral interactions of member states with China vary in their preference for either a policy of pragmatic equidistance or tight alignment with it.

Connecting the Indian Ocean through the Malacca Strait to the southwest and commanding access to the East China Sea to the northeast, the strategic location of the SCS as a gateway serving one-third of international maritime traffic and its bounty of natural resources has catapulted it to the core of global geo-political and geo-economic competitions. China's hegemonic ambitions in the SCS have raised concerns about the sustainability of regional peace and stability. Although the Single Draft Negotiating Text (SDNT) has paved the way for further negotiations and confidence-building on signing the Code of Conduct (COC) on the SCS dispute, the timeframe for finalising the COC remains uncertain, with the COVID-19 pandemic causing missed deadlines. Therefore, the chapter has the following objectives:

- To assess the dynamics of the SCS dispute affecting ASEAN's organisational unity, thereby impeding integration and community-building along the pillar of the Political-Security Community;
- To analyse the emerging trajectory of the dispute and ASEAN's responses;
- To identify the factors and challenges impeding a negotiated settlement of the issue; and
- To recommend practical and feasible solutions to address the challenges while tracing the opportunities.

South China Sea Conundrum: Impediment to ASEAN Solidarity and Community-Building

Guided by the ASEAN Charter and other key documents like the Declaration on Zone of Peace, Freedom and Neutrality (ZOPFAN), the Treaty of Amity and Cooperation (TAC), the ASEAN Concord, and the Treaty on the Southeast Asian Nuclear Weapons-Free Zone (SEA-NWFZ), which underline the principles and frameworks for the implementation of the APSC, the different editions of the APSC Blueprint have envisaged the heightening of political and security collaboration among ASEAN Member States as well as with the world in a just, democratic, and harmonious environment.

A discerning analysis of the principal tenets contained in the Blueprint reveals the impetus for a comprehensive approach to security: renunciation of coercive use of force in any manner incongruous with international law and reliance on peaceful dispute settlement and confidence-building measures. Premised on these basic principles, the APSC Blueprint envisions a rules-based community of shared values and norms, with people's entitlement to human rights, fundamental freedoms, and social justice, facilitating a cohesive, peaceful, and resilient region with shared responsibility for comprehensive security, while maintaining ASEAN centrality (ASEAN Political-Security Community Blueprint, 2009–2015, 2009, 2).

Notwithstanding these lofty goals and principles enshrined in the APSC Blueprint, China's claims to sovereignty and exclusive jurisdiction rights over the contested islands, underwater reefs, seafloor geographical entities, and adjacent waters in the SCS, encompassed and represented by the Nine-dash Line and Four Sha islands², pose a direct challenge to safeguarding the rule of law and rules-based order in the region, underpinning community-building. Although China's claims to the Paracel Islands coincide with Vietnam, China has occupied the whole of this chain since the Sino-Vietnam skirmish in 1974. The Spratly Islands are contested by China and Vietnam (wholly) and Malaysia and the Philippines (partially).

2 Pratas Islands (Dongsha), Paracel Islands (Xisha), the Spratly Islands (Nansha) and Macclesfield Bank (Zhongsha).

Since 1985, Brunei has claimed a continental shelf overlapping a southern reef³ as a feature of its Exclusive Economic Zone (EEZ).

China's insinuation in the SCS islands includes land reclamation and artificial island-building, positioning navy and air force units, installing surface-to-surface and surface-to-air missile systems, enhancing military surveillance, and building communication and logistics infrastructure in the forms of port facilities and airstrips. Besides, China has expanded anti-access area-denial capabilities in the Paracel and Spratly Islands, thus challenging overflight, freedom of navigation, and Intelligence Surveillance and Reconnaissance exercises by regional and extra-regional states. It has also been interfering/protesting against oil and gas exploration activities in the contested domains, which it claims to be its sovereign territory. Additionally, its substantial ability to monitor and project outreach throughout the SCS by initiating and sustaining the construction of dual civilian-military bases at outposts in several disputed islands has disturbed regional and extra-regional stakeholders.

Although China considers the SCS its sphere of influence/core interest of sovereignty, ASEAN, as a collective association, has generally been more accommodative, evading a direct confrontational posture and emphasising conciliation and cooperative security. At times, some member states like the Philippines and Vietnam have resented this, catapulting ASEAN's institutional role and centrality in addressing and mediating the conundrum of the disputes vis-à-vis its effectiveness in bringing about organisational integration and community-building.

In this geo-strategic scenario, ASEAN faces the daunting challenge of addressing an almost intractable issue whose underlying factors could be broadly classified as legal/jurisdictional and organisational/institutional. The legal/jurisdictional factor consists of the chequered nature of claims to sovereignty among the claimant states and the quest to access, exploit, and utilise valuable natural resources in the contested maritime domain. The organisational/institutional factor includes the ineptitude of ASEAN regarding dispute settlement and confidence-building measures, in addition to the enervated pace of institutional mechanisms, as demonstrated in the slow progression of ASEAN-China negotiations.

Apart from the factors mentioned above, the organisation faces the challenge of reconciling two divergent dynamics in its intra-organisation relations: adherence to the normative motivations contained in the ASEAN Way⁴ on the one hand and legitimising the primacy of national interests and strategic autonomy of the member states on the other hand. In this context, ASEAN faces challenges to its centrality and leadership, putting to test the vitality of its norms and identity. This is juxtaposed with the priority of individual national interests of the member states as they share asymmetric economic and military capabilities with a redoubtable neighbour.

Notwithstanding their contested and overlapping sovereignty claims in the disputed SCS, China's position and predominance among ASEAN Member States propagate the asymmetrical interdependence equation. China's spectacular economic success and its position of strength as the largest trading partner of more than 140 states, world's largest manufacturer, holder of world's largest foreign exchange reserves, world's second-largest spender on Research and Development (R&D), top bilateral creditor, second-leading destination of foreign capital, and third-largest outbound investor⁵ (Foreign Ministry Spokesperson Wang Wenbin's Regular Press Conference on 20 October 2022), matched with military prowess, can hardly be ignored.

3 Louisa Reef, Owen Shoal and Rifleman Bank.

4 Operational basis of ASEAN on 'ad hoc' understandings, consultations, consensus and informal procedures rather than within the framework of binding agreements arrived at through formal processes, while incorporating and respecting the principles of non-interference in domestic affairs, non-use of force, pacific settlement of disputes and respect for sovereignty and territorial integrity of the member-states.

5 As of October 2022.

Besides, the network of overseas Chinese and the benefits that its allies would accrue as part of development initiatives like the Belt and Road Initiative (BRI)⁶, Global Development Initiative (GDI), and Global Security Initiative (GSI) have further cemented its legitimacy. Most ASEAN Member States are seldom comfortable taking China head-on, thus providing it more credence and acceptability, leading to concerns over ASEAN's unity on the SCS dispute. Former Chinese Foreign Minister Yang Jiechi succinctly expressed this tangible rift: "There are territorial and maritime right disputes between China and some of its neighbours, and those disputes should not be viewed as ones between China and ASEAN as a whole just because the countries involved are ASEAN members." (Xiaokun and Ting, 2010)

ASEAN Member States vary with respect to national interests, capabilities, level of socio-economic development and resources, and whether they share overlapping sovereignty claims with China. They also differ in terms of their preference for adhering to either a policy of pragmatic equidistance or a tight alignment (omni-enmeshment) with China. The member states demonstrate two preferences regarding their engagement with China, depending largely on their economic and military development level and the extent to which engagement with China would benefit them. The first preference is limited alignment with China by maintaining a balance between deeper engagement on the one hand and strategic autonomy on the other hand. The second preference is deeper involvement with China, also known as omni-enmeshment (Goh 2007–2008, 116). Perceived from this premise, most of the founding members of ASEAN⁷, characterised by a greater degree of socio-economic, defence, and political development, acknowledge their stance towards China, whether maintaining strategic equidistance or moving into an alignment/hedging, as 'natural' rather than invidious (Khong 2023). They are, however, as opposed to the later ASEAN members⁸, expected to exercise a higher level of strategic autonomy, higher bargaining power, and limited alignment with China, conditioned by the imperatives of national interest and pragmatic realism, given the computations of cost-benefit and advantages by aligning with or accommodating China.

It may be discerned from the analysis above that the SCS issue has evolved as the 'acid test' for ASEAN solidarity and community-building along the political-security pillar. It is a direct challenge to the envisaged ideal of heightening political and security collaboration among ASEAN Member States, prioritised in the APSC Blueprint. Significant instances emanating from differential preferences of individual ASEAN members vis-à-vis China have unveiled the latter's success in converting its resources into influence over the strategic decisions of the former, albeit to varying degrees. These instances have brought forth ASEAN's organisational debilitation towards achieving the basic twin steps of community-building: mutual trust and solidarity. Examples of intra-ASEAN differences pertaining to the drafting of the COC include resistance to the Philippines' proposal (in 2012 – at the then ASEAN Chair, Cambodia's insistence) for establishing a Joint Cooperation Area in the SCS to promote it as a Zone of Peace, Freedom, Friendship and Cooperation; and intra-ASEAN rift on the timing of including China in the COC drafting process bear testimony to this claim. Besides, the four principal case studies discussed below elaborate the argument further:

- **Non-issuance of Joint Communiqué:** The most explicit demonstration of intra-ASEAN polarisation emanating from the SCS conundrum was during the 45th ASEAN Ministerial Meeting in July 2012. On one side of the spectrum, Cambodia and Thailand advocated negotiation on territorial claims and non-inclusion of the clause mentioning China's standoff with the Philippines and Vietnam over the Scarborough Shoal and bidding activities by China within Vietnam's EEZ and continental shelf, respectively, in the Joint Communiqué (Thul and Grudgings, 2012). On the contrary, Indonesia, Malaysia, and Singapore shared the concerns of the Philippines and Vietnam. Cambodia's refusal was justified on the basis that since these disputes were "bilateral" in nature (Clement, 2012), the inclusion of respective national positions in a joint communiqué in place of a common organisation's view would

6 As of March 2022, 146 states and 32 international organisations were part of BRI.

7 Indonesia, Malaysia, the Philippines, Singapore, and Thailand. Brunei joined later in 1984.

8 Cambodia, Laos, Myanmar, and Vietnam.

further hinder a solution to the issue. The meeting earned a negative distinction for its inability to release a Joint Communiqué for the first time in the history of ASEAN.

- **A Four-Point Consensus on SCS:** China reaped the dividend of taking Cambodia into confidence and successfully alienating Cambodia, Brunei, and Laos from the remaining ASEAN members into reaching the Four-Point Consensus on the SCS in April 2016. The consensus principally acknowledged that the dispute, not being an issue between China and ASEAN (as an organisation), “should not affect China-ASEAN relations” and that disputes over territorial and maritime rights and interests “should be resolved through dialogues and consultations by parties directly concerned under Article 4 of the Declaration on the Conduct of Parties in the South China Sea (DOC)” (Wang Yi Talks about China’s Four-Point Consensus on South China Sea Issue with Brunei, Cambodia and Laos, 2016). Thus, it not only demarcated the three signatories from the rest of the ASEAN members but also challenged the notion of ASEAN centrality, echoing Beijing’s preference for bilateralism, as against the organisation’s adherence to multilateralism in negotiating the dispute.
- **Impact of the Permanent Court of International Arbitration (PCIA) Judgement:** The intra-ASEAN division was demonstrated in the wake of the PCIA judgement (12 July 2016), which rejected China’s sweeping claims in the SCS. Even before the PCIA ruling, Cambodia clarified its stand against backing an ASEAN statement on the ruling since it had no intention of getting embroiled in a dispute which did not concern it directly. Much to the Philippines’ chagrin, Cambodia not only blocked reference to the PCIA verdict but also pushed for the removal of a previously routine phrase regarding the “militarisation” in the SCS from the Joint Communiqué of the 49th Foreign Ministers’ Meeting, held on 24 July 2016. The Joint Communiqué contained a watered-down section on the “South China Sea”, expressing concern over “land reclamations” and “escalation of activities” in the littorals without naming China or referring to the PCIA award (Joint Communiqué of the 49th ASEAN Foreign Ministers’ Meeting, 2016). Under the circumstances, the decision alluded to the preference of a majority of ASEAN members, particularly those with no claims in the SCS, to steer clear of ruffling China, apprehending the consequences, much to the displeasure of the Philippines and Vietnam.
- **ASEAN Chairman’s Statement without Reference to PCIA Verdict:** The ASEAN Chairman’s Statement issued at the 30th ASEAN Summit (April 2017) neither referred to China’s setback in the PCIA nor its land reclamation and militarisation of disputed islands in the SCS, other than a mild clause on “the importance of the need to enhance mutual trust and confidence, exercising self-restraint in the conduct of activities, avoid actions that may further complicate the situation and pursue the peaceful resolution of disputes without resorting to the threat or use of force” (Chairman’s Statement at the 30th ASEAN Summit, 2017, Clause 120).

Thus, the pertinent issue of sovereignty claims in the SCS, which should have ideally acted as a bridge-builder and facilitator of political-security community-building for ASEAN, deterring China’s hegemonic ambitions in the region and promoting the APSC’s focus on renunciation of the use of force in any manner incongruous with international law, has instead acted as a spanner. The SCS dispute, unfortunately, juxtaposes the organisation’s adherence to the normative motivations contained in the ‘ASEAN Way’ with the focus on the primacy of individual national interests of most ASEAN Member States. Pending its solution along the lines of signing and implementing the COC, the realisation of the APSC’s vision of a rules-based community and a peaceful and resilient region with shared responsibility for comprehensive security will remain elusive.

South China Sea Conundrum: Emerging Trajectory

ASEAN's inability to present a united stance vis-à-vis China's assertiveness in the SCS has been expounded in its debilitation to officially document it in Summits' Joint Statements/Communiqués, skirting references to China's setback in the PCIA. Thus, China has been successful in converting its resources into influence over the political-strategic decisions of ASEAN Member States, albeit to varying degrees, resulting in advantageous outcomes for itself, as borne out by various instances discussed above. In particular, the ASEAN Chairman's Statement issued at the 30th ASEAN Summit, which neither referred to China's setback in the PCIA nor its land reclamation and militarisation of disputed islands in the SCS, exemplified a golden opportunity unutilised by the organisation in referring to China's setback and erecting a common stand of ASEAN solidarity. Its downplaying as a "non-issue" by the then Philippines President, Rodrigo Duterte, despite being urged by some of his ASEAN counterparts like Indonesia, Malaysia, Singapore, and Vietnam, displayed the effect that Chinese economic and military power and influence had cast on ASEAN unity.

Against this backdrop, the pertinent question that transpires is whether considerations of pragmatic realism, based on individual national interests, have usurped the viability of liberal institutionalism, posing a challenge to ASEAN's centrality and cohesiveness and its advance towards ASPC. While the answer is not easy to decipher, a rational interpretation would probably veer towards seeking a balanced response. Although it is undeniable that China's spectacular economic success, matched with military prowess, has paved the way for its regional invincibility, with most ASEAN Member States seeking its partnership, the fact that ASEAN-China negotiations on the COC have sustained the momentum bears testimony to their urge to settle the dispute.

The primary rationale for establishing ASEAN as a regional organisation was securitising Southeast Asia, facilitating conflict resolution, and fostering regional development, prosperity, and community-building. Its formal mechanism for conflict management and resolution is enshrined in the TAC. Hence, the provisions of the TAC not only emerged as the pivotal ASEAN-China negotiating conduit but also formally established the converging space for charting the COC and positive deliberations on the issue. As enshrined in the Preamble of the ASEAN Charter, TAC's seminal clauses⁹ constitute the edifice of the four broad organisational principles of ASEAN: open regionalism, cooperative security, soft rules or a non-legalistic approach to cooperation, and consensus-building (Acharya 1997, 324). This converged with China's 'New Security Concept' (1997-1998), premised on equality, mutual respect, non-interference in the internal affairs of other countries, and conflict resolution through dialogue, confidence-building measures, and cooperation for ensuring regional peace and security. The hallmark of ASEAN's initiatives towards confidence-building is its adherence to internal institutional balancing, beginning with China's accession to TAC and its inclusion in ASEAN-led institutional frameworks like ASEAN Regional Forum (ARF), East Asia Summit (EAS), ASEAN Plus Three (APT), and ASEAN Defence Ministers Meeting Plus (ADMM+).

Overall, ASEAN's response towards conflict resolution, confidence-building, and preventive diplomacy may be explained in terms of heuristics. It bridges the cognitive and rationalist policies by envisaging their integration to seek realistic and productive assessments of foreign policy decision-making. A non-compensatory decision rule marks an effective heuristic, eliminating alternatives likely to produce negative outcomes on a single dimension of concern, even if the alternatives may produce positive outcomes on other dimensions.

⁹ Mutual respect for the independence, sovereignty, equality, territorial integrity, and national identity of all nations; the right of every state to lead its national existence free from external interference, subversion, and coercion; non-interference in the internal affairs of one another; settlement of differences or disputes by peaceful means; renunciation of threat or use of force; and effective cooperation among member states.

Heuristic theory proposes a two-stage analytical model. First, it combines heuristic-based decision strategies with cognitive approaches, simplifying the decision problem by eliminating unacceptable alternatives and reducing the decision matrix. Second, it corresponds to rational choice decision-making, as actors switch to a compensatory mode of decision-making, opting for a rational choice among the remaining alternatives, promising to minimise risks and maximise benefits (Oppermann 2014, 23).

The heuristic analysis aligns with the principle of issue-based cooperation and complex interdependence. In heuristic theory, the principle of conflict resolution is premised on understanding key issues of a conflict, a political agreement, or a consensual decision on future interactions or resource distribution. Thus, ASEAN's adherence to the rational-choice decision-making, by maximising benefits and minimising risks, has been evident in the following initiatives with China in the SCS such as the focus on joint resources management, cooperation in the Blue Economy domain, sustainable development, and preservation of marine ecology, and subsequently exploring opportunities for cooperation in using, managing, and conserving ocean, sea and marine life and coastal ecosystems.

ASEAN's policy of internal institutional balancing vis-à-vis China has followed the trajectory of a series of comprehensive, consultative efforts for setting aside disputes and pursuing joint resource management and development. This is envisaged in both intra-ASEAN and China-ASEAN institutional mechanisms and declaratory statements/joint communiqués like the Hanoi Plan of Action (1998), ASEAN-China Informal Meetings, ASEAN-China Joint Working Group (JWG), Vientiane Plan of Action (2004), and Vision Statements.

Those efforts resulted in the signing of the DOC in 2002 after navigating differences concerning its binding power, geographical scope, and provisions on the detainment of fishermen found in disputed waters (Thayer 2013, 77). Diplomatic negotiations, embodied in Vision Statements, Plans of Action and Joint Declarations, Joint Declaration on ASEAN-China Strategic Partnership for Peace and Prosperity (2003), the editions of the Plans to Implement the Joint Declaration on ASEAN-China Strategic Partnership for Peace and Prosperity (2005–2010, 2011–2015, 2016–2020, and 2021–2025), Declaration for a Decade of Coastal and Marine Environmental Protection in the South China Sea (2017), and ASEAN Leaders' Vision Statement on a Cohesive and Responsive ASEAN: Rising Above Challenges and Sustaining Growth (2020), have not only outlined hardcore traditional security-related issues but also acknowledged the imperative of addressing non-traditional security threats, which have a direct bearing on sustainable development, marine ecology, and biodiversity conservation. For instance, the Plan of Action (POA) to Implement the Joint Declaration on ASEAN-China Strategic Partnership for Peace and Prosperity (2016–2020) calls for the full and effective implementation of the DOC, early conclusion of the COC, and detailed provisions for undertaking Early Harvest Measures through execution of joint cooperative projects (Plan of Action to Implement the Joint Declaration on ASEAN-China Strategic Partnership for Peace and Prosperity, 2016–2020, 2015).

The successive and the latest POA to Implement the Joint Declaration on ASEAN-China Strategic Partnership for Peace and Prosperity (2021–2025) envisages cooperation to accelerate the implementation of the UN Agenda 2030 for Sustainable Development, promoting complementarity with the ASEAN Community Vision 2025, emphasising the imperative of Blue Economy cooperation (Plan of Action to Implement the Joint Declaration on ASEAN-China Strategic Partnership for Peace and Prosperity, 2021–2025, 2020, Clause 6.1)

The POAs underscore the full and effective implementation of the DOC and the conclusion of the COC, besides providing for practical maritime cooperation initiatives, which contribute to promoting mutual trust and confidence in the SCS and exploring/undertaking cooperation activities such as marine environmental protection, marine scientific research, the safety of navigation and communication at sea, Search and Rescue (SAR) operations, humane treatment of all persons in danger or distress, and combating transnational crime. They also include utilising resources and conducting cooperative projects in the maritime economy, connectivity, scientific and technological promotion, and environmental protection.

They also encourage enterprises to participate and invest in mineral resource exploration and development and enhance energy cooperation and investment in energy infrastructure development (Ibid).

Furthermore, the ASEAN Leaders' Vision Statement on a Cohesive and Responsive ASEAN reaffirms the objectives and principles of the ASEAN Outlook on Indo-Pacific (AOIP, 2019) as a guide for ASEAN's engagement in the Asia-Pacific and Indian-Ocean regions, encouraging external partners to work in a concerted manner with ASEAN. It envisions security, stability, freedom of navigation, overflight, full and effective implementation of the DOC, and early conclusion of the COC for promoting maritime security, safety, sustainability, Humanitarian and Disaster Relief (HADR), and sustainable aquaculture and fisheries. There are also efforts towards establishing the ASEAN Network for Combatting Illegal, Unreported and Unregulated Fishing (IUUF) and promoting joint sustainable development and sustainable and integrated management of water resources, natural resources, and biodiversity through transboundary cooperation (ASEAN Leaders' Vision Statement on a Cohesive and Responsive ASEAN: Rising Above Challenges and Sustaining Growth, 2020, Clause 10–12, 39).

The Declaration for a Decade of Coastal and Marine Environmental Protection in the South China Sea for 2017–2027 (2017), in keeping with the UN Agenda 2030 for Sustainable Development, emphasises preserving and managing coastal and marine environment and life below water, promoting conservation and sustainable use of oceans, seas, and marine resources; encouraging practices like responsible fisheries and environmentally friendly fishing; combating IUUF; and ensuring sustainable fishery resources. It provides for the scientific conservation and management of marine resources, environment, biodiversity, and coastal zones of the SCS ecosystem. It also underlines the importance of protecting the domain as a natural resource base for sustainable socio-economic development (Declaration for a Decade of Coastal and Marine Environmental Protection in the South China Sea for 2017–2027, 2017).

China has incorporated the preservation of the maritime environment and exploitation of oceanic resources, linking economic development to environmental sustainability within the domain of its maritime strategy. Its emphasis on sustainable development and principles of prioritising resource conservation, environmental protection, and development of the marine economy and protecting the marine ecology may be viewed within the wider perspective of China's Maritime Great Power/Grand Strategy (MGP). Like the AOIP, the MGP Strategy focuses on developing a Blue Economy, preserving the marine environment, exploiting maritime resources, and protecting China's rights and interests in near and distant seas (Modernising China's National Security System and Capabilities and Safeguarding National Security and Social Stability, 2022, Clause V, X), thereby widening the ambit of ASEAN-China cooperation in this sphere and upholding their basic 'duty to cooperate'. ASEAN and China have been pursuing negotiations on resolving the SCS dispute for over two and a half decades, succeeding in signing the non-binding DOC and the SDNT before COVID-19, which acted as an undesirable and unprecedented speed-breaker.

Managing the South China Sea Conundrum: Challenges

Having recuperated from the COVID-19 backlash and interregnum, ASEAN and China have earnestly embarked upon COC negotiations. One may recall the completion of the first reading of the SDNT in 2019 before its proposed schedule, which not only fostered confidence-building but also streamlined the framework and essential elements of the COC and was hailed as a "positive development" (Chairman's Statement of the Twenty-sixth ASEAN Regional Forum, 2019). Besides building and elaborating further on the provisions of its preceding Blueprints, the APSC Blueprint 2025 has a dedicated section¹⁰, which is further sub-divided into three subsections dealing with the following:

10 "Enhancing Maritime Security and Promoting Maritime Cooperation in the ASEAN Region and Beyond".

- Maintaining the SCS as a Sea of Peace, Prosperity and Cooperation;
- Promoting Maritime Cooperation to Comprehensively Address Maritime Issues; and
- Ensuring Peaceful, Safe, Free and Unimpeded International Navigation and Overflight in accordance with Relevant International Laws.

The first and third subsections emphasise consensual and dialogue-based mechanisms for dispute settlement between ASEAN and China in the SCS. The provisions for dispute settlement contained in the APSC Blueprint, in tandem with the 'ASEAN Way', highlight the imperative of close consultation among ASEAN Member States and China on matters pertaining to the SCS to ensure freedom of navigation and overflight, full and effective implementation of the DOC; initiatives towards the early adoption of the COC in the SCS, in accordance with international legal norms, particularly the United Nations Convention on the Law of the Sea (UNCLOS-1982) (ASEAN Political-Security Community Blueprint 2025, 2016, 28–29, 31).

However, there are several challenges on the path towards community-building. First is ASEAN's role in reconciling divergences with China regarding the SDNT, which stems from DOC ambiguities, impacting the COC's finalisation. Due to its non-binding nature, the DOC neither addresses territorial defence and sea control issues nor has prevented parties from militarising outposts or employing para-military or grey zone tactics to extend 'de facto control'. Subsequently, there has been a constant stream of incidents relating to maritime space that the DOC was completely ineffectual in preventing. Likewise, though a substantial portion of the SDNT is devoted to dispute prevention, management, and settlement among the contracting parties, its effectiveness is encumbered by the absence of any specific reference to the binding dispute mechanisms included in UNCLOS (Annex VII). The SDNT does not include reference to the COC as a treaty under international law but follows UNCLOS provisions regarding the 'duty to cooperate' and protect the marine environment in a semi-enclosed sea.

Besides, a crucial point of contention in the SDNT pertains to China's proposal on cooperation in the marine economy, prohibiting the involvement of "companies from outside the region" (Thayer 2018), which is contrary to the interests of Malaysia, Indonesia, the Philippines, and Vietnam, since they have been engaged in or are interested in engaging with foreign governments/companies for joint explorations and joint ventures in this domain. Overall, the SDNT has been criticised as nothing more than a collation of individual ASEAN and China proposals replete with contradictions and unreliable hints as to which of the provisions would finally prevail.

Secondly, the impact of the limitations of the DOC and the SDNT would be reflected in the COC provisions, at least in four areas: geographical scope, legal status (binding or not), the efficacy of third-party involvement in dispute settlement, and opening it to accession by other states (Valencia 2023). For instance, since the DOC and the SDNT are both ambiguous with respect to the geographic scope of the SCS, the issue of Sino-Vietnam contradictions over the Paracel Islands may be a case in point. While Vietnam insists that the Paracel Islands, under China's occupation, be included within the ambit of the COC, which China maintains as its "undisputed" territory, the geographic scope or extent of COC could be left open to interpretation by using phrases like "the disputed area in the SCS", thereby perpetuating this ambiguity.

Finally, it is China's overarching influence and power projection in the region. President Xi Jinping's speech at the Twentieth Congress of the Communist Party of China (CPC) unveils "an even greater magnificent chapter for socialism with Chinese characteristics in the new era", envisaging "significant increase in economic strength, science and technological capabilities and composite national strength, substantially grow the per capita Gross Domestic Product to be on par with that of a mid-level developed country" (Modernising China's National Security System and Capabilities and Safeguarding National Security and Social Stability, 2022, Clause X). Within the domain of establishing the 'community of shared destiny', China has embarked upon various initiatives like promoting high-quality development of the BRI, proposing the opening up of the eastern coastal, central, western and northeast regions, expeditious construction of the

New International Land-Sea Trade Corridor, Hainan Free Trade Port, and upgrading pilot free trade zones (Full Text of the Report to the Twentieth National Congress of the Communist Party of China of 16 October 2022, 2022). Through these initiatives, China is unveiling an alternative international system with Chinese characteristics juxtaposed to the rules-based international order.

Composite national strength is one of the basic pillars of China's doctrine of comprehensive national power. The other two pillars are economic development and science and technological development. On the other hand, its emphasis on building a modernised economy and new patterns of development encompassing development initiatives like the BRI, GSI, GDI, and GCI encapsulates the 'spirit' of human progress and world harmony. Although a ruse for expanding its international stature, outreach, bargaining power and stakes in global governance, China projects these developmental initiatives to contribute to "a world of common prosperity through mutually beneficial cooperation" to enable all countries to "pursue the cause of common good, live in harmony and engage in cooperation for mutual benefit" (Ibid).

Conclusion

The principal imperative for facilitating APSC and community-building impinges on strengthening the overall ASEAN architecture and reinforcing ASEAN centrality in shaping an open, transparent, inclusive, and rules-based region while respecting and safeguarding the strategic autonomy of individual member states. The following recommendations are suggested in this context.

First, in its organisational capacity, ASEAN must engage resolutely with China through confidence-building and preventive diplomacy initiatives while striving to minimise intra-ASEAN disparities by encouraging progressive measures like the Initiative for ASEAN Integration, emphasising socio-political integration and community-building. This objective could also be achieved by reducing the explicit dependence of ASEAN Member States on China, thereby preventing their co-option while expanding the web of allies and fostering substantial engagement with more partners based on mutual benefits, interests, and complementarities and, eventually, embracing them into the fold of ASEAN-led mechanisms. Thus, the organisation would be able to not only deter China's overtures but also provide alternative avenues of cooperation, partnership, and sources of development funds/investments. This would, in turn, strengthen ASEAN-led mechanisms like ARF, EAS and ADMM and provide a platform for discussing issues pertaining to present and emerging challenges to political-security community-building.

Second, ASEAN must judiciously continue the flow of negotiations, confidence-building mechanisms, and preventive diplomacy initiatives with China, primarily focusing on expediting the COC negotiations. In this context, it is contingent on implementation mechanisms like the JWG to monitor the full and effective execution of the DOC and consultations on the COC, strengthening dialogue and exercising restraint to enhance mutual trust and deepen cooperation in environmental protection, scientific research, SAR, law enforcement and other fields to build the SCS as a sea of peace, friendship, and cooperation.

Third, from the heuristic perspective, ASEAN and China must emphasise cooperation in the sphere of Blue Economy, sustainable development, and preservation of marine ecology of the SCS, subsequently exploring opportunities for cooperation in using, managing, and conserving ocean, sea, and marine life and coastal ecosystems for development across various sectors such as fisheries, aquaculture, maritime transport, renewable energy, tourism, climate change, R&D, and human welfare. Thus, they will have a platform for coordinating maritime development and security and advancing maritime cooperation and ocean governance, in conjunction with China's willingness to "act in the spirit of building a maritime community with a shared future" (Coordinating Security and Development to Advance Ocean Governance, 2022).

Finally, the organisation must emphasise sustainable joint resources management and maritime conduct in the SCS with China, fostering confidence-building and preventive diplomacy. The emergence of a clear dichotomy among ASEAN Member States, based on their strategic preferences for accommodating and even aligning with China, stemming from considerations of respective national interests, is debilitating the organisation's capacity to take a coordinated stance against China insofar as the SCS issue is concerned.

In the contemporary geo-political and geo-economic backdrop, with myriad challenges facing the region in general and the organisation in particular, like the volatile situation in the SCS, the realignment of great power dynamics, increased militarisation, the crises in Myanmar, the Taiwan Strait, the Korean Peninsula, the impact of the Ukraine War, energy insecurity, and economic factors, ASEAN finds itself at the crossroads of interspersing lanes. Under the circumstances, it is contingent on the able and adept leadership to follow a balanced and judiciously blended policy of realism and liberal institutionalism, emphasising community-building, regional cooperation, and enhanced dialogue and consultations with China and other stakeholders. As ASEAN embarks on its tryst with revitalising the community-building process, the organisation must maintain the precarious balance between organisational centrality and inclusiveness of the member states while adhering to the basic organisational ethos in its sojourn through trials and tribulations.

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City Lights of Asia and Australia
NASA Earth Observatory image by Robert Simmon



Photo: Thai Navy parade marching on the 50th anniversary ASEAN International Fleet Review 2017 at the beach of Pattaya, Thailand. Shutterstock.com

CHAPTER 2

ASEAN Peacekeeping Force: A Justification and Potential Framework

Mr. Richard Ouch

Introduction

The Association of Southeast Asian Nations (ASEAN) is known as Southeast Asia's regional authority, constituting many nation-states within its membership. It fosters political, economic, and cultural relations among all the members. Though ASEAN's main objectives are promoting peace and stability in the region and fostering a collective community among the member states, the organisation tends to face fierce criticism regarding its approach towards conflicts within the member countries.

Calls for ASEAN to take on a larger security role in the region have been persistent throughout its operation. To justify the establishment of an ASEAN Peacekeeping Force (APF), the chapter illustrates the benefits of a regional peacekeeping force by highlighting the analysis of ASEAN's security baseline to provide a foundational structure for its realisation, exploring the Treaty of Amity and Cooperation (TAC) and the ASEAN Regional Forum (ARF), as well as the ASEAN Military Ready Group on Humanitarian Assistance and Disaster Relief (AMRG HADR), and examining the principles and norms underpinning the multinational organisation's security architecture.

Even more concerning is the region's vulnerability to the effects of climate change, necessitating building resilience against the challenges posed by adverse weather effects, which can prove devastating for countries especially reliant on tourism and agriculture. Crippled critical infrastructure, destroyed crops intended for household consumption and export, and large-scale population displacement are just some examples that could threaten regional stability. Although ASEAN has the AMRG HADR, it needs an APF because it could fill the gap in disaster relief efforts, offering support, conflict resolution, and holistic collaboration with civilian agencies for effective and comprehensive recovery.

The challenges facing the establishment of an APF and making ASEAN reluctant to take a larger security role in the region are derived from the organisation's fundamental principles: the policy of non-interference and respect towards state sovereignty. Additionally, capacities among the ASEAN Member States (AMS) to contribute towards an APF vary, and the funding and sustainment of an APF may pose a budgetary constraint, especially when peacekeeping operations may last for years. It becomes even more problematic for public support when governments spend resources on operations in that their citizens have little interest and deploy their peacekeepers to dangerous areas.

Despite these challenges, creating an APF is not impossible. Throughout the decades, the concept of peacekeeping has undergone major changes. Recent development has seen a greater focus on tackling conflicts at their roots rather than simply preventing armed conflicts. Besides, the foundational framework has already been partially laid out despite the criticism directed at ASEAN's lack of engagement in peacekeeping. The AMS has been increasingly involved in peacekeeping operations on an international scale, contributing resources towards UN and bilateral peacekeeping operations. The members' capabilities have also been developed by operationalising Peacekeeping Centres throughout the region. The APF can further evolve beyond sharing experiences and joint exercises in the annual ASEAN Peacekeeping Centres Network (APCN) meetings by focusing on responses that include civil society and relevant stakeholders in a conflict.

This chapter seeks to justify the establishment of an APF and showcases what it would look like. The analysis focuses on its significance, relevant capacities within ASEAN, the benefits that an APF could bring, the challenges associated with it, and what it would look like, drawing examples from the United Nations Peacekeeping Force (UNPKF), the European Union's Common Security and Defence Policy (EU-CSDP), and relevant subsets.

Background

During 2022, 56 states experienced armed conflicts, with estimated deaths at over 147,609 (Gowan 2023). Four were in Southeast Asia, where Myanmar faces major armed conflict, and Thailand, the Philippines, and Indonesia experienced subnational, low-intensity armed conflicts (Davis 2022). The conflict in Myanmar has remained concerning since the 2021 military coup, giving rise to serious violence and mass displacement throughout the region. Despite the prevalence of conflict in the region, the presence of peacekeepers has only occurred twice: the UN Transitional Authority in Cambodia and the International Force East Timor (INTERFET) and the United Nations Transitional Administration in East Timor (UNTAET) (Jones 2020). On the contrary, Europe has numerous peacekeeping operations despite relatively few armed conflicts. Thierry Tardy iterates, "Since 2003, the EU has launched and run 32 operations and missions, 10 of which were military, 21 civilians, and one – in Darfur – mixed" (European Union Institute for Security Studies 2015, 19). Though the EU and ASEAN are similar in that they are regional intergovernmental organisations, the absence of an APF, compared with the presence of the EU-CSDP, may demonstrate the potential of a regional peacekeeping force.

While ASEAN does not directly participate in peacekeeping operations in the region, AMS, such as Malaysia and Indonesia, have continuously facilitated and contributed to significant peacekeeping operations in Southeast Asia. For example, despite reservations by AMS about intervening in the 1999 East Timor Crisis, it was only after Indonesia consented to international intervention that over 2,500 personnel from AMS contributed to INTERFET (Dupont 2000, 166). As of May 2023, AMS has contributed over 5,000 personnel to UNPK, with Indonesia accounting for more than half the total (UN 2023).

According to the United States Agency for International Development (USAID), the Southeast Asian region is one of the most vulnerable regions to climate change, facing rising sea levels, heatwaves, floods and droughts, and other increasingly intense and unpredictable weather events (USAID 2023, 1). Additionally, many of the countries in the region rely heavily on agriculture and fisheries for their economy and people's livelihoods. The potential impact of severe weather events due to migration and displacement could be detrimental to those directly affected and neighbouring countries.

Benefits

Reputation, Legitimacy, and Experience

Despite the reluctance to create a regional peacekeeping force, AMS have little reluctance when contributing their resources and people towards the United Nations Peacekeeping Operations (UNPKO). For example, the Cambodian government sees the reputational benefits of contribution as one of the many benefits it can achieve. The Cambodian government also acknowledges these missions to improve the capacities of its forces through training and experience, and compensation from the UN helps pay for its current military reform efforts (Capie 2014, 115). In 2012, Indonesia announced that it intended to become a top 10 troop-contributing country, hoping to deploy over 10,000 troops across peacekeeping operations worldwide in the long term (Ibid, 119). For ASEAN, the general motivation of reputation, economic benefit, and capacity building remains consistent for all AMS to contribute towards peacekeeping efforts. The significance of AMS's contributions to UNPKO is also highlighted by their expertise and technical support in niche operations and training. For example, Cambodia specialises in mine clearance, which made headlines when Ukrainian deminers were sent to receive training in Cambodia (Cheang 2023). Thailand specialises in water purification and groundwater drilling, while Vietnam is famous for medical services (Jones 2020).

Third-Party Enabling Peace-making

While each conflict is unique, requiring different approaches for its resolution, it is widely believed that the inherent nature of a conflict needs an external party to assist in the peace process. This belief is especially strong regarding a conflict between a state and non-state actors, as peace-making mechanisms that belong to the state, such as military and legislation, are perceived as biased against the non-state actors. With this inherent bias, the non-state actors will reject the state's facilitation of peace. Therefore, the external party, who can take on multitudes of roles in the peace process, is required. There are also limitations to the peacekeeping process when the third party is a government. Issues of bilateral relations between governments make it difficult for a state to be neutral in a peace-making role. When conducting peacekeeping operations within one's region, a perceived threat to state sovereignty is amplified by a country-led peacekeeping initiative rather than a multilateral one. For this reason, Singapore blocked further discussion on an APF when Indonesia brought up the idea in 2004 (Capie 2014, 113).

Using the 1999 East Timor Crisis as an example, East Timor assumed the role of a non-state actor due to the Indonesian government's refusal to recognise their independence. Conversely, pro-Indonesian militias, supported by elements within the Indonesian government, took on the role of state actors. Since mechanisms to restore peace lay within the Indonesian government, which was perceived as supporting the militias, violence continued until the INTERFET and subsequent UNTAET forces intervened, which helped curb the violence and provided both parties with interim civilian administration and monitoring (Southgate 2019, 144–46).

Due to the disadvantage of a state as a third party, another benefit of an APF is that it can secure the cooperation of other states with significant capacities and resources. In this way, an APF can foster greater collaboration and collective efforts among ASEAN Member States and other external partners, leading to more effective and comprehensive peacekeeping endeavours, especially when a party in a conflict is reluctant to consent to a UN-led operation.

Regional Proximity and Geopolitical Considerations

Proximity can enable the speedy deployment of an APF, not only in terms of personnel and supplies but also in gaining consensus among members for operations and deployment. Within the region, neighbouring countries are more likely to have an interest in resolving conflicts with their neighbours as economic interdependence, regional cooperation, shared culture, and geographical proximity are all major factors in approving the deployment of a peacekeeping operation. These factors become more appealing when a conflict escalates, as seen by the mass displacement during the Myanmar crisis, straining the borders of neighbouring countries, particularly Bangladesh, Thailand, and India. This scenario underscores how an APF could offer a timelier and more probable authorisation of a peacekeeping operation to curb the violence in Myanmar as regional countries feel the detrimental effects of the conflict more strongly. This contrasts with how the United Nations Security Council authorises UNPKO operations, whose members may not feel much effect from the conflict in Myanmar and are often influenced by biases towards the parties involved (Benson and Kathman 2014, 361).

Challenges

ASEAN Principle of Non-Interference

The core challenge to forming the APF is ASEAN's principle of non-interference. The principle is highlighted in foundational documents. Its first usage was in the document that created ASEAN in 1967, called the Bangkok Declarations, which expressed that AMS "are determined to ensure their stability and security from external interference in any form or manifestation to preserve their national identities in accordance with the ideals and aspirations of their peoples" (ASEAN 1967, 1). Later, this principle was reiterated in the 1976 Treaty of Amity and Cooperation in Southeast Asia (TAC). Both documents are consistently referred to in forming ASEAN initiatives and legislations. Because the principle of non-interference is emphasised in both documents, it becomes the core barrier to the creation of the APF.

Nevertheless, the principle of non-interference is ambiguous because it is not clearly defined. Its usage in ASEAN has allowed fellow member states to conduct actions otherwise inexcusable by fellow AMS and the international community, making it difficult for fellow AMS to call for action when violent repressions or conflicts occur. The same principle has been used to justify ASEAN's inaction in the ongoing Rohingya Crisis in Myanmar. Because of ASEAN's commitment to non-interference, the organisation has played little role in addressing the region's conflicts and post-conflict situations.

Varying Levels of Capacity

Peacekeeping operations can be complex and resource-intensive and last for a prolonged period, requiring the cooperation of multiple parties and nations. One of the largest challenges in establishing an APF is addressing the issue of burden sharing among AMS. Burden sharing, a common concept in intergovernmental organisations, can be especially problematic for ASEAN due to its member countries' varied capacities and resources.

Noting the AMS deployments of peacekeepers in the UNPKO, Indonesia has provided a substantial number of peacekeepers to UN missions, demonstrating a strong commitment to global peacekeeping efforts, with Cambodia and Malaysia also contributing significant portions to complement. However, other AMS are noted to have contributed significantly less, signifying differences in capabilities and national priorities.

This discrepancy in contributions could lead to imbalances in the APF if established. Countries with larger capacities and resources might be expected to contribute more to operations, potentially causing tensions or disputes among AMS about the unequal distribution of responsibilities and authority, where a main contributor holds the most authority in how and when the APF operates. Additionally, if some nations bear a disproportionate share of the burden, they could strain their military and financial resources, hindering their ability to contribute effectively to APF missions.

ASEAN Security Baseline

Before considering the region's potential to operationalise an APF, it is crucial to review the basic characteristics of the ASEAN Security Baseline. The security baseline is derived from some of its core documents and initiatives, namely, the TAC and ARF. While not directly involved in traditional peacekeeping, it contributes to conflict prevention and regional stability.

Treaty of Amity and Cooperation (TAC)

Signed in 1976, TAC forms the cornerstone of ASEAN's security architecture. It contributes significantly to its security baseline, facilitating peaceful relations among AMS and providing a framework for conflict resolution and prevention. TAC has several principles that guide the direction of ASEAN (Medina 2020):

- Emphasising mutual respect for the independence, sovereignty, equality, and territorial integrity of all member nations;
- Upholding non-interference in internal affairs and promoting peaceful conflict resolution; and
- Renouncing the use of force and promoting effective cooperation among ASEAN countries contributes to regional security and stability.

Additionally, TAC has since evolved. It was amended in 2009 to allow non-ASEAN countries to accede to the treaty (ASEAN 2010). This amendment reflects a willingness of ASEAN to adapt to changing regional and security dynamics, enhancing cooperation and dialogue with external partners.

In summary, TAC aligns greatly with ASEAN's broader approach to maintaining regional security and stability while, at the same time, ensuring inclusiveness within its cohort. It underpins the organisation's and external parties' commitment to promoting peaceful conflict settlement.

ASEAN Regional Forum (ARF)

The relevance of the ARF to the ASEAN Security baseline and peacekeeping becomes evident when considering its goal of strengthening political and security cooperation within the region. The ARF provides a valuable platform for regional states to collaborate peacefully on shared security concerns by fostering constructive dialogue, consultation on common security issues, and confidence-building measures. Emphasising consultation and dialogue, the ARF follows the ASEAN Way of security management, following the TAC and its principles of sovereignty and non-interference (Mahaseth 2022). Although the ARF has limitations, it has successfully institutionalised security dialogue among significant regional powers. The ARF exhibits its potential as a foundation for further development of subregional mechanisms by fostering an open and candid forum for discussing regional security issues.

Given the region's need for more action-oriented institutions to bolster regional security, it is essential to explore the addition of an APF into the conversation. Such a mechanism could complement and strengthen existing peacekeeping efforts within ASEAN, fostering greater collaboration among the member states and external partners. This discussion aligns with ASEAN's objectives of promoting regional peace and stability while adapting to emerging security challenges, much like the amendment to allow non-AMS to accede to the TAC. The APF has the potential to contribute significantly to regional peace and stability by providing a platform for the ASEAN Member States to cooperate in peacekeeping operations and humanitarian assistance efforts.

Myanmar and East Timor

One of the most significant conflicts within the region is the ongoing Rohingya Crisis in Myanmar, which remains a contentious issue amongst ASEAN and the international community, especially when the Myanmar state, while facing a growing humanitarian crisis characterised by deepening economic recession, rising internal displacement, collapsing healthcare, and surging poverty and food insecurity (Davis 2022), also launched a military coup in 2021. With the democratically elected government deposed, non-violent protests began and have subsequently met with lethal force (Council on Foreign Relations 2023), leading to the formation of local resistance groups who have conducted retaliatory attacks against not only military and police targets but also those civil servants who supported the military (Oo and Tønnesson 2023, 6). The violent fighting between both sides caused 6,337 civilian deaths between 1 February 2021 and 30 September 2022 (Ibid, 36).

The violence has not only taken a heavy toll on civilian life but has also caused massive displacement among the populace, especially in areas where heavy fighting, airstrikes, and indiscriminate shelling occur frequently. According to a report by the UNHCR Regional Bureau for Asia and the Pacific (RBAP), there have been an estimated 1,499,000 million internally displaced people (IDPs) in Myanmar since the coup (RBAP 2023, 1). They are displaced and facing dire circumstances, such as starvation, malnutrition, and lack of access to basic healthcare and essential resources. Neighbouring countries have also been heavily impacted by the mass displacement of people. Bangladesh has borne the brunt of the responsibilities since 2017, housing over 945,953 registered refugees while tens of thousands fled to India and Thailand (Ibid, 2). The difficulties of accommodating this huge number of refugees can have far-reaching consequences on regional peace, stability, and security.

As of 2023, ASEAN responses have slowly escalated, stemming from the 2021 Five-Point Consensus on Myanmar, on which the military junta had initially agreed. The Consensus iterated an immediate cessation of violence, the opening of dialogue among all parties, mediation facilitated by a special envoy and ASEAN Secretary-General, granting of access to humanitarian assistance through the AHA Centre, and a planned visit by the special envoy (ASEAN 2021, 4). However, hopes for progress were stifled when Senior General Min Aung Hlaing announced that the junta would only consider the suggestions made by the ASEAN leaders until law and order were restored (Information Team, State Administration Council 2021). Though Myanmar has been suspended from sending representatives to high-level meetings in ASEAN, divergent efforts from other AMS have fuelled concerns about a 'minilateral' approach to diplomacy with Myanmar. For example, Thailand hosted a meeting with the junta and several AMS, including Laos, Cambodia, and Vietnam (Robinson 2023). India hosted a Track 1.5 meeting in New Delhi, with the same participants as the meeting in Thailand, but also included Indonesia, China, and Bangladesh (Robinson and Chau 2023). Despite the efforts, the crisis in Myanmar remains in full swing.

The international community remains sceptical about the legitimacy of ASEAN and AMS due to the political crises and the legacy of armed conflicts as several Southeast Asian states in the 1990s were "grappling with separatism, ethnic tensions and the demands of nation-building" (Dupont 2000, 165). For instance, after an UN-sponsored referendum in 1999 indicated that the East Timorese people desired independence from Indonesia, a conflict broke out between pro-Indonesian militias and the East Timorese, resulting in the death of one thousand people and the displacement of 500,000, half of whom leaving the territory (Australian War Memorial 2023). The end of the East Timor Crisis saw the operationalisation of an Australian-led peace-making task force, the INTERFET, and the subsequent arrival of the UNTAET forces, whose purpose was to restore peace in the region (Southgate 2019, 144–46). Likewise, the Rohingya Crisis in Myanmar shows no signs of abating without a similar solution being conducted, especially with the recent coup in 2021. As countless marginalised and vulnerable populations suffer, it is difficult for ASEAN to claim itself as a people-centric intergovernmental organisation when insecurity remains a persistent problem for many in the region.

Developing ASEAN Peacekeeping Force

AMRG on HADR and APCN

The creation of an APF may be easier to achieve than some realise. The 2017 operationalisation of the ASEAN Military Ready Group on Humanitarian Assistance and Disaster Relief (AMRG on HADR) and the Concept Paper on the Establishment of ASEAN Peacekeeping Centres Network (APCN) are both key initiatives of ASEAN that can potentially lay the foundation that an APF can be built upon, especially with further adjustments, such as including civil society and relevant stakeholders into the conversation. In brief, the AMRG on the HADR initiative establishes a quick-response military team under a single ASEAN banner. However, it has only been fully developed for natural disaster preparedness. For the APCN, it provides a linkage for Peacekeeping Centres across AMS.

The Concept Paper for the AMRG on HADR was adopted in 2015 at the 9th ASEAN Defence Ministers Meeting (ADMM), focusing on the military capacity of AMS. Peace studies have broadened from strictly military-styled peace interventions towards civilian-centric peace interventions. However, it remains one of the core aspects of peacekeeping, especially for an APF. While the APCN establishes a framework for an APF within AMS, the AMRG, in contrast, builds a framework which can be applied for APF operations in states where peacekeeping is needed, establishing core structural procedures and designating roles among military representatives and other logistical or financial procedures.

For structure and arrangement, the Concept Paper states that the AMRG on HADR will liaise with the affected state military and other relevant local authorities. The military representative is to facilitate coordination between the AMRG on HADR, the ASEAN Coordinating Centre for Humanitarian Assistance (AHA), and affected state authorities.

One of the more relevant principles of the AMRG on HADR is that it can only be deployed with the consensus of all ten AMS, even if not all AMS contribute to the operation. Consensus in the face of a natural disaster is easy to ascertain. However, consensus becomes much more tedious when an armed conflict is involved. What is desirable from this foundational work is the AMRG on HADR's inclusive nature when operating within a state, involving all the affected states, relevant authorities, and assisting states. However, though humanitarian assistance is included in the initiative's name, there is little to no reference to humanitarian assistance towards armed conflicts. As such, the discussion of civil society remains absent.

The principles, structures, and attitudes from the AMRG on HADR and the ASCN showcased some existing opportunities within ASEAN in forming an APF. Critiques that mention unfavourable conditions for an APF can be referred to the frameworks of the initiatives that have already been operationalised. The APCN aims to create a shared peacekeeping network among AMS, while the AMRG provides a structural framework upon which an APF operation can be built.

In the Concept Paper for the APCN, ASEAN acknowledges the achievements and contributions AMS have made towards peacekeeping missions abroad, and it has since adopted the APCN with its objective of "facilitating existing and future peacekeeping centres of ASEAN respective countries to conduct joint planning/training and exchange experiences" (Capie 2014, 123). Since its inception, the APCN meetings have generally followed this agenda throughout the years. Outcomes of the APCN have consistently mentioned continual exercises, meetings, and sharing of best practices and experiences since 2012 (Thayer 2014; Parameswaran 2015; VNA 2023). The foundation for an APF lies in the interlinkages between AMS peacekeeping centres and the goals set by the APCN. To summarise, the short-term goals include information sharing on peacekeeping training, identifying priorities and weaknesses in capacity development, and providing support for AMS. Medium-term objectives include establishing Standard Operating Procedures (SOPs) to guide APCN implementation, exchanging expertise through visits by AMS specialists to relevant bodies and fostering joint training initiatives. For the long term, it seeks to develop

a common standby arrangement to support peacekeeping operations, enhance peacekeeping capacities for respective AMS, and equip existing peacekeeping centres with specialisation in specific areas [such as conflict resolution, humanitarian assistance, and natural disaster readiness] (5th ASEAN Defence Ministers' Meeting 2011, 2-3).

The creation of an APF requires the achievement of the very goals that the APCN ascribes. ASEAN is a diverse governmental organisation where shared languages and cultures must be developed to achieve its goals of a singular community among the Southeast Asian states. Without these shared capacities, creating an effective APF will be difficult. The current iteration of the APCN facilitates information sharing and collaborative training and experiences. While far from operationalising an APF, the fact is that it is slowly building core capacities across participating member states. With Indonesia set to take the role of APCN chairmanship in 2024, there is an opportunity for one of the biggest contributors to peacekeeping to give the APCN a bigger role within the geopolitical sphere.

However, on a side note, outcome documents related to the APCN are relatively difficult to find, with several documents of a select few years scattered across the ADMM website, making them accessible by using a search engine while remaining inaccessible through navigating the ADMM website. Consequently, assessing the success and development of the APCN is unnecessarily difficult, giving the public fewer options but to rely on these scarce documents or the occasional news articles. While the development of an APCN website was mentioned at the 4th ASEAN APCN Meeting in 2016 in the Philippines (ASEAN 2016, 12), there has been little progress since then. The meeting also discussed the common framework of an ASEAN peacekeeping force. However, the outcome concluded that there needed to be a stronger political will and more capacity building, as "most ASEAN Member States are not ready in its commitment to participate in the ASEAN peacekeeping force" (ASEAN 2016, 10). The document does not mention which states were not ready to commit.

With Indonesia assuming the ASEAN Chairmanship in 2023, it could play a pivotal role in further developing a singular community and expanding and deepening the responsibilities and activities of the APCN. The first step includes making key documents and outcome reports readily available, whether by making a website dedicated to APCN-related content and documents or gathering and organising aforementioned documents into a library on the ADMM website. Second, Indonesia can spearhead initiatives that go beyond sharing information and experiences. Collaborating with Indonesia's extensive peacekeeping network and external ASEAN partners such as the EU and the UN, Indonesia can assist in training veterans and professionals in conflict resolution, disaster response, and other key areas of expertise in peacekeeping. These recommendations synergistically enhance the APCN, giving the peacekeeping sector within ASEAN a vital foundational boost. At the same time, the organisation and publication of crucial documents can be used to further develop and expand peacekeeping initiatives during the APCN meetings.

Broadening Perspectives

Though the AMRG on HADR and APCN contribute substantially towards the framework of an APF, they lack a key component which can ease the concern that peacekeeping is a threat to state sovereignty and the non-interference principle. That component is civil society. While military forces are important in the peacebuilding process, civil society is a critical partner in the same process. Additionally, civil society within ASEAN is readily available when looking at the ASEAN Socio-Cultural Community (ASCC). The AMRG on HADR and APCN make little to no reference to civil society and focus entirely on the military, showing a troubling perspective within ASEAN that peacekeeping relies solely on the military rather than civilians.

Therefore, the justification for broadening peace studies must be highlighted to change the perspective. The White Paper on Peacebuilding, presented by the Geneva Peacebuilding Platform, showcases several key findings. One of the findings is the transformation of the security landscape, which includes elements of "chronic political instability, persistent social volatility and conflict, the proliferation of non-state armed

groups and transnational actors, disputes over land and natural resources, weak state systems, and recurring cycles of violent competition over the state or markets" (Geneva Peacebuilding Platform 2015, 7). These elements are rife within Southeast Asia, illustrated by the ongoing Rohingya Crisis, the recent Thailand-Cambodia border conflict, and the Southern Philippines conflict between Muslim separatists, communists, clan militias, and criminal groups (BBC News 2012). This makes it extremely relevant for forming an APF within the region.

Demystifying current peacebuilding practices described in the White Paper emphasises reforming the top-down militaristic approach, mirroring concerns raised in previous UN peacekeeping operations. Now, the focus lies in addressing the conflict's underlying causes, requiring the participation of ASEAN's socio-cultural organisations that focus on civil society.

By engaging multiple branches of ASEAN, such as the ASEAN Commission on Women and Children (ACWC) from the Socio-Cultural Community, the APF can address issues like gender disparity in conflict settlement and peacekeeping through dialogue and cooperation. An open letter by multiple peacebuilding organisations states:

We cannot expect to unravel the challenges of today's world – without digging deeper. We must address the roots of violent conflict and instability in economic and political exclusion; injustice, gender, and other forms of inequality; insecurity and institutional weakness; and unsustainable resource use. (Alliance for Peacebuilding et al. 2015)

Peacebuilding does not stop at ending a conflict. It also responds to other needs within the local community to help them sustain in a post-conflict environment, from employment to representation within the local and international community.

As it is crucial to indicate that an APF can be formed without conflicting with ASEAN's principle of non-interference and is a non-threat towards state sovereignty, it must adhere to the three principles of UN peacekeeping: consent of the parties, impartiality, and non-use of force, except in self-defence and defence of the mandate (United Nations Department of Peacekeeping Operations 2008, 31). These same principles are also integral to the EU's CSDP, which conducts peacekeeping operations throughout its region.

Drawing from EU-CSDP

The European Union's CSDP significantly promotes stability, security, and peace beyond the EU. Since its first mission in 2003, the EU-CSDP has carried out over 37 overseas operations in Europe, Africa, and Asia, tackling various issues using a combination of military and civilian assets while working with partner countries (EEAS 2022). Training can be modelled after the EU-CSDP's programmes in Mali, Somalia, and the Central African Republic and can be extended to involve AMS peacekeeping personnel. Collaboration between the EU and ASEAN can offer crucial opportunities for joint training under these programmes. These efforts both impart invaluable experience from the EU and lay the groundwork for ASEAN peacekeeping programmes in the future.

The APCN can also draw from the Military Planning and Conduct Capability (MPCC). Instead of meetings being hosted in different AMS locations yearly, the MPCC serves as a permanent command and control structure at the military strategic level (EEAS 2022). A centralised hub would streamline the decision-making, planning, and execution of peacekeeping operations.

Like the European Peace Facility (EPF), ASEAN could devise an alternative funding mechanism outside its regular budget to address financial constraints. The EPF has two pillars, one for military operation and the other for assistance measures, with the common goal of preventing conflicts, strengthening security, and building peace. Not only does this fund cover EU operations, but it also enables it to support partners on a global level (European Commission 2023). Drawing from this approach would ensure adequate financing for

military and defence aspects of peacekeeping endeavours, enabling swift responses to security challenges in the region.

Conclusion

Though some perspectives suggest that creating an APF would exacerbate tensions and affect the work that ASEAN has done to construct a regional community within Southeast Asia, the current evolution of ASEAN, Southeast Asian countries, and peace studies show that these perspectives are based on false and paranoid presumptions. They ignore the multitudes of opportunities that an APF can create for ASEAN.

The benefits of an APF include enhancing the reputation, legitimacy, and experience of ASEAN Member States in international peacekeeping efforts. Furthermore, an APF could serve as a third-party enabler in peace-making processes, especially in conflicts involving state and non-state actors. External parties like an APF are often necessary to mediate and facilitate peace processes between conflicting parties, especially when a state-led approach is perceived as biased against non-state actors. Regional proximity and geopolitical considerations also favour the establishment of an APF, streamlining deployment due to the geographic proximity of neighbouring countries, which are more likely to have an interest in resolving conflicts within their region.

However, challenges persist in establishing an APF. Namely, the principle of non-interference, a fundamental principle in ASEAN, presents a significant barrier. This ambiguous principle has been used to justify inaction in conflicts, including the ongoing Rohingya Crisis in Myanmar. Additionally, varying capacity levels among ASEAN Member States can cause imbalances and disputes in burden-sharing for peacekeeping missions.

However, AMS contributions and capacities towards the UNPKO, the AMRG on HADR and APCN frameworks, and the goal of ASEAN to build a Southeast Asian community are the buffers which show that an effective APF is not far from the realm of possibility. Taking notes from the EU-CSDP, the APCN can adopt a centralised command structure for streamlined and effective decision-making in peacekeeping operations. Following the example of the EPF, ASEAN can introduce an alternative funding mechanism outside its regular budget, focusing on conflict prevention, security, and peacebuilding. Using the same principles from UNPK and the EU-CSDP, an APF can avoid being used as a military tool to pressure and threaten state sovereignty, as many fear, but instead ensure peace and stability throughout the region while respecting ASEAN's principle of non-interference.

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*Filipino police officers serving in Darfur stand in formation waiting to be awarded the UN peacekeeping medal near the completion of their duty in Sudan, 2010.
UN Photo/ Albert Gonzalez*





SECTION 2

ASEAN ECONOMIC COMMUNITY



Photo: International port vessels. Shutterstock.com

CHAPTER 3

A Post-Pandemic Critical Assessment of ASEAN Economic Community Through Investment Integration

Dr. John Paolo R. Rivera

ASEAN's Investment Performance

The Association of Southeast Asian Nations (ASEAN) has been characterised by an expanding market size and abundant labour creating huge potential for the region to become a major destination for FDI (Lee 2019, 36). Likewise, the rapid expansion of trade and FDI inflows have been driven by ASEAN's integration with the East Asian supply chain, "based on intra-industry vertical division of labour reflecting comparative advantage" (Kawai and Naknoi 2015, 3). AMS has seen an increase in inward FDI flows for the past decade, only to be disrupted by the COVID-19 pandemic (see Tables 1 and 2).

Table 1. FDI, net inflows in ASEAN and other selected economies (BoP, in current billion USD)

Economy	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Brunei Darussalam	0.86	0.78	0.57	0.17	(0.15)	0.47	0.52	0.37	0.57	0.20	-
Cambodia	1.99	2.07	1.85	1.82	2.48	2.79	3.21	3.66	3.62	3.48	3.58
Indonesia	21.20	23.28	25.12	19.78	4.54	20.51	18.91	24.99	19.18	21.21	21.65
Lao PDR	0.62	0.68	0.87	1.08	0.94	1.69	1.36	0.76	0.97	1.07	-
Malaysia	8.90	11.30	10.62	9.86	13.47	9.37	8.30	9.15	4.06	18.60	15.11
Myanmar	1.33	2.25	2.18	4.08	3.28	4.80	1.77	1.74	1.91	2.07	-
Philippines	3.22	3.74	5.74	5.64	8.28	10.26	9.95	8.67	6.82	11.98	9.20
Singapore	55.31	64.39	68.70	69.77	65.36	102.16	81.16	105.29	78.45	138.54	140.84
Thailand	12.90	15.94	4.98	8.93	3.49	8.29	13.75	5.52	(4.95)	14.64	10.05
Vietnam	8.37	8.90	9.20	11.80	12.60	14.10	15.50	16.12	15.80	15.66	-
Australia	57.55	54.47	63.20	46.89	42.97	48.20	60.69	38.96	15.31	24.83	67.12
Brazil	92.57	75.21	87.71	64.74	74.29	68.89	78.16	69.17	37.79	46.44	91.50
China	241.21	290.93	268.10	242.49	174.75	166.08	235.37	187.17	253.10	344.07	180.17
India	24.00	28.15	34.58	44.01	44.46	39.97	42.12	50.61	64.36	44.73	49.92
Japan	0.55	10.65	19.75	5.25	40.95	18.80	25.29	39.96	62.58	34.67	47.52
Korea	9.50	12.77	9.27	4.10	12.10	17.91	12.18	9.63	8.76	22.06	18.00

Source: World Bank. <https://data.worldbank.org/indicator/BX.KLT.DINV.CD.WD>

Table 2. FDI, net inflows in ASEAN and other selected economies (% of GDP)

Economy	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Brunei Darussalam	4.54	4.29	3.36	1.32	(1.32)	3.86	3.80	2.77	4.71	1.46	-
Cambodia	14.15	13.58	11.10	10.10	12.37	12.57	13.07	13.52	14.01	12.92	11.95
Indonesia	2.31	2.55	2.82	2.30	0.49	2.02	1.81	2.23	1.81	1.79	1.64
Lao PDR	6.06	5.69	6.53	7.47	5.88	9.92	7.49	4.03	5.10	5.69	-
Malaysia	2.83	3.49	3.14	3.27	4.47	2.94	2.31	2.51	1.20	4.99	3.72
Myanmar	2.29	3.72	3.44	6.48	5.44	7.82	2.63	2.53	2.42	3.17	-
Philippines	1.23	1.32	1.93	1.84	2.60	3.12	2.87	2.30	1.89	3.04	2.28
Singapore	18.74	20.93	21.82	22.65	20.49	29.76	21.54	27.94	22.52	32.69	30.17
Thailand	3.24	3.79	1.22	2.22	0.84	1.82	2.71	1.01	(0.99)	2.90	2.03
Vietnam	4.28	4.16	3.94	4.93	4.90	5.01	5.00	4.82	4.56	4.28	-
Australia	3.72	3.46	4.31	3.47	3.56	3.63	4.25	2.80	1.15	1.60	4.01
Brazil	3.75	3.04	3.57	3.59	4.14	3.34	4.08	3.69	2.56	2.82	4.77
China	2.83	3.04	2.56	2.19	1.56	1.35	1.69	1.31	1.72	1.93	1.00
India	1.31	1.52	1.70	2.09	1.94	1.51	1.56	1.78	2.41	1.42	1.47
Japan	0.01	0.20	0.40	0.12	0.82	0.38	0.50	0.78	1.24	0.69	1.12
Korea	0.74	0.93	0.62	0.28	0.81	1.10	0.71	0.58	0.53	1.22	1.08

Source: World Bank. <https://data.worldbank.org/indicator/BX.KLT.DINV.WD.GD.ZS>

Similarly, notwithstanding the COVID-19 pandemic, ASEAN has demonstrated increasing desirability as a preferred destination of FDIs (see Tables 1 and 2). This can be ascribed to the established policy environment that has resulted in some degree of success in enticing FDIs despite stiff competition from other regional trading blocs. These policies include advancing economic and political stability, transparent rules on entry and operations, national treatment (i.e., equitable standards of treatment between foreign and domestic firms), ensuring the proper functioning and structure of markets (Brooks and Sumulong 2003, 1), reduction of red tape (Anti-Red Tape Authority 2018), and provision of tax incentives (Lee 2019, 36). Such policies encourage FDI inflows, a key factor driving rapid regional economic growth (Rivera and Lagdameo 2013, 57), reinforcing the investment accelerator effect. The investment accelerator effect is important since capital accumulation leads to economic growth (Solow 1956, 65; Oman 1999, 3). Increasing capital stock in an economy augments resources in financing new investments, innovation, technology transfer and diffusion, trade promotion, and management development (Rivera and Lagdameo 2013, 57). However, ASEAN can still do better than it did during the pre-pandemic period, as investor preferences have evolved during the pandemic (Himanshu and Kishor 2022; Ferrer et al. 2023).

Likewise, trade (see Table 3) and monetary flows (see Table 4) have also increased for most economies. These trends can be attributed to trade and investment liberalisation policies, preferential trading arrangements, and the creation of production networks. Monetary flows also increase due to capital account liberalisation, deregulation, and financial market development (Castell et al. 2009, 2). Thus, economies became vital facilitators of intra-regional and global trade, allowing greater trade (Rillo 2018, 912) and investment flows (Chia 2013, 11).

Table 2. FDI, net inflows in ASEAN and other selected economies (% of GDP)

Economy	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Brunei Darussalam	105.64	110.94	102.42	89.89	87.32	85.18	93.90	108.51	110.29	147.12	146.97
Cambodia	120.60	130.05	129.61	127.86	126.95	124.79	124.90	123.56	123.50	132.21	162.41
Indonesia	49.58	48.64	48.08	41.94	37.42	39.36	43.07	37.63	32.97	40.20	45.39
Lao PDR	98.19	98.18	99.06	85.80	75.09	-	-	-	-	-	-
Malaysia	147.84	142.72	138.31	131.37	126.90	133.16	130.40	123.03	116.83	130.57	140.75
Myanmar	11.86	30.98	40.53	44.95	53.92	61.02	62.45	60.69	64.90	65.84	72.37
Philippines	57.84	55.82	57.47	59.14	61.78	68.17	72.16	68.84	58.17	63.48	72.42
Singapore	369.21	367.04	360.47	329.47	303.14	316.48	325.20	321.70	332.77	333.34	336.86
Thailand	137.67	132.46	130.91	124.84	120.58	120.89	120.84	109.69	97.80	117.24	133.91
Vietnam	123.22	130.85	135.41	144.91	145.41	160.98	164.66	164.70	163.25	186.47	-
Australia	43.17	41.27	42.47	41.62	40.82	41.95	43.39	45.83	44.23	39.87	45.75
Brazil	25.11	25.79	24.69	26.95	24.53	24.32	28.88	28.89	32.30	38.18	39.34
China	48.27	46.74	44.91	39.46	36.89	37.63	37.57	35.89	34.75	37.30	38.14
India	55.79	53.84	48.92	41.92	40.08	40.74	43.62	39.91	37.80	45.67	49.37
Japan	30.47	33.98	37.43	35.43	31.31	34.42	36.61	35.22	31.37	36.94	-
Korea	105.46	97.95	90.61	79.13	73.60	77.12	78.99	75.76	69.03	80.49	96.78

Source: World Bank. <https://data.worldbank.org/indicator/NE.TRD.GNFS.ZS>

Table 4. Net multilateral financial flows in ASEAN and other selected economies (in current billion USD)

Economy	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Brunei Darussalam	-	-	-	-	-	-	-	-	-	-	-
Cambodia	0.04	0.10	0.06	0.06	0.11	0.10	0.07	0.16	0.50	0.22	-
Indonesia	0.35	(0.06)	0.08	2.62	1.59	0.74	1.79	1.35	2.15	0.79	-
Lao PDR	(0.06)	(0.04)	(0.04)	(0.04)	(0.02)	0.04	0.01	0.14	0.05	0.04	-
Malaysia	-	-	-	-	-	-	-	-	-	-	-
Myanmar	0.16	(0.06)	(0.03)	0.05	0.12	0.23	0.21	0.23	0.46	0.12	-
Philippines	0.44	(0.70)	0.55	1.20	0.32	0.48	1.04	1.15	6.38	3.32	-
Singapore	-	-	-	-	-	-	-	-	-	-	-
Thailand	0.29	0.87	(0.01)	(0.02)	(0.04)	(0.04)	0.05	(0.12)	(0.12)	1.37	-
Vietnam	1.73	2.12	2.05	1.80	1.44	1.15	0.84	0.46	0.49	(0.12)	-
Australia	-	-	-	-	-	-	-	-	-	-	-
Brazil	2.71	0.70	2.61	0.51	0.43	0.63	0.79	(0.11)	0.52	0.87	-
China	0.11	(0.34)	(0.14)	(0.23)	0.03	0.40	0.38	1.06	0.32	0.68	-
India	1.18	0.55	1.36	0.84	1.01	0.89	1.75	2.38	6.99	3.90	-
Japan	-	-	-	-	-	-	-	-	-	-	-
Korea	-	-	-	-	-	-	-	-	-	-	-

Source: World Bank. <https://data.worldbank.org/indicator/DT.NFL.MLAT.CD>

Historically, ASEAN's economic recovery from a crisis has been swift as it incorporates lessons learned. The aftermath of the 1997 Asian Financial Crisis (AFC) prompted appropriate recovery policies towards future sustainable development (i.e., FDI facilitation) (Thomsen 1999, 4; ASEAN Secretariat 2022). The ASEAN Investment Report 2022 explicated how investment facilitation schemes attracted FDI to the region. ASEAN reformed its investment facilitation measures when it adopted the ASEAN Investment Facilitation Framework (AIFF) in 2021. It allowed AMS investment facilitation schemes to converge towards:

transparency and provision of information; streamlining and speeding up of administrative procedures and requirements; use of digital and internet technologies; single digital platform; assistance and advisory services to investors; independence of competent authorities; temporary entry and stay for businesspersons; facilitation of investment-supporting factors; consultative mechanisms for investment policies and cooperation. (Santos-Paulino and Wee 2023)

For ASEAN's least developed countries (LDCs), to attract and retain FDI, they have streamlined investment procedures and application processes, established a one-stop service, created Special Economic Zones (SEZs), actively utilised digital technologies to assist investors in their requirements, and established consultative mechanisms with the private sector for investment policies (Santos-Paulino and Wee 2023).

While there have been noteworthy developments in ASEAN's investment facilitation schemes, enhancements can still be introduced as economies move towards a post-pandemic environment. As per the ASEAN Investment Report 2022, AMS must focus on measures that can generate maximum impact in facilitating FDI, particularly improving investors' access to information, promoting greater transparency in investment rules, regulations, and processes, and streamlining administrative procedures (Santos-Paulino and Wee 2023).

For investment facilitation to work, emphasis must be placed on a holistic approach to cover the broader context of the business environment: support for setting up a business and obtaining business registration, approval and licenses, and other business-related administrative requirements and processes. The processes of establishing an enterprise and securing the necessary permits in a host country have been susceptible to red tape and corruption that push investors away to other investment destinations.

With globalisation, the persistence of stalemate in global trade negotiations (Rivera and Tullao Jr. 2022, 1) and the race for economic hegemony and rivalry of huge economies, particularly the US and China (Allison, Kiersznowski, and Fitzek 2022), economic cooperation has become inevitable, driven by trade agreements, which over the years, have incorporated innovations in their nature, objectives, scale, and scope. Given recent developments in economic cooperation, such as the RCEP and CPTPP materialisation, ASEAN is aware that the global economy continues to present both opportunities and challenges to the region (Rivera and Lagdameo 2013, 55). With ASEAN's central role in regional trading agreements (RTAs), it must proactively maintain and utilise its centrality and role in driving the evolving regional economic architecture.

The AEC is a major milestone in the ASEAN integration agenda. It provided opportunities from its huge collective market valued at USD 2.6 trillion and the population of more than 622 million (ASEAN Secretariat 2020). Because of the AEC, AMS acts as a single market and production base, warranting free movement of products and factor inputs, but is unlikely to become a customs union (Rivera and Lagdameo 2013, 56). Hence, I argue that investment integration can strengthen the AEC in the post-pandemic era.

Creating Conducive Investment Environment

FDI is the driver of robust economic expansion (Hepburn and Stern 2019) and international competitiveness (Simionescu et al. 2021; Gonzales 2017). It stimulates economic transformation, employment creation, management innovation, and technology transfer (Saggi 2002, 191). Therefore, industries must consciously try to improve technologically, intensify market linkages, and strengthen capability and flexibility. Superior infrastructures, trade facilitation services, and other services and facilities must accompany these efforts, all of which require sizable investment funds (Intal Jr., Narjoko, and Simorangkir 2011). They also require the creation of FDI policies that direct an economy's overall development strategy (Thomsen 1999, 5).

To harness the role of investment in driving robust economic expansion, there must be a facilitative and conducive environment for FDI to flow into ASEAN. However, AMS have different domestic regulations towards FDI, resulting in varying restrictiveness (see Table 5).

Table 5. FDI restrictiveness among AMS and other selected economies

Economy	2018	2019	2020
Brunei Darussalam	0.146	2.77	4.71
Cambodia	0.146	13.52	14.01
Indonesia	0.146	2.23	1.81
Lao PDR	0.054	4.03	5.10
Malaysia	0.054	2.51	1.20
Myanmar	0.054	2.53	2.42
Philippines	0.347	2.30	1.89
Singapore	0.347	27.94	22.52
Thailand	0.347	1.01	(0.99)
Vietnam	0.190	4.82	4.56
Australia	0.192	2.80	1.15
Brazil	0.252	3.69	2.56
China	0.252	1.31	1.72
India	0.257	1.78	2.41
Japan	0.117	0.78	1.24
Korea	0.135	0.58	0.53

Note: The FDI restrictiveness index measures an economy's rules on FDI through foreign equity restrictions on key foreign personnel, operational restrictions, and discriminatory screening for approval mechanisms. It has a scale of 0 (open) to 1 (closed). For the methodology, see <https://www.oecd.org/investment/fdiindex.htm>.

Source: Organisation for Economic Co-operation and Development. <https://data.oecd.org/fdi/fdi-restrictiveness.htm>

Data on ASEAN FDI restrictiveness from the Organisation for Economic Co-operation and Development (OECD) (see Table 5) shows that Singapore and Cambodia are the most open economies – even more open than Brazil and Japan. Singapore's low FDI restrictiveness index is due to its best business practices. For both unrestricted and restricted (real estate, media) sectors, Singapore fosters a consultative approach between foreign investors and regulatory bodies, where each application is assessed on a case-by-case and merits-based approach (Tan and Hanna 2023).

Malaysia may have a relatively high FDI restrictiveness, but it performs well in the Investment Promotion and Facilitation Program (IPFP) and Investment Promotion Agency (IPA) quality. FDI is subject to sector-specific government regulations. FDI involvement across sectors has stringent regulatory approvals like permits and licences, foreign equity ownership limits, or a requirement for minimum Malaysian or Bumiputera equity ownership in the proposed investment. Nonetheless, because Malaysia is outstanding in image building and promotion, it has positioned itself as a strategic economy for FDI. Once sector-specific restrictions are hurdled, liberalisation measures and tax treatments become favourable (Nubli and Sivanantham 2022).

Thailand is high on IPFP and image building, moderate on investor servicing, and ease of doing business and investor linkages but very low on IPA quality (Rivera and Lagdameo 2013, 56). Setting up a business in Thailand can be complex and challenging (e.g., most online information platforms are in Thai; the paperwork involved in registering a company can be intimidating; and acquiring permits and licenses takes longer than expected) (Zachau 2017). Because of Thailand's robust economic performance and relatively good business environment, it is still a preferred investment destination. Critical reforms are being implemented to simplify business processes and tax schemes by creating a single window for registering payments, providing credit scores to financial institutions, and enabling trade by introducing electronic submission of customs declarations to maximise this potential (Zachau 2017).

The Philippines is the most restrictive to FDI due to various restrictions (e.g., entry prohibition of products in critical sectors; foreign firms prohibited from owning land where company buildings are constructed or even owning a majority of shares in a domestic-based company; performance requirements related to the transfer of technology; and employment of management team and local personnel, among others) (Thomsen 1999, 5). While the Philippines is high on IPFP, IPA quality, and investor servicing, it ranks very low on ease of doing business (EODB) (Rivera and Lagdameo 2013, 56). To address these issues, the Philippines has enacted the Ease of Doing Business and Efficient Government Service Delivery Act of 2018 to streamline the current systems and procedures of government services covering business-related and non-business transactions to improve the competitiveness and ease of doing business in the economy (Anti-Red Tape Authority 2018). It also amended its Public Service Act of 1936 that relaxed foreign equity restrictions from public services not classified as natural monopolies (i.e., allow 100% foreign ownership of public services). Moreover, it removes the citizenship requirement for public services not considered as public utilities (Rivera and Tullao Jr. 2022, 5).

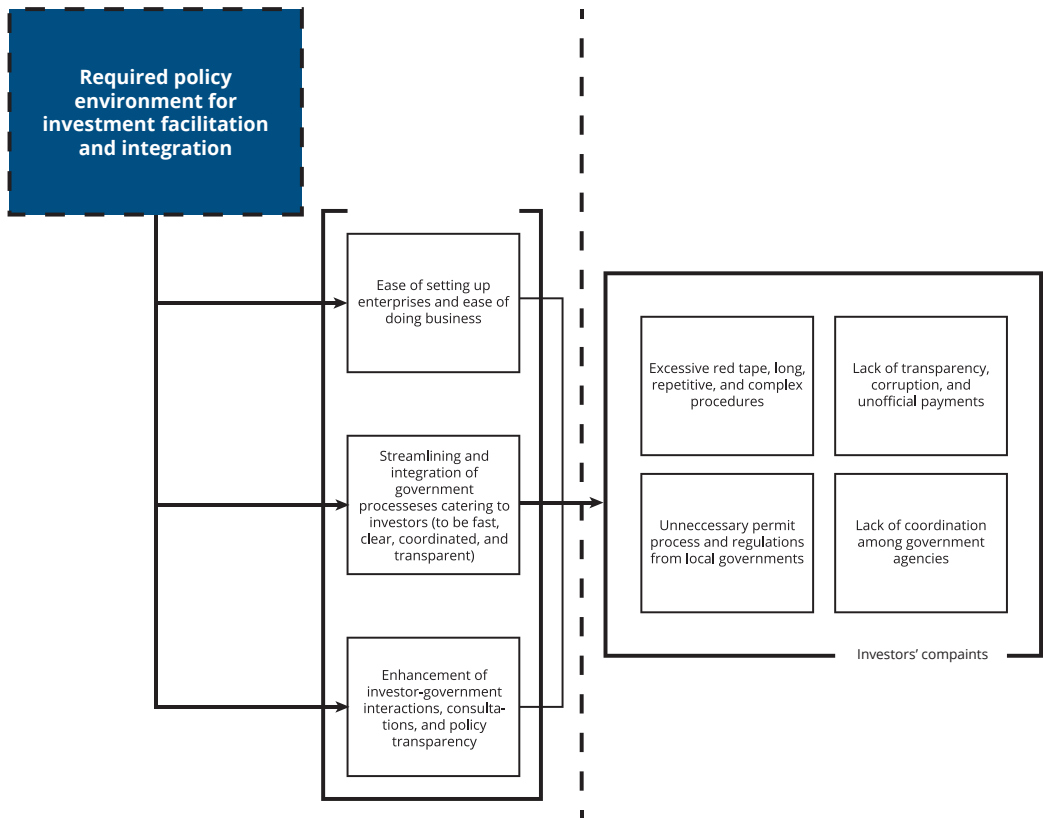
Hence, restrictive economies need to open their markets for FDI further (Kawai and Naknoi 2015, 11). Structural issues, differences in resource endowments, uncontrolled circumstances, governance structures, and market failures drive these incongruences in the investment climate among AMS. It underscores distinctive starting points in harnessing opportunities, capabilities, and sources of growth (Rivera and Lagdameo 2013, 56). Hence, there is a need for an effective and efficient search method or an environment-specific method wherein policies developed must not be generalised for the region.

Liberalising domestic economies to attract more FDI can accelerate regional integration (Bacrot and Valensisi 2019). This requires pursuing competitiveness, comparability, and readiness of local sectors and industries by upgrading local standards. Consequently, the domestic economies can liberalise without the need for excessive protectionist policies due to fear of global competition. FDI plays a significant role in pursuing competitiveness, comparability, and readiness of local sectors because foreign investors bring innovations that will enhance existing practices and boost production complexity (Javorcik, Lo Turco, and Maggioni 2017,

2507). FDI also compels domestic enterprises to upgrade their business ways (Javorcik, Lo Turco, and Maggioni 2019; Rivera and Tullao Jr. 2022, 6). As such, it would be easier for AMS to fully adopt the commitments required for regional integration to materialise these purposes.

Moving forward, AMS must create a conducive investment environment that facilitates effective investment (Intal et al. 2011). It must have a policy environment (see Figure 1) that will allow: (1) ease of setting up enterprises and ease of doing business; (2) streamlining and integration of government processes catering to investors to make them fast, clear, coordinated, and transparent; and (3) enhancement of investor-government interactions, consultations, and policy transparency (Rivera and Lagdameo 2013, 56). These remain to be the policy direction because these key common investor concerns and problems persist due to: (1) excessive red tape, long, repetitive, and complex procedures; (2) lack of transparency, corruption, and unofficial payments; (3) unnecessary permit process and regulations from local governments; and (4) lack of coordination among government agencies (Intal et al. 2011; Torres 2019; Schoeberlein 2020). Hence, AMS can benchmark with Singapore as it has essentially no investor processing concern, allowing it to retain its position as an economy with the best business environment (Kumar and Siddique 2010; Economist Intelligence 2023), but not to say that it is without some challenges (Elezaj 2019; Kamakotti 2023).

Figure 1. Addressing investors' complaints through a policy environment for investment facilitation and integration



Source: Author

Towards Post-Pandemic Investment Integration

As AMS work towards creating a conducive investment environment, ASEAN has also made significant strides in collectively pursuing investment integration. Establishing the ASEAN Free Trade Area (AFTA) and the ASEAN Investment Area (AIA) led to the AEC. The 1997 AFC, the 2008 Global Financial Crisis (GFC), and the COVID-19 pandemic have fuelled the need for greater economic cooperation, integration, and liberalisation to streamline responses to economic challenges. In a post-pandemic situation, the work continues to enable ASEAN to become a better investment destination to attract more quality FDI relative to previous decades despite stiff competition from other regional trading blocs.

Boosting investor confidence in ASEAN can be achieved through investment facilitation schemes geared towards successful investment integration and improving ease of doing business (Rivera and Lagdameo 2013, 56). AMS must work towards fully materialising the AIFC and facilitating economic convergence so that ASEAN's LDCs can catch up with the developed and developing AMS to advance the investment facilitation measures under AIFC (Santos-Paulino and Wee 2023). This can be done through benchmarking, technology-sharing, and continuous dialogues at the regional level on how to align with the AIFC. Insisting on economic fragmentation will only undermine growth and make it more difficult to address pressing global challenges like pandemics, recessions, security and terrorism, and climate change (Georgieva 2023). Sustainable economic growth and development can be ensured when economies cooperate to address common challenges. Hence, investment integration is a mechanism by which economic bridges can be built neither to exert hegemony nor compete with other RTAs and FTAs but to collectively improve welfare through a more prosperous economy.

Creating economic bridges is a necessary condition. Economic liberalisation alone may be inadequate to stimulate investor confidence positively and drive sustainable economic growth and development (Thomsen 1999, 5) as there are dangers to aggressive liberalisation (Hanshaw 2013, 2). Sufficiency conditions include the quality of FDI received rather than quantity because the effects of FDI in the domestic economy are not instantaneous, and quality FDI can only flourish in an economy with a conducive policy environment. Liberalisation should not be viewed as competition but as a prompt for economies to upgrade their domestic regulations, systems, and practices (Rivera, Cudia, and Tullao Jr. 2019, 4).

Importance of Collective Action and Harmonisation

The COVID-19 pandemic period has created a “transformative opportunity” (Mair 2020) and a “transition event” (Hall et al. 2020, 579) to reconsider introducing systematic and structural modifications on how investment facilitation and integration can be done. The pandemic has pointed to a basic yet progressive approach to enhance investment facilitation and integration which the world has ever seen: “How the international community can deliver when differences are set aside” (Georgieva 2023) through the implementation of a harmonised global safety protocol, information sharing, and vaccine distribution. All of these were made possible by “collective action” (Harring, Jagers, and Löfgren 2021; Georgieva 2023) anchored on “reciprocal trust, both horizontally among people and also vertically between people and their governments, and vice versa” (Harring, Jagers, and Löfgren 2021).

ASEAN has implemented collective actions for investment integration (Rivera and Lagdameo 2013, 61). In 1987, the ASEAN facilitated the inflow of FDI into the region and amongst AMS through the ASEAN Investment Guarantee Agreement (IGA), which adopted investment guarantees concentrating on protection and promotion. This was reinforced by the Framework Agreement on ASEAN Investment Area (AIA) in 1998, whose objective is to establish a competitive AIA with a more liberal and transparent investment environment amongst AMS by increasingly relaxing investment regulations that impede investment flows and the operation of investment projects in the region. It extended national treatment to both ASEAN and non-ASEAN investors.

The 1987 ASEAN IGA and the 1998 ASEAN AIA were merged into the ASEAN Comprehensive Investment Area (ACIA) in 2009. Its renewed objective is to create a free and open regional investment regime to achieve comprehensive integration through the improvement of transparency and predictability of investment rules, regulations, and procedures conducive to increased FDI among AMS and cooperation to create favourable conditions for FDI by investors of an AMS in another AMS. There is now a “clearer interaction of provisions pertaining to investment liberalisation and protection under a single investment agreement” (ASEAN Secretariat 2022).

Investing in ASEAN has become advantageous through the ACIA since investment application and approval procedures have been simplified (Rivera and Lagdameo 2013, 61). Likewise, conducive regulations have been clearly outlined and provided to deliver increased protection and enhanced ease of doing business within the region regardless of nationality. These efforts will facilitate the growth and development of micro, small, and medium enterprises (MSMEs) and multinational enterprises (MNEs), which are the significant drivers of regional economic growth, particularly among developing economies in the region.

The ACIA complements the ASEAN Collective Investment Scheme (CIS) regarding capital market integration. The ASEAN CIS framework is an AEC initiative “aiming to establish a single market and production base with a free flow of goods, services, investments, skilled labour and a free flow of capital” (BNP Paribas 2022). Under this framework, “the units of a fund authorised in one CIS domicile (home jurisdiction) can be offered in other participating countries (host jurisdictions) upon approval by home and host regulators” (Ibid). For these initiatives to materialise effectively, collective actions are necessary, and harmonisation of investment-related regional agreements and AMS-specific laws is a sufficient condition. Hence, this chapter reiterates collective actions and harmonisation.

This is where domestic regulations must be revisited. Since ‘establishment to operation’ and ‘dispute settlement’ are under the concept of ASEAN free movement, each AMS must shape up all processes of doing business through its domestic legislation (Musicpunth and Sriboonroj 2018). While investors are subjected to each AMS’ domestic regulations, which are different from one another and may not be mutually recognised, the idea of mutual recognition arrangements (MRAs) is not new, wherein AMS agreed on recognition mechanisms (e.g., equivalence of registration, licensing requirements, and reciprocity requirements) that can expedite mobility (Rivera, Cudia, and Tullao Jr. 2019, 7).

While having MRAs is a great step towards integration, it is still impeded by each AMS’ strong determination to exert sovereignty, low willingness to give up their respective domestic regulations, and subdued readiness to liberalise (Rivera, Cudia, and Tullao Jr. 2019, 33). Such reluctance slows full integration, which is not limited to investment integration.

In a post-pandemic investment environment in ASEAN, for AMS to fully harness the benefits of the principles and goals of the AEC, there is a need to reconsider efforts towards harmonisation. Framework agreements have already been established and are all open to amendments. The COVID-19 pandemic has taught the world the value of harmonisation. The world has accomplished significant outcomes in managing the pandemic so that its unprecedented impact will not be prolonged, which the world owes to the collective action and harmonisation of safety protocols. This lesson can be extended towards investments, too.

Initiating Post-Pandemic Reforms

There are efforts and best practices in ASEAN that promote investment integration. The AEC proves that regional integration is possible, and AMS are willing to discuss, agree, and compromise to pursue what is good for the region and their respective economies. While this has been the practice before the COVID-19 pandemic, the environment has evolved in terms of market conditions and investor behaviour, compelling ASEAN to reconsider introducing systematic and structural changes on how investment facilitation and integration can

be enhanced. In moving towards economic recovery, sustainability, and resilience with the lessons from the pandemic in mind, this chapter alludes to the following policy recommendations (see Figure 2) to initiate post-pandemic reforms in investment facilitation and integration. Economic upgrade is key.

A Different Take on Framework Agreements and MRAs

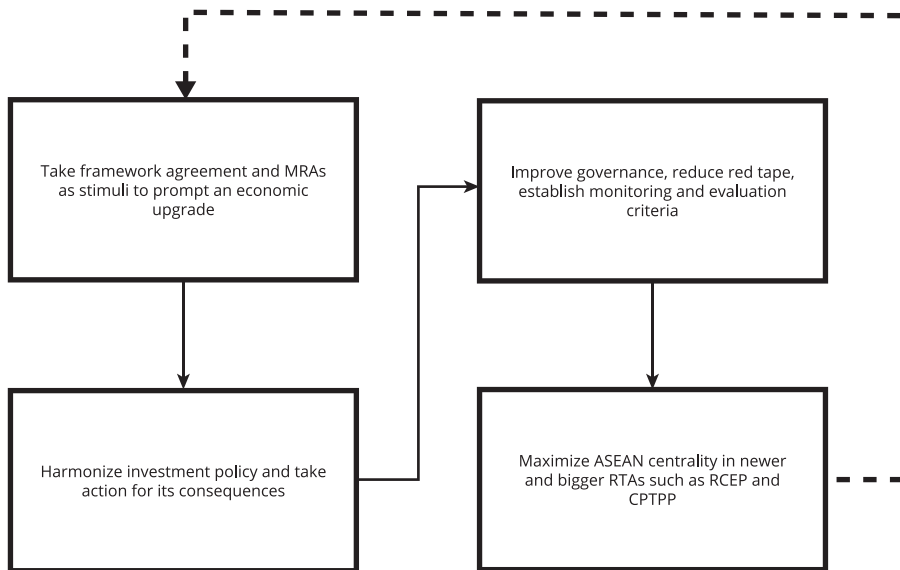
While framework agreements and MRAs standardise the investment environment among AMS towards convergence of investment regulations, they should not be seen as a threat to domestic regulations and sovereignty. These agreements can prompt AMS to upgrade their economies (e.g., domestic regulations, protocols, and processes), making them attractive to FDI. Eventually, all AMS will be conducive for investments.

Harmonisation of Investment Policy and Consequences

As AMS enhance their respective attractiveness to FDI, ASEAN will be able to enhance investment facilitation measures by reducing investment entry barriers to the region. Because of convergence among AMS, ASEAN can harmonise investment policies and regulations that will ease doing business in the region.

First, tax measures (e.g., provisions on tax holidays and corporate income tax incentives) can be underscored at the regional level. Second, regarding human resources, labour market regulations at the regional level would be reinforced (e.g., ASEAN MRAs on professionals) since FDI inflows are accompanied by increased employment of both domestic and foreign workers. Third, ASEAN would be in a better position to bridge the development gap through human capital formation, information and communication technology (ICT), and transportation infrastructure. ASEAN can revisit the Master Plan on ASEAN Connectivity (MPAC) and the National Single Window (NSW) geared towards accountability and transparency of the ASEAN processes, aiming to connect AMS through a single communication system that can drive investment facilitation and integration. Lastly, infrastructures can ensure efficient and seamless mobility.

Figure 2. *Post-pandemic reforms towards investment facilitation and integration*



Source: Author

Improved Governance, Reduced Red Tape, Monitoring and Evaluation

Investment reforms such as relaxing entry barriers, incentives, and soft and hard infrastructure availability may not be enough to drive investment facilitation and integration. It must be bundled with a conscious effort to improve the bureaucracy by which the entire investment cycle runs. The fastest way to do this is to eliminate red tape and streamline overlapping processes. Hence, this will result in greater accountability and transparency. For this to materialise, ASEAN can take advantage of the provisions of the MPAC and NSW on establishing monitoring and evaluation criteria by which existing investment policies can be monitored and assessed. Because ASEAN operates on its core principle of non-interference, a clear evaluation process and a dispute and settlement mechanism would be necessary to ensure that issues that may arise among AMS can be addressed.

Maximising ASEAN Centrality in Newer and Bigger RTAs

Tariffs have been significantly relaxed among AMS for the AEC to fully achieve its potential as a dynamic, forward-looking, and progressive regional trading bloc. Alongside, ASEAN must substantially relax non-tariff barriers to trade, particularly those behind-the-border measures, continue to liberalise trade services, and pursue FDI liberalisation and facilitation. This can be prompted further through ASEAN's involvement in bilateral FTAs and newer and larger RTAs like the RCEP and the CPTPP. While ASEAN has its respective ASEAN+1 FTAs with its six dialogue partners, China, Japan, Korea, India, Australia, and New Zealand, these can be escalated to forge an even larger region-wide FTA. The combined market and investment potential driven by the collective dynamics of all economies involved would benefit AMS, particularly the developing ones.

For AMS to harness the mutually beneficial effects of FDI, entering these larger RTAs would necessitate substantial domestic economic reforms, including improving governance, infrastructure, and the business climate. Thus, AMS must not see these RTAs as threats but as compelling reasons to start economic upgrading, so participation can be fully realised. For instance, if domestic industries (e.g., agriculture) cannot compete on the international market, joining a larger RTA is a call for action to upgrade such industries' standards, practices, and capacities to compete. FDI can assist in enabling this, but the policy environment must be created first. Hence, the emergence of newer and larger RTAs is a wake-up call for economies to shape and do things differently to achieve higher income status. Otherwise, achieving sustained economic growth and development would be challenging while poverty lingers.

While this is a long-term direction, ASEAN must continue strengthening its internal integration through the AEC to maintain its centrality. Further deepening of the AEC and ASEAN policy coordination will be essential, including its transformation into an eventual customs and economic union. For now, ASEAN must work towards harmonisation and economic upgrades to become a benchmark for investment facilitation and integration.

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CHAPTER 4

Economic Integration the ASEAN Way: How to Narrow Development Gap

Mr. Tim Hildebrandt & Dr. Werner A. Halver

Introduction

The ASEAN Way is a code of conduct that has evolved within ASEAN (Association of Southeast Asian Nations) and can be described as a distinct way of cooperation and integration. It represents a conscious rejection of Western diplomatic ideas. In contrast to a Western/European style focused on formal procedures and solutions, the ASEAN Way emphasises informality, pragmatism, patience, evolution, and consensus. While some European scholars have criticised the concept of a distinct ASEAN or Asian way of diplomacy, it remains a distinctive political process fostered by frequent interactions within the association (Capie and Eavans 2002, 14).

The European Union, with its Single Market, Monetary and Economic Union, is often touted as the prime example of regional economic integration. While the economic advantages of the European way of regional economic integration, such as higher GDP levels or lower development disparities between member countries, have been validated by research (Ehigiamusoe and Lean 2019, 12 – 14), the question is whether economic integration following the ASEAN Way can be as successful as integration following the European

way. This question remains pressing, especially as the deadline for the AEC Blueprint 2025 draws ever closer, while many deep-rooted structural problems like the development gap between ASEAN countries in the region remain unresolved.

Therefore, this chapter examines ASEAN's journey towards regional economic cooperation and integration and critically reviews the AEC Blueprint 2025 to provide practical recommendations for enhanced economic cooperation and integration among ASEAN countries to address the urgent problem of the development gap among ASEAN countries.

From Import Substitution to ASEAN Economic Area

Economic cooperation between ASEAN countries began in 1976 by adopting the Declaration of ASEAN Concordance at the first ASEAN summit. In this context, three projects were launched to promote economic cooperation: The ASEAN Industrial Project (AIP), the ASEAN Industrial Complementation (AIC), and the ASEAN Preferential Trade Agreement (PTA) (Ishikawa 2021, 24). These projects were part of the ASEAN Strategy for Collective Import Substitution Industrialisation of Heavy and Chemical Industries (ASEAN Strategy for CISI). Import substitution industrialisation (ISI) is a trade policy strategy of developing countries that aims to promote domestic production by restricting imports through trade barriers such as tariffs or import ceilings. The goal is to promote domestic manufacturing and thus achieve industrialisation (Brian 2009, 88). However, both the CISI and the three projects failed to meet expectations for regional integration and economic development since the CISI failed to promote competitiveness and focused more on increasing economic independence (Shimizu 2021, 2; Ishikawa 2021, 24).

Later, the first attempts at economic cooperation had practically failed. Economic cooperation between ASEAN countries picked up again in the slipstream of a fundamental shift in economic thinking. In the 1980s, the neoclassical ideas of export-led development replaced the idea of import substitution as the leading policy strategy for developing countries, and ASEAN countries began to move again. With the revival of neoclassical economics, which was a reaction to the numerous economic crises of the 1970s, such as stagflation, there was an increased focus on the effectiveness of the market mechanism in allocating resources. Proponents of this approach argue that developing countries should, therefore, forgo ISI and instead promote foreign trade to take advantage of the potential gains that can be made by exploiting absolute and comparative advantages. Against the background of this argument, many developing countries embarked on economic adjustment programmes in the 1980s and focused on export promotion based on the principle of comparative advantage. Thus, at the third ASEAN Summit in 1987, CISI was replaced by the ASEAN Strategy for Collective FDI-Dependent and Export-Oriented Industrialisation (ASEAN Strategy for CFEI) (Kazushi 2003, 69–84; Jayanthakumaran 2000, 1).

By switching from CISI to CFEI, ASEAN countries reacted to the major changes in the world economy triggered by the Plaza Accord of 1985, which accelerated the international division of labour (globalisation). The Plaza Accord aimed to decrease the value of the U.S. dollar relative to the French franc, German Deutsche Mark, Japanese yen, and British Pound sterling through currency market interventions. Its impact included a significant depreciation of the U.S. dollar and appreciation of the Japanese yen (Funabashi 1989, 261–271). This led to an increase in available foreign direct investment, especially from Japan for ASEAN countries. The adoption of the CFEI was thus a move to promote (Japanese) FDI, and accordingly, ASEAN countries began to develop policies favourable for forging investment (Shimizu 2021, 3; Akrasanee and Prasert 2003, 67). The transition from the CISI to the CFEI reflects a change in the worldview among ASEAN countries, which was to form the basis for regional economic cooperation and integration efforts from the 1990s onwards.

With the collapse of the USSR and the global trend towards the abolition of the planned economy in the early 1990s, the global economy, especially the emerging economies of East and Southeast Asia (Tiger States), picked up speed (Henke 2005, n.p.). With the rapid liberalisation of the world economy, ASEAN

countries realised that they had to adapt. Therefore, they introduced the ASEAN Free Trade Area (AFTA) and the ASEAN Industrial Cooperation (AICO) as extensions of the CFEI in 1993 and 1996, respectively, thus kickstarting regional economic integration. At the same time, ASEAN grew substantially. In addition to the original members, Indonesia, Malaysia, the Philippines, Singapore, Thailand, and Brunei, Vietnam joined in 1995, Myanmar and Laos in 1997, and Cambodia in 1999 (Shimizu 2021, 2–4; Ishikawa 2021, 24–25; Chia 2013, 4).

While AFTA's original goal of reducing tariffs to 0-5% on average was achieved in 2002, further measures were needed to make ASEAN countries attractive for FDI and forging investments for trade activities. Therefore, at the ASEAN Summit in 2003, ASEAN countries established the ASEAN Economic Community (AEC). Thus, economic cooperation between ASEAN countries was developed into one of the three pillars (security, culture, and economy) of ASEAN. Originally, the AEC was planned to be established in 2020, but in 2007, the target was brought forward to 2015. The ambitions for the AEC were concretised in 2007 with the AEC Blueprint (for 2015, in short, AEC 2015), which included both goals for the AEC and strategic timelines for implementation (Chia 2013, 10).

Table 1: AEC Blueprint 2015

Pillar	Core elements
A. Single market and production base	<ul style="list-style-type: none"> (1) Free flow of goods (2) Free flow of services (3) Free flow of investment (4) Free flow of capital (5) Free flow of skilled labour (6) Priority integration sectors (7) Food, agriculture, and forestry
B. Competitive economic region	<ul style="list-style-type: none"> (1) Competition policy (2) Consumer protection (3) Intellectual property rights (4) Infrastructure development (5) Taxation (6) E-commerce
C. Equitable economic development	<ul style="list-style-type: none"> (1) SME-development (2) Initiative for ASEAN development
D. Integration into the global economy	<ul style="list-style-type: none"> (1) Coherent approach to external economic relations (2) Enhanced participation in global supply networks

Source: ASEAN Secretariat 2008

The AEC 2015 outlined four pillars which aimed to transform ASEAN into a “single market and production base, a highly competitive economic region, a region of equitable economic development, and a region fully integrated into the global economy” (Chia 2013, 11). Given this objective of the AEC 2015, the often-used comparison with the EU's single market is not far-fetched, but it should be borne in mind that the AEC is conceived neither as a customs union nor as a complete common market (Chia 2013, 11).

At the time of the official establishment of the AEC in 2015, not all measures of the AEC 2015 had been implemented. Considering all planned measures, the implementation rate of the AEC Blueprint was 79.5% by 2015. One of the AEC 2015's most important achievements in facilitating regional economic integration was the elimination of tariffs (trade liberalisation). However, the targeted reduction of non-tariff barriers to trade fell far short of expectations (Ishikawa 2021, 29–30; Shimizu 2021, 5). In this regard, the complexity of the AEC 2015 provided a loophole for ASEAN countries. Lacking the cognitive and financial resources to implement all the measures, they focused on the easier-to-implement aspects of the AEC 2015. They chose to ignore more complex and politically sensitive measures, such as the abolition of non-tariff barriers (Basu Das 2017, 7, 12, 22).

ASEAN has also sought trade facilitation through the ASEAN Trade Facilitation Framework (ATFF), the ASEAN Trade Facilitation Strategy Action Plan (ATF-SAP), and the ASEAN Trade Repository (ATR). Significant efforts have also been made to integrate customs by adopting the ASEAN Customs Transit System (ACTS) and promoting the mutually recognised Authorised Economic Operator (AEO) status. At the same time, the ASEAN Single Window (ASW) serves as a platform for electronic data processing and exchange of customs-related data. The measures that strive to ensure the free movement of goods and services are thus manifold, but measures for the free flow of skilled labour have also been introduced. The ASEAN Agreement on the Free Movement of Natural Persons and the Mutual Recognition Agreements (MRAs) for professional services are the first steps in this direction (Ishikawa 2021, 30).

To achieve a coherent approach to external economic relations and improve participation in global supply chains, ASEAN countries have made significant progress in forming free trade agreements and economic partnership agreements (EPAs) (Ishikawa 2021, 30). ASEAN regional cooperation in general and ASEAN regional cooperation with East Asia can be traced back to the Asian financial crisis in 1997. The Asian financial crisis refers to the financial, monetary, and economic crisis in East and Southeast Asia in 1997 and 1998. It began in Thailand in March 1997 and spread to several Asian states, especially many of the so-called Tiger states. Triggered by the severe downturn of the Japanese economy during the 1990s, the underdeveloped financial and monetary systems of ASEAN countries, as well as South Korea, were subjected to a credit crunch as well as intense speculative attacks, with which they could not cope on their own (Dieter 2002, n.p.). In reaction, the ASEAN+3 Summit (ASEAN + China, Japan, and Korea) met for the first time. This evolved into the Chiang Mai Initiative (CMI) in 2000 to facilitate closer monetary and financial cooperation between ASEAN and East Asia. ASEAN+1 free trade agreements have been tested since 2000. Successively, ASEAN has concluded six ASEAN+1 FTAs, namely with Australia and New Zealand (AANZFTA), China (ACFTA), India (AIFTA), Japan (AJCEP), the Republic of Korea (AKFTA), and Hong Kong- China (AGKFTA) (Shimizu 2021, 6–7).

While ASEAN countries successfully achieved the goals of Pillars A and D of the AEC 2015, Pillars B and C results fell short of expectations. Here, the consequences of the accommodative nature of the AEC 2015 are evident. While Pillars A and D could be achieved through relatively straightforward policy initiatives, the nature of the AEC 2015 allowed ASEAN countries to choose to neglect Pillars B and C, which are relatively more difficult to achieve and require more detailed and resource-intensive initiatives to complete. It can also be argued that the divergence of national interests among ASEAN countries has exacerbated this trend (Basu Das 2007, 9-12). Therefore, achieving these targets was postponed until after 2015 (Shimizu 2021, 11).

AEC Blueprint 2025

Nevertheless, establishing the AEC 2015 was an important milestone in developing regional economic integration and cooperation in Southeast Asia, making ASEAN the most developed and advanced economic integration in Asia. At the 27th ASEAN Summit in the same year, ASEAN leaders adopted the Kuala Lumpur Declaration on ASEAN 2025, which presented perspective visions for all three ASEAN communities. This included the ASEAN Economic Community Blueprint 2025 (AEC 2025). The Blueprint sees the AEC in 2025 as “highly integrated, cohesive, competitive, innovative and dynamic; with enhanced connectivity and sectoral cooperation; and a more resilient, inclusive and people-centred community integrated into the global economy” (Ishikawa 2021, 39). The AEC 2025 has five main features, each containing key elements.

Table 2: AEC Blueprint 2025

Characteristics	Elements
(A) A highly integrated and cohesive economy	(1) Trade in goods (2) Trade in services (3) Investments environment (4) Financial integration, financial inclusion, and financial stability (5) Facilitating the movement of skilled labour and business visitors (6) Enhancing participation in global value chains
(B) A competitive, innovative, and dynamic ASEAN	(1) Effective competition policy (2) Consumer protection (3) Strengthening intellectual property rights cooperation (4) Productivity-driven growth, innovation, Research and Development, and technology commercialisation (5) Taxation cooperation (6) Good governance (7) Effective, efficient, coherent, and responsive regulations, and good regulatory practice (8) Sustainable economic development (9) Global megatrends and emerging trade-related issues
(C) Enhanced connectivity and sectoral cooperation	(1) Transport (2) Information and communication technology (3) e-Commerce (4) Energy (5) Food, agriculture, and forestry (6) Tourism (7) Healthcare (8) Minerals (9) Science and technology

(D) A resilient, inclusive, people-oriented, and people-centred ASEAN	<ul style="list-style-type: none"> (1) Strengthening the role of micro, small, and medium enterprises (2) Strengthening the role of the private sector (3) Public-private partnerships (4) Narrowing the development gap (5) Contribution of stakeholders to regional integration efforts
(E) Global ASEAN	<ul style="list-style-type: none"> (1) Develop a more strategic and coherent approach towards external economic relations to adopt common positions in regional and global economic affairs (2) Review and improve FTAs (3) Enhance economic partnerships with non-FTA dialogue partners

Source: ASEAN Secretariat 2015

The AEC 2025 contained several measures to take but lacked a detailed action plan. This was later delivered through the AEC 2025 Consolidation Strategic Action Plan (CSAP) in 2017 and 2018 respectively. The CSAP defined several strategic actions and matched main action lines as measures to be implemented based on the features of the AEC 2025 (ASEAN 2017, n.p.). The basic structure of the AEC 2025 was adopted from the AEC 2015, but unlike the AEC 2015, the AEC 2025 focuses mainly on trade facilitation. Since the AEC 2015 had already achieved much liberalisation, the more difficult but less impactful/ambitious aspects of trade facilitation can now be achieved until 2025. Against this background, the AEC 2025 addresses areas that have long been neglected, such as competitiveness and inclusion, tackling the middle-income trap and reducing wealth inequalities (Ishikawa 2021, 31–32). The middle-income trap occurs when a country with a middle-income level struggle to become a high-income economy due to increased expenses for labour and thus reduced international competitiveness (Griffith 2011, 39). Thus, it poses a severe danger to sustainable economic development in Southeast Asia.

Other areas of the AEC 2025 were carried over directly from the AEC 2015 as they had not been completed by 2015. This is especially true for the AEC 2015 Pillars B, which has under the AEC 2025 become the Characteristic B. An important change was also made in terms of completion commitments. While the AEC 2015 provided for scorecard assessment based on a self-reporting system, the AEC Blueprint 2025 provides for three types of assessment: Compliance Monitoring, Outcome Monitoring, and Impact Evaluating (Ishikawa 2021, 31–32; Shimizu 2021, 11).

Recently, ASEAN countries have taken important steps to continue the path outlined in the AEC 2025. Regarding Characteristic A, ASEAN countries adopted the ASEAN Trade Facilitation Framework in 2017, moving closer to implementing the WTO Trade Facilitation Agreements, streamlining, and simplifying trade procedures and regulations. Other steps taken in this context include measures on digitalisation, such as the ASEAN Self-Regulatory Framework (ASSC) or the ASEAN Comprehensive Recovery Framework, which creates more transparency on NTMs (Non-Tariff Measures). In addition to improving trade in goods, trade in services is also promoted through measures such as the ASEAN Framework Agreement on Services (AFAS) (ASEAN Secretariat 2021, 12–14).

ASEAN has taken measures such as the ASEAN Patent Examination Cooperation (ASPEC) to achieve Characteristic B and initiated the ASEAN Consumer Association Network (ACAN). In relation to Characteristic C, ASEAN countries have tackled various issues. One focus is on Food, Agriculture and Forestry (FAF)

cooperation (as the primary sectors still employ large parts of the ASEAN workforce) through actions such as the ASEAN Integrated Food Security Framework (AIFS) or the ASEAN Strategic Plan of Action for Sanitary and Phytosanitary (SPA-FS). The ASEAN Coordinating Committee in Electronic Commerce and the ASEAN Digital Integration Framework (ADIF) promote sectoral cooperation in electronic commerce. ASEAN has also introduced the ASEAN Tourism Marketing Services (ATMS), among other measures to promote travel and regional energy connectivity, such as through the Trans ASEAN Gas Pipeline (TAGP) and regasification terminals. Transport connectivity is improved through a range of freight and passenger transport measures, for example, by promoting high-speed trains and highways (ASEAN Secretariat 2021, 14–18).

Characteristic D is targeted, for example, through promoting microfinance programmes and creating networking opportunities for entrepreneurs. A great success was achieved regarding Characteristic E with the signing of a Regional Trade Agreement (RTA), which entered into force in 2022. ASEAN has combined its existing FTA+1 agreements into the world's largest free trade agreement between ASEAN countries, Japan, the Republic of Korea, China, Australia, and New Zealand. The RTA, called the Regional Comprehensive Economic Partnership (RCEP), significantly advances ASEAN's integration into global value chains. Although no plans exist to institutionalise RCEP, it represents an important step in Asia's economic integration. Given all these achievements, ASEAN seems to be progressing well in implementing the AEC Blueprint 2025, a statement inviting critical evaluation (ASEAN Secretariat 2021, 19–22).

Critical Assessment of AEC 2025 and ASEAN Economic Integration

A starting point for assessing ASEAN countries' progress in implementing the AEC Blueprint 2025 is the 2020 AEC mid-term review, which unfortunately coincided with the peak of the COVID-19 pandemic, so the impacts of the pandemic may obscure some data. According to the mid-term review, half of the Blueprints initiatives have been implemented by 2020, with another 34% in progress. How the implementation of the AEC 2025 progresses is largely influenced by the outcome of the COVID-19 pandemic, which has devastated the trade and tourism-dependent economies of many ASEAN countries. Given that the completion of the AEC 2025 is barely two years away, it is unclear whether the entire AEC 2025 Blueprint will be completed. What is clear, however, is that significant progress has been made since 2015. Building on the mid-term review, good levels of implementation have been achieved, especially regarding Characteristics D and E. This is particularly evident in Characteristic E with the RCEP. However, in Characteristics B and C, ASEAN falls short of expectations. These low results in competitiveness and innovation, as well as increased connectivity and sectoral cooperation, may be due to COVID-19 (ASEAN Secretariat 2020, 11).

The AEC 2025 continues slowly but with steady growth in economic cooperation and regional economic integration. Considering the efforts to increase cooperation and integration, it is worth examining what the AEC aims for before discussing the problems of regional economic integration and the AEC. The AEC seeks the elimination of tariffs, removal of non-tariff barriers, liberalisation of trade in services, harmonisation of standards, movement of natural persons, trade facilitation, investment liberalisation, and capital liberalisation. However, it does not seek a common external tariff, liberalisation of common customs procedures or a single currency, which sets the AEC apart from the European Economic Community (EC) (Ishikawa 2021, 34).

Despite what the great success in trade liberalisation would suggest, intra-ASEAN trade remains at a low level compared to the EU or NAFTA. Scholars are not sure why this is so. Some blame China, arguing that the PRC's economic and trade dominance makes intra-ASEAN trade less attractive; others link the possible reasons to non-tariff barriers or administrative compliance problems on the business side (Ishikawa 2021, 35). In particular, the continued use of non-tariff trade barriers between ASEAN countries can be seen as a key problem. The trend towards increasing trade protectionism has recently exacerbated this problem, observed in ASEAN countries, especially using non-tariff trade barriers (Hew 2023, n.p.).

The lack of intra-ASEAN trade indicates weak value chain linkages between ASEAN countries. Stronger value

chain linkages between ASEAN countries could spread capital between ASEAN countries and contribute to interconnectedness through interdependence. Most importantly, this could help ASEAN address its biggest challenge to further economic integration, namely the development gap between ASEAN countries. Often, ASEAN is divided into two parts with a large economic gap. The ASEAN-6 (Brunei, Indonesia, Malaysia, the Philippines, Singapore, and Thailand) are, on average, much more developed than the CLMV (Cambodia, Laos, Myanmar, and Vietnam) (Ishikawa 2021, 34–36).

Table 3: Key Development Indicators of ASEAN countries over time

Country	Human Development Index (HDI)	GDP per capita in PPP	Primary sector (% of GDP)	Secondary Sector (% of GDP)	Tertiary Sector (% of GDP)
Indonesia					
1993	0,548	3,8 k	18%	39,7%	42,4%
2003	0,621	5,4 k	15,2%	43,7%	41,1%
2015	0,695	10,2 k	13,5%	40%	43,3%
2022	0,729	14,6 k	12,4%	41,4%	41%
Malaysia					
1993	0,663	9,1 k	13,8%	40,1%	48%
2003	0,732	14,4 k	9,3%	46,6%	46,7%
2015	0,792	24,1 k	8,3%	38,4%	52%
2022	0,803	33,4 k	8,9%	39,2%	50,8%
Philippines					
1993	0,606	2,7 k	18,9%	36,3%	44,8%
2003	0,650	3,8 k	13,2%	34,5%	52,3%
2015	0,696	7,1 k	11%	30,5%	58,5%
2022	0,699	10,1 k	9,5%	29,2%	61,2%
Singapore					
1993	0,758	30 k	0,2%	32,1%	62%
2003	0,845	48,8 k	0,1%	30,2%	64,3%
2015	0,930	87 k	0%	24,3%	70%
2022	0,939	127,6 k	0%	24,2%	70,9%
Thailand					
1993	0,604	5,8 k	8%	36,9%	55,1%
2003	0,687	8,8 k	9,4%	37,9%	52,6%
2015	0,778	15,5 k	8,9%	36,2%	54,9%
2022	0,800	20,7 k	8,8%	35%	56,2%
Cambodia					
1993	0,390	1 k	45,3%	12,6%	39,4%
2003	0,475	1,4 k	32%	25%	38,2%

2015	0,541	3,4 k	26,6%	27,7%	39,8%
2022	0,593	5,3 k	21,9%	37,7%	33,7%
Myanmar					
1993	0,363	488	X	X	X
2003	0,440	1,2 k	52,3%	13,7%	X
2015	0,553	4,2 k	27,3%	34,5%	38,2%
2022	0,585	4,9 k	20,3%	41,1%	38,6%
Lao PDR					
1993	0,424	1,2 k	43,4%	17,4%	41,1%
2003	0,493	2,2 k	32,1%	20,1%	41,9%
2015	0,599	6,1 k	17,6%	27,7%	44,2%
2022	0,607	9,4 k	14,6%	33,6%	41,2%
Vietnam					
1993	0,515	1,5 k	29,9%	28,9%	41,2%
2003	0,617	3,2 k	22,5%	39,5%	38%
2015	0,684	7,6 k	14,5%	34,3%	42,2%
2022	0,703	13,5 k	11,9 %	38,3%	41,3%

Source: World Bank 2023; United Nations Development Program 2023

From the beginning, ASEAN sought to cooperate and integrate economies that differed greatly in size, level of development and structure. When regional economic integration began in 1993, GDP per capita ranged from 488 PPP (Myanmar) at the low end to 30,000 PPP (Singapore) at the high end, resulting in an income spread in the region of more than 6,000% (own calculation), with many countries still classified by the World Bank as low-income countries. At the time, most ASEAN countries showed low or medium levels of human development, as indicated by the HDI. In 1993, many Southeast Asian countries were still stuck in pre-modern, agriculture-based economic structures. During the 1990s and the 2000s, the countries of Southeast Asia unilaterally achieved great successes in economic development.

In 2003, when the AEC was established, next to the high-income country of Singapore, the World Bank categorised Malaysia as an upper-middle-income country and Thailand, Indonesia, and the Philippines as lower-middle-income countries. This also shows in the structure of these economies, which saw a shift of value-added, mainly from the primary to the secondary sectors, indicating industrialisation processes. Accordingly, levels of human development had increased significantly, as indicated by the HDI. The formally underdeveloped countries, such as Vietnam, Cambodia, Laos, and Myanmar, achieved substantial developmental gains.

When the AEC 2015 was completed, and the AEC 2025 was launched in 2015, Thailand had also developed into an upper-middle income country, while all the rest had at least made it to lower-middle income. By the 2010s, development had picked up considerably in ASEAN countries, each already having either a service economy or industrialisation in full swing. As indicated by the HDI, all countries had achieved a medium level of human development or were on the brink of medium human development.

By 2022, all ASEAN countries had reached at least the middle low-income level, with most countries either industrialised or already exhibiting structural features of a service economy. Accordingly, all ASEAN

countries have reached at least medium levels of human development. While a substantial amount even made it to high human development levels according to the HDI. This development is reflected in the income spread, which is currently around 2,600% (own calculation) between the high end (Singapore) and the low end (Laos).

Even though significant changes have occurred across the board, the countries of Southeast Asia have collectively kick-started the economic development process, and absolute poverty has disappeared nearly completely from the region (Deyshappriya 2018, n.p.). However, significant income disparities, as well as the structural differences between Southeast Asian countries, remain a problem. Holding all this together remains a challenge, even if one cannot speak of further economic integration. Considering these deep-rooted structural problems, one can question whether the initiatives delivered in the framework of AEC 2025 are high impact enough to bring about significant changes to the underlying issues of Southeast Asia as a region.

Practical Recommendations for Economic Integration and Further Development of the AEC

To determine practical recommendations for improving regional economic integration in Southeast Asia in line with the AEC 2025 goals, it is first necessary to identify the most pressing problems in Southeast Asia that can be addressed through regional economic integration and cooperation. From an economic perspective, the most pressing problem for Southeast Asia is still the development gap between ASEAN countries. This problem is particularly pressing in politically unstable Myanmar and comparatively underdeveloped Cambodia, Laos, and Vietnam. The main task for Malaysia, Thailand, Indonesia, and the Philippines is to continue development and avoid the middle-income trap.

Increased regional cooperation and integration can address this basket of development-related problems. The effects of regional economic integration on economic development perspectives must be explored to understand this. As the European experience shows, regional integration can help not only overcome political differences but also help sustainably increase economic development and reduce the economic development gap in the medium term (Ehigiamusoe and Lean 2019, 12–14).

This effect is mainly achieved because regional economic integration affects the flow of forging investments. Companies prefer to invest within the framework of integrated countries/integrated economies. An economically well-integrated region allows for better utilisation of location advantages by providing smooth supply chains (Massalha 2022, 702). In practice, these effects of economic integration result in the manifestation of regional production networks as investors seek to utilise comparative advantages in combination with smooth flows of goods, services, labour, and capital between the countries of an integrated region. This allows investors to split value chains between the countries of a given integrated region (Norouzilame et al. 2014, 108). Therefore, the main recommendation of this chapter is to politically facilitate the increased development of regional production networks in Southeast Asia, thereby promoting the spread of value chains across ASEAN countries. In this regard, the different levels of development among ASEAN countries can be turned into an opportunity.

In developmental economics and forging trade, it is assumed that each country is best served to try to fully utilise the available production factors, meaning land/natural resources, labour, and capital stock (Heckscher–Ohlin theorem, Zweifel and Heller 1975, 119). Thus, economic performance can be increased, promoting industries and fields of business fitting with the individual factor equipment of ASEAN countries.

ASEAN countries have a great diversity of production factors. The comparatively less developed countries such as Cambodia, Laos, and Vietnam offer cheap labour, making them an ideal location for labour-intensive industries. The more developed countries such as Malaysia and Thailand have more (human)

capital and are thus ideal locations for capital-intensive industries (labour). At the same time, natural resources used in industry, such as tin, copper, bauxite, coal, oil, and natural gas are available in the region (land). In addition, ASEAN has a highly developed centre for business services and capital accumulation in Singapore (Vorläufer 2011, 45–48, 110–215). Integrating all these resources into a well-functioning regional production network could unleash a collective economic powerhouse, especially given the already good integration into global value chains.

The increased development of local production networks in ASEAN would not only increase the average level of development but also help narrow the development gap and offer an opportunity to navigate the middle-income trap medium term. Strong local production networks would go hand in hand with increased intra-ASEAN trade. This would lead to the proliferation of know-how and capital in direct investments from more developed to less developed ASEAN countries.

To imagine what a local manufacturing network might look like in an economically well-integrated ASEAN, we examine the imaginary consumer electronics company AsiaDynamicRobotics case, founded as a tech start-up by two NUS students in Singapore. AsiaDynamicRobotics founders were able to leverage venture capital from Singapore to develop a prototype window-cleaning robot. After several successful pitches, they secured further funding to enter small-scale production in neighbouring Malaysia to take advantage of comparatively lower labour costs while sourcing the housings for their robots from plastic manufacturing facilities in Vietnam. As the company expanded into various other product types, like robots for vacuuming and lawn mowing, most of the high-precision manufacturing was left in Malaysia and expanded to Thailand, while the production of simpler equipment was moved to Cambodia. Over the years, AsiaDynamicRobotics R&D department moved some of its facilities to Malaysia and Thailand to be closer to developing markets, while efforts were made to improve the capacity of production facilities in Cambodia and expand production to Vietnam. The expansion of AsiaDynamicRobotics, made possible by Singaporean banks, led to increased market shares overseas. AsiaDynamicRobotics utilised many English speakers in the Philippines to service these forging markets.

Given this example, what are the necessary policies to facilitate smooth business ties, as described, what are the policy steps ASEAN could take to unlock these potentials, and will the AEC 2025 move ASEAN closer to reaching its explained potential? The answer has two components. First, ASEAN countries need to set up an attractive framework for local production networks. Second, they need to promote home-grown businesses in the industry, especially SMEs, to facilitate the set-up of local production networks, achieve high regional value-added, and avoid the middle-income trap.

Creating Regional Production Networks

Creating a strategic framework for regional production networks concerns all aspects of international business transactions between ASEAN countries. It could be argued that creating a single market and an economic and monetary union would be the most effective way to achieve this goal. However, these European solutions are incompatible with the ASEAN regional integration approach. Since these European solutions require the transfer of significant national powers to supranational institutions (think of the European Central Bank), they are fundamentally at odds with the ASEAN Way.

Thus, another European arrangement comes to mind: how the relationship between the European Union and Switzerland is structured. Switzerland is not a member of the European Economic Area, yet the Swiss economy is seamlessly integrated with the rest of Europe. This integration is based on more than 100 treaties between Switzerland and the EU. As the Swiss example shows, achieving a high degree of economic integration is possible without interfering with national sovereignty by introducing a single market or monetary/economic union. This approach is possible but slow and requires the determination of all countries involved. At this stage, the most pressing problems are non-tariff barriers to trade. Non-tariff barriers to trade must be removed as far as possible to create a regional framework that is conducive

to developing regional production networks. While ASEAN Economic Ministers adopted a Non-Tariff Measures Cost Effectiveness Toolkit in late 2021 (Kanack 2021, n.p.), the complexity of removing non-tariff barriers may be what is holding ASEAN countries back. However, as the low-hanging fruits of regional integration have already been harvested, ASEAN countries will have no choice but to tackle this delicate issue to advance regional economic integration.

Another urgent issue is the harmonisation of standards. ASEAN must continue its path of harmonising standards to facilitate cross-border trade. While ASEAN adopted the ASEAN Guidelines for Harmonisation of Standards in 2015 to reduce barriers to cross-border trade, the very structure of ASEAN challenges this goal. With member states having absolute sovereignty over their national standards, the significant differences in regulatory capacity and economic diversity, as well as national economic interests among ASEAN Member States, pose challenges to ASEAN-wide harmonisation of standards (Ng 2021, n.p.). Although both issues are addressed in the AEC 2025, current trends make it unlikely that significant progress will be made by 2025, making this an ideal starting point for discussing further goals from 2025 onwards.

Promoting Home-grown Businesses

More efforts are needed to support home-grown enterprises, especially SMEs. Although Characteristic D of the AEC 2025 addresses this issue, the impact of current measures is not far-reaching enough. ASEAN countries, therefore, need to promote entrepreneurship, e.g., through the widespread use of start-up scouts in schools and universities, as well as the establishment of more business incubators. Most important, however, is the promotion of the secondary sector, i.e., industry. If a strong and competitive industrial base exists, there will be high-value creation in ASEAN. This requires an increased educational focus on STEM fields and better vocational training programs to incubate the needed human capital for upgraded manufacturing activities. However, it is even more important to have a strong industrial and manufacturing base to ensure the further development of industry-related services to facilitate the transition to functioning screen engagements to escape the low-income trap.

It is clear, then, that while the AEC Blueprint 2025 is a vector for beneficial economic integration and cooperation in the region, it is neither effective enough to address ASEAN's structural problems in any way nor can it address the most critical challenges facing ASEAN in the face of current trends such as protectionism. While regional economic cooperation and integration can go hand in hand with the ASEAN Way, bridging the development gap through economic integration and cooperation will require even greater efforts from ASEAN countries in the future. Such efforts can only be undertaken with a united ASEAN. Given the current geopolitical situation and the unfolding great power rivalry between China and the US in Southeast Asia, this scenario is being challenged.

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SECTION 3

ASEAN SOCIO-CULTURAL COMMUNITY



Hundreds of women from different communities in Quezon City join the “One Billion Rising” flash mob dance on March 8, 2023, to celebrate women’s month. Photo: Jire Carreon

CHAPTER 5

Towards People-Oriented and People-Centred ASEAN Community: An Assessment of ASEAN’s and the Philippines’ Gender-Related Commitments

Ms. Eylla Laire M. Gutierrez

Introduction

Sustaining and supporting ASEAN revitalisation entails recognising that the ASEAN community’s impacts “go beyond the economic sphere” (Nonthasoot 2017, 61) and encompass largely socio-cultural, humane, people-oriented, and people-centred aspects of regionalism and community building. While a humanistic orientation towards ASEAN community building has only emerged in the latter years after ASEAN’s founding (i.e., the establishment of a committee on women in 1976, the 1999 Hanoi Plan of Action, etc.), several emerging studies have been increasingly critical in integrating aspects of human development in the overall ASEAN agenda (Nonthasoot 2017, 90; Sharom et al. 2016, chap. 9; Wong 1979, 190). While ASEAN has historically focused on growing its member states’ economies, such a limited perspective yielded inequalities where development excluded, neglected, and disregarded certain population members, including women (Nonthasoot 2017, 91; Sharom et al. 2016, chap. 9).

This chapter forwards a more humanistic, people-oriented, and people-centred trajectory for ASEAN revitalisation where women's empowerment is integrated into the ASEAN Socio-Cultural Community pillar and the larger frameworks supporting ASEAN community building and regionalism. More specifically, this chapter considers the implications of the people-focused and people-centred principle of the ASEAN Community on women. Despite women comprising over 50 per cent of ASEAN's population, studies suggest that little has been achieved in promoting women's economic, social, and political rights since ASEAN's declaration of commitment to advancing women's rights in 1988 (Wong 1979, 185). The priority of diverse domestic policies resulted in large gaps in the performances and achievements of each ASEAN Member State (AMS) concerning gender equality, as illustrated in Table 1. Within the ASEAN region, the Philippines continues to be at the forefront in bridging gender gaps, followed by Lao PDR, Singapore, Thailand, and the other AMS (Businessworld 2022; Louis 2019).

Table 1: Gender equality in ASEAN

ASEAN Member States	Ranking
The Philippines	16 th
Lao PDR	43 rd
Singapore	54 th
Thailand	75 th
Indonesia	85 th
Viet Nam	87 th
Cambodia	89 th
Brunei	95 th
Malaysia	104 th
Myanmar	114 th

Source: *Global Gender Gap Report 2020*.

the advancement of domestic policies for promoting gender mainstreaming and women's empowerment continues to support the Philippines' leading role in gender equality in the region. The country's commitment to gender equality is also showcased in its ability to play the leading role in signing, implementing, and integrating regional commitments to national policies (i.e., the first ASEAN country to sign and ratify the Convention on the Elimination of all Forms of Discrimination [CEDAW], the first to localise the Women, Peace, and Security [WPS] agenda through the Bangsamoro Autonomous Region in Muslim Mindanao [BARMM] regional plan of action on WPS, etc.).

Against this regional perspective, the Philippines has been widely recognised for promoting gender equality (Buchhave and Belghith 2022, 25). Since the early literary accounts of women in ASEAN (see Wong 1979), the Philippines has been recognised for women's success stories regarding their economic and educational participation. International reports have cemented the position of the Philippines as the top Asian country and second in the Asia-Pacific region in bridging gender gaps across economic, educational, health, and political fronts (World Economic Forum 2022). Similarly, the Women, Business and the Law Index suggested that the Philippines' rating of 78.5 out of 100 remains above the global average of 76.5 in measuring factors impacting women's economic participation, including workplace, pay, mobility, marriage, parenthood, entrepreneurship, pensions, and assets (World Bank 2022). Despite the remaining gaps and issues women face in the country (Gutierrez and Vafadari 2023, 90),

Against this backdrop, this chapter critically reviews ASEAN's gender-related commitments vis-à-vis the Philippines' gender-related domestic commitments. The comparison of regional-domestic commitments offers insights into how gender initiatives at the regional level can be improved to cater to the needs of women in ASEAN. To do so, this chapter examines and systematically surveys existing policies, frameworks, declarations, commitments, and initiatives of ASEAN alongside those of the Philippines. The chapter specifically assesses whether these initiatives facilitate women's empowerment (i.e., economic, social, psychological, and political facets) in ASEAN using the Empowerment-Participation Framework (Gutierrez 2023). The insights provide inputs for practical reforms in enhancing and supporting the ASEAN Socio-Cultural Community (ASCC) to promote a revitalised, people-oriented, and people-centred ASEAN Community.

Status of Women in ASEAN and the Philippines

Over the years, significant progress has been made in improving the participation of women in the economic and social spheres of ASEAN. They have greater access to education, receive improved quality of reproductive health, and have increased participation in the labour force (ASEAN n.d.). Despite this progress, issues continue to hamper women's advancement in the region. In terms of labour participation, for example, women were still found to have lower levels of participation than men (ASEAN 2016). They remain concentrated in informal work sectors and lower-paid, lower-skilled, vulnerable, and seasonal jobs (Gutierrez and Vafadari 2022). Despite the declining gender gaps in education, many highly educated women remain unemployed (ASEAN 2016). Women also comprised 50 per cent of undocumented migrant workers in the region (ASEAN 2022a). Despite the continuous expansion of intra- and extra-ASEAN trade, women's share of exports remained constant (ASEAN 2016).

While efforts have been made to promote women's empowerment along the lines of economic participation (i.e., market-oriented activities), little has been made to address underlying inequalities such as access to capital, land, social protection, and social perception, among others. Women remain disadvantaged in acquiring assets and land primarily due to a lack of information and the persisting custom that sees men as the heads of households with exclusive rights to family property (ASEAN 2016). Due to established societal norms where men's superiority over women is generally accepted, women continue to face discrimination (i.e., unpaid domestic and care work) (Gutierrez and Vafadari 2022). Governments were also found to offer negligible support to promote shared household responsibilities. Politically, women in the region also remain underrepresented in political spaces where they hold fewer parliamentary and legislative positions across the AMS (ASEAN 2022b).

Meanwhile, the Philippines has been globally recognised for its achievement in closing gender gaps and promoting women's empowerment (Buchhave and Belghith 2022), specifically in promoting women's economic participation. Despite this, women in the country continue to face the same issues as their counterparts in ASEAN countries. For example, women remain socially constrained concerning marriage, property and inheritance, pension, and economic participation after giving birth (World Bank Group 2022). Women in the Philippines also suffered from issues concerning unpaid domestic and care work, physical and sexual harassment, the gender pay gap, etc. (Iellamo 2023). Women of reproductive age also face barriers to achieving reproductive health and sexual rights, given prevailing cultural barriers (Guttmacher Institute 2015).

Institutional Structure and Regional Commitments on Women in ASEAN and the Philippines

ASEAN

Drawing from international frameworks such as the Beijing Declaration and Platform for Action (1995), CEDAW, and the Agenda 2030 for Sustainable Development, among others, ASEAN has gradually adopted regional commitments that position it as a "community of caring societies" (Pisanò 2015, 322), where the welfare and rights of its people are prioritised. The importance of women's participation in ASEAN development was first acknowledged and reaffirmed during the ASEAN Women Leaders Conference in 1975, where the ASEAN Sub-Committee on Women¹ (ASW) was established in 1976 (i.e., later renamed the ASEAN Ministerial Meeting on Women [AMMW] in 2002). This commitment was further solidified in 2007 with the creation of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC). Resting primarily under the jurisdiction of the ASEAN Socio-Cultural Community (ASCC), initiatives promoting gender equality emanate from the ASCC alongside institutional structures such as the AMMW and the ASEAN Committee on Women (ACW)², among other structures that address women-related issues. As reflected in their progressive

1 It comprised minister-level representatives of the member states.

2 It is a sectoral body and subsidiary monitoring ASEAN's regional commitment in relation to gender equality and women.

strategies, the ACW and ACWC take a proactive approach to promoting women's rights. The ASEAN Secretariat over the Poverty Eradication and Gender Division (ASEAN Secretariat) also provides technical support to other related bodies in gender mainstreaming.

Table 2: Regional commitments on women in ASEAN

Year	Plans, Action Plans and Programmes	Objectives/Contents
1988	Declaration of the Advancement of Women in the ASEAN Region	The declaration promotes women's participation in political and socio-economic spheres across regional and national levels while also recognising the need to establish institutional mechanisms to facilitate data gathering, analyses, and evaluation of policies and plans in ASEAN from a gender perspective.
2005	Work Plan for Women's Advancement and Gender Equality 2005-2010 (WAGE)	
2006	Work Plan to Operationalise the Declaration on the Elimination of Violence against Women (2006-2010)	Builds on existing national efforts, moves forward the priorities of the previous Work Plan and integrates all relevant priorities and measures into a consolidated action plan on violence against women.
2004	Vientiane Action Programme (2004-2010)	Called for establishing an ASEAN commission to promote and protect women's and children's rights. This led to the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC).
2010	ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC)	Established as a mechanism for the member states to enhance the protection of the rights of women and children. The intergovernmental body is an important and significant structure complementing the ASEAN Committee on Women (ACW).
2015	ASEAN Convention against Trafficking in Persons, especially Women and Children	Provides action plans within AMS domestic laws to address issues concerning human trafficking (i.e., where women and children are primarily affected).
2015	ASEAN Regional Plan of Action on the Elimination of Violence Against Women	Acknowledges that VAW is a form of discrimination against women that impedes women's development and empowerment, thus encouraging a more proactive approach to addressing VAW across its AMS, thus promoting a national-level approach.
2016	ASEAN Regional Plan of Action on Elimination of Violence against Women	Adopts concrete strategies to eliminate VAW through commitments, including strengthening institutional capacities of concerned bodies, developing legal frameworks, and devising coordinated strategies, among others.

2017	ASEAN Declaration on the Gender-Responsive Implementation of the ASEAN Community Vision 2025	It recognises that gender equality and women's empowerment are crucial in realising sustainable development while reiterating the commitment of AMS and ASEAN to promote gender equality. It outlines commitments, including enhancement of AMS' capacity in data collection of sex-aggregated data, encouragement of monitoring and evaluation of policies and commitments, reaffirming the need to promote gender mainstreaming, investments in closing resource gaps, advancement of women's access in decision-making mechanisms, promotion of men's engagement.
2020	ASEAN Comprehensive Recovery Framework	Identifies gender equality as a priority area in prospects to catalyse post-pandemic recovery in the region while recognising the critical role of women's leadership in COVID-19 response and recovery
2021	ASEAN Gender Mainstreaming Strategic Framework (2021-2025)	Outlines a strategic framework that advocates for "internal" scrutiny of "ASEAN's policies, practices, and organisational culture and structure" to facilitate a more effective approach to promoting gender mainstreaming among its member states
2021	ASEAN Regional Framework on Protection, Gender, and Inclusion in Disaster Management	Outlines a common vision in promoting protection and gender inclusion in regional disaster management.
2022	ASEAN Regional Plan of Action on Women, Peace, and Security	Outlines the interlinkages of issues pertaining to women's rights, regional peace, and shared security concerns to the development and prosperity of the ASEAN community. It acknowledges the critical role played by women in maintaining peace, security, and conflict resolution

A summary of the relevant regional commitments is outlined in Table 2. At the forefront of this agenda are communications addressing issues concerning violence against women and children, as evidenced in the ASEAN Declaration on the Elimination of Violence against Women (2004) and the Declaration on the Elimination of Violence against Women and the Elimination of Violence Against Children in ASEAN (2013). The commitments have also been expanded to cover migration and human trafficking (see the ASEAN Convention against Trafficking in Persons). Beyond external commitments, a more reflective and inward approach to gender mainstreaming is emphasised in the ASEAN Gender Mainstreaming Strategic Framework (2021–2025), thereby acknowledging the influence of ASEAN's internal arrangement on its effectiveness.

To promote inclusivity in the ASEAN Economic Community (AEC), the AEC Blueprint 2025 has included empowering women as entrepreneurs to underscore its efforts in promoting gender equality. The unequal impacts of disasters on men and women were also recognised (i.e., the Regional Framework on Protection, Gender, and Inclusion in Disaster Management). Women's role was also pronounced and acknowledged in multiple platforms and initiatives (i.e., the ASEAN Special Summit Session on Women's Empowerment in the Digital Age, the Meeting of ASEAN Women Parliamentarians at the ASEAN Inter-Parliamentary Assembly, and the ASEAN Women Leaders' Summit). The regional framework for post-COVID-19 pandemic recovery and the ASEAN Comprehensive Recovery Framework also explicitly recognised the crucial role of women's leadership in leading post-pandemic response and recovery. In acknowledging the role of women in catalysing local approaches to maintaining peace and security (i.e., as explicitly stated, "not niche agenda for women" [p.1]),

the WPS showcases the various initiatives implemented by women in the region.

Despite the efforts, a common critique of these regional instruments is their limits in affecting domestic policies and government practices (Pisanò 2015, 335). Despite the efforts to facilitate a concerted initiative to promote gender equality, the jurisdiction of the AMS concerning their domestic policies on gender equality and women prevails. Thus, their power to influence remains to be constrained by soft power. Arguably, the lack of focus on 'women' as a separate regional agenda poses challenges to the directness and effectiveness of regional commitments (i.e., women's issues are addressed alongside issues faced by children and migrant workers) (Nonthasoot 2017, chap. 9).

The Philippines

As opposed to the external factors that drove the gender equality and women's agenda in the ASEAN region, the recognition of women's rights in the Philippines owed to the active women's movement that demanded the recognition of their rights. This vibrant movement was one of the most globally dynamic that influenced international feminist movements (Friesen 1989, 679). As a result, the Philippine government has progressively adopted measures to enhance the status of women in Philippine society. A survey of related legal and institutional instruments is summarised in Table 3.

Table 3: Review of relevant institutional and legal instruments on women in the Philippines

Year	Institutional and Legal Instruments	Contents on Women
1941	Commonwealth Act No. 647: An Act to Grant Maternity Leave to Married Women Who are in the Service of the Government	Grants married women working in the public sector with vacation, sick, and maternity (i.e., 60 days) leave.
1989	RA 6725: Prohibition on Discrimination against Women concerning their employment	An amendment to Article 135 of the Labour Code prohibits discrimination (e.g., lesser compensation) on employment based solely on gender.
1988	RA 6657: Comprehensive Agrarian Reform Law	Outlines the rights of women to own land.
1989	Executive Order No. 348: Approval and Adoption of the Philippine Development Plan for Women from 1989 to 1992	It recognises the role of women in nation-building while ensuring the fundamental equality of women and men before the law.
1990	RA 6949: National Women's Day	Declares March 8 every year as a special 'National Women's Day' holiday.
1990	RA 6972: Day Care Law	Mandates the establishment of a daycare centre in every barangay.
1991	RA 7192: Women in Nation Building	Recognises women as equal and full partners of men in nation-building and development, encouraging women's participation in development processes, allocating 5-30 per cent of government agencies' budget to gender mainstreaming concerns (i.e., Gender and Development Budget), etc.
1995	RA 7882: Provision of Assistance to Women Engaging in Micro and Cottage Business Enterprises	Assisting women in owning, operating, and managing small business enterprises.

1996	RA 8187 Paternity Leave Act	It provides seven days of paternity leave to employees of both the public and private sectors.
1998	RA 8505: Rape Victim Assistance and Protection Act	Assistance and protection for rape victims by establishing rape crisis centres across the Philippines.
2004	RA 9262: Anti-Violence Against Women and Their Children Act of 2004	Penalises violence (i.e., physical, sexual, psychological, and economic abuses) towards women and children.
2009	RA 9995: Anti-Photo and Video Voyeurism Act	Penalises the crime of photo and video voyeurism (i.e., online pornography) targeted mostly at women and children.
2009	RA 9710: Magna Carta of Women (MCW)	Provides a comprehensive women's human rights law framework.
2010	Autonomous Region of Muslim Mindanao (ARMM) GAD Code	Supports the government's commitments and goal of protecting women's human rights while eliminating Violence against Women (VAW).
2009	RA 9729: Climate Change Act of 2009	Integrates gender-related issues and concerns into climate change-related policies and initiatives.
2010	RA 10121: Philippine Disaster Risk Reduction and Management Act of 2010	Recognises the role and vulnerability of women and children to disasters.
2012	RA 10174: People's Survival Fund	Acknowledges that climate change unequally affects minorities (i.e., women).
2011	Repealing Articles 130 and 131 on "Night Work Prohibition" from the Labour Code of the Philippines	Allows women to work at night (i.e., as night workers) and be assigned to night duties while increasing health protection of night workers and expanding health and maternity provisions to protect women workers.
2013	RA 10398: Declaration of "National Consciousness Day for The Elimination of Violence Against Women and Children"	Increases national consciousness on anti-violence against women declared on November 25.
2013	RA 10361: Domestic Workers (Kasambahay) Law	Safeguards household domestic workers' working conditions (i.e., working conditions, work hours, etc.) (i.e., mostly women).
2014	RA 10644: Go Negosyo Act	Encourages women's entrepreneurship by providing access to relevant information, credit facilities, and training programmes.
2014	RA 10354: Reproductive Health Law	Ensures women's health by providing access to reproductive health services and information while mandating the government to allocate funds to provide such public services.
2016	RA 10906: Anti-Mail Order Spouse Act	Sanctions on mail-ordering or brokering activities of foreign nationals to Filipinos through a personal introduction and brokering establishments, among others.
2018	RA 11148: Health and Nutrition of Mothers (Kalusugan at Nutrisyon ng Mag-Nanay) Act	It benefits infants during their first 1,000 days of life, along with their mothers and other "nutritionally at-risk" individuals like pregnant women, lactating women, or teenage mothers.

2019	RA 11313: Safe Spaces Act	Penalises implicit and explicit discriminatory language against women and men while recognising gender-based sexual harassment in public and online spaces.
2019	RA 11210: 105-Day Expanded Maternity Leave Law	Grants women workers with paid maternity leave of 105 days.
2022	RA 11861: Expanded Solo Parents Welfare Act	It expands coverage of the law to cover spouses or family members of Overseas Filipino Workers (OFWs) and pregnant women.
2022	RA 11648: An Act Providing for Stronger Protection Against Rape and Sexual Exploitation and Abuse, Increasing the Age for Determining the Commission of Statutory Rape	Includes a progressive stance on the “proof of the virtue of the victim” (i.e., women) by focusing on “age” (i.e., as opposed to marriage status) concerning criminal liability.
2022	RA 11862: Expanded Anti-Trafficking in Persons Act of 2022	Aids victims (i.e., who are mostly women) of labour and sex trafficking, online sexual exploitation, and armed conflicts.
2022	RA 11596: An Act Prohibiting the Practice of Child Marriage and Imposing Penalties for Violations Thereof	Addresses issues concerning the growing number of Filipino girls married before 18.

The movement's success was marked by achieving women's suffrage in 1937 during the Commonwealth period (Friesen 1989, 678). During the period, the government has also introduced maternity leave (i.e., 60 days) for government workers (Commonwealth Act of no. 647). It is noticeable, however, that the mention of “women” in relevant laws remained constrained to topics of immigration, citizenship, and the rights of workers. Feminist movements continued to emerge, giving birth to the first women's organisation, Makibaka (Fight Back), in the 1960s, which was then solidified as a registered women's organisation, the General Assembly Binding Women for Reforms, Integrity, Equality, Leadership and Action (GABRIELA)³ in 1984.

The creation of The Filipino Women's Manifesto in 1985, prepared by GABRIELA for the Women's Protest March, outlined the interdependence of women's struggles to national crises in the Philippines. In the Manifesto, issues stemming from economic, political, social, and cultural facets of women's lives were explicitly narrated—reminding the Filipino society that the Filipinas who “make up the silent majority will no longer be silent”. Since then, the number of women's organisations has grown alongside the number of legal instruments addressing women's rights and plights, which were integrated into the legal agenda. This was apparent in the integration of gender equality in the 1987 Philippine Constitution (see Art. 2, Sec. 14, where women's role in nation-building is enshrined). The signing of RA 6725 prohibiting discrimination in employment based on sex in 1989, for example, recognised the unequal playing fields between men and women in employment. The need to integrate women into the national development agenda was also formalised through adopting the Philippine Development Plan for Women (EO 348) and the institutionalisation of National Women's Day (RA 6949). Discriminatory barriers to advancing women's rights regarding land ownership and domestic work were also addressed earlier on through the Comprehensive Agrarian Law, Day Care Law, and Paternity Leave Act, among others.

Despite these achievements, however, violence against women, among other struggles, remained a core concern in Philippine society. This is evidenced by the signing of multiple laws that aim to protect women's rights against violence (i.e., sexual, physical, etc.) embodied in the passing of the Rape Victim Assistance and

³ GABRIELA is the largest nationalist women's coalition in the country. It is named after the Filipino heroine, Gabriela Silang, who fought for the Philippines' liberation during the Spanish rule.

Protection Act (RA 8505), the Anti-Violence Against Women and Their Children Act (RA 9262), the Anti-Photo and Video Voyeurism Act (RA 9995), among other laws from the 1990s to 2000s.

International and regional movements calling for gender equality and the enhancement of women's status, alongside the vibrant domestic women's movements, solidified the Philippines' commitment to promoting women's rights. The signing of the Magna Carta of Women (MCW) (RA 9710) into law in 2009, for example, solidified the Philippines' commitment to CEDAW. Similarly, adopting the ARMM Gender and Development (GAD) Code in 2010 served as the localised integration of CEDAW into the ARMM (Cayanan 2013, 83). In response to the characterisation as a region with largely under-reported women and child rights violations, widespread armed conflicts, and gender-discriminating cultural norms, the introduction of the GAD code served as a critical instrument in addressing gender issues and enhancing women's social status in the ARMM. Following increasing concerns about the environment, disaster risk, and climate change internationally, domestic laws have also acknowledged the unequal impacts of natural disasters on women and men. To respond to this, several laws geared towards addressing environmental concerns have specifically included sections that acknowledge women's needs as domestic and care providers of households. They include the Climate Change Act (RA 9729), the Philippine Disaster Risk Reduction and Management Act (RA 10121), and the People's Survival Fund (RA 10174).

Over the years, domestic laws have been more reflective of the emerging concerns from various interest groups and organisations, including night workers (see repealing articles 130 and 131 of the Labour Code), rights of domestic workers (see Kasambahay Act), women entrepreneurship (see Go Negosyo Act), among others. Concerns over the evolving issues of sexual abuses against women have also been accounted for, including the rise of mail-ordering of brides (see Anti-Mail Order Spouse), catcalling (see Safe Spaces Act), human trafficking (see Expanded Anti-Trafficking in Persons), child marriage (see Act Prohibiting Child Marriage), among others. Institutionalised laws have also been amended to ensure their relevance to the changing needs of women, including that of the expanded maternity leave law (i.e., from 60 days to 105 days), the Solo Parents welfare act (i.e., to encompass spouses of OFWs, unmarried women), among others. Concerns regarding women's health have also been addressed through the Health and Nutrition of Mothers Act (RA 11148) and the progressive passing of the Reproductive Health law (RA 10354).

Women's Empowerment (and Participation) in ASEAN and the Philippines

Discourses on empowerment require a multi-level, cross-sectoral, and multi-disciplinary approach (Gutierrez and Vafadari 2023, 88; Gutierrez 2023). In the field of gender and development, empowerment is understood as the ability of an individual to make autonomous decisions (Kabeer 1999, 440), which are based on a variety of facets, including political (i.e., ability to occupy leadership positions, participate in decision-making mechanisms, voice out concerns and be heard), economic (i.e., availability of just and equal economic opportunities, ability to decide how to spend earnings, access to credit), social (i.e., enhanced social status, compatibility to social and cultural norms), and psychological (i.e., happiness, contentment, self-confidence, mental health) aspects (Scheyvens 1999, 250; Gutierrez, 2023). In this chapter, an assessment of both ASEAN's and the Philippines' commitments vis-à-vis empowerment is made using the Empowerment-Participation Framework (Gutierrez 2023), which suggests that the enhancement of the economic, social, political, and psychological empowerment over time can increase the level of participation or involvement of individuals in developmental initiatives.

In mapping out the regional commitments and domestic policies of both ASEAN and the Philippines against the dimensions of empowerment proposed, Table 4 maps out the regional commitments and domestic policies concerning the four aspects of empowerment.

Table 4: Measuring empowerment in the regional commitments and domestic policies in ASEAN and the Philippines

Empowerment	ASEAN (Regional) Commitments	Philippines (Domestic Commitments)
Economic	ASEAN Comprehensive Recovery Framework	Commonwealth Act No. 647: An Act to Grant Maternity Leave to Married Women Who are in the Service of the Government
	ASEAN Comprehensive Recovery Framework	RA 6725: Prohibition on Discrimination against Women concerning their employment
	Declaration of the Advancement of Women in the ASEAN Region	RA 7882: Provision of Assistance to Women Engaging in Micro and Cottage Business Enterprises Repealing Articles 130 and 131 on "Night Work Prohibition" from the Labour Code of the Philippines RA 10361: Domestic Workers (Kasambahay) Law RA 10644: Go Negosyo Act Executive Order No. 348: Approval and Adoption of the Philippine Development Plan for Women for 1989 to 1992
Political	ASEAN Gender Mainstreaming Strategic Framework (2021-2025) ASEAN Regional Plan of Action on Women, Peace and Security Vientiane Action Programme (2004-2010)	RA 7192: Women in Nation Building Law
Social (Security and Environment)	ASEAN Regional Plan of Action on Women, Peace and Security	RA 8505: Rape Victim Assistance and Protection Act
	ASEAN Regional Plan of Action on Elimination of Violence against Women	RA 9729: Climate Change Act of 2009 RA 9262: Anti-Violence Against Women and Their Children Act of 2004
	ASEAN Regional Plan of Action on the Elimination of Violence Against Women	RA 9995: Anti-Photo and Video Voyeurism Act RA 10174: People's Survival Fund RA 10121: Philippine Disaster Risk Reduction and Management Act of 2010
	ASEAN Convention against Trafficking in Persons, especially Women and Children	RA 8187: Paternity Leave Act RA 6657: Comprehensive Agrarian Reform Law
	ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC)	RA 6972: Day Care Law RA 8187 Paternity Leave Act
	Work Plan to Operationalise the Declaration on the Elimination of Violence against Women (2006-2010)	RA 10398: Declaration of "National Consciousness Day for The Elimination of Violence Against Women And Children"
	ASEAN Regional Framework on Protection, Gender, and Inclusion in Disaster Management	

RA 10906: Anti-Mail Order Spouse Act
 RA 11313: Safe Spaces Act
 RA 11861: Expanded Solo Parents Welfare Act
 RA 11648: An Act Providing for Stronger Protection Against Rape and Sexual Exploitation and Abuse, Increasing the Age for Determining the Commission of Statutory Rape
 RA 11862: Expanded Anti-Trafficking in Persons Act of 2022
 RA 11596: An Act Prohibiting the Practice of Child Marriage and Imposing Penalties for Violations Thereof
 RA 6949: National Women's Day
 RA 9710: Magna Carta of Women (MCW) Autonomous Region of Muslim Mindanao (ARMM) GAD Code

Psychological (Health) ASEAN Committee on Women's Work Plan

RA 10354: Reproductive Health Law
 RA 11148: Health and Nutrition of Mothers (Kalusugan at Nutrisyon ng Mag-Nanay) Act
 RA 11210: 105-Day Expanded Maternity Leave Law

As the surveyed laws and commitments do not fall mutually exclusively under each empowerment dimension, some modifications⁴ to the empowerment-participation framework were made. Several insights may be deduced from these analyses.

First, regarding the economic dimension, it may be observed that the Philippines has more economic-related commitments concerning women than in ASEAN. Conversely, the Philippines has expanded its agenda to cover labour issues more pressing for women, including night jobs, access to credit and training, domestic work, etc.

Second, regarding the political dimension, the Philippines' policies concerning women's participation in political spheres are considered progressive (see the 1987 Philippine Constitution), where women's active role in nation-building is acknowledged and mandated. Except for the recent frameworks and plans (i.e., Gender Mainstreaming Strategic Framework and WPS), a less direct mandate is observable in ASEAN commitments (i.e., mandated participation of women in the political environment). This is reflective of the varied statuses of women in AMS political environments.

Third, in terms of the commitments and policies concerning social empowerment, it is observable that for both ASEAN and the Philippines, discourses have expanded and progressed to recognise that women's concerns go beyond human trafficking, violence, and security to also cover aspects concerning the unequal impacts of disasters and climate change.

Fourth, regarding the psychological dimension of empowerment, the Philippines' policies have gradually covered women's issues concerning their health. Despite this, the commitments outlined in the existing

⁴ Environmental and security-related instruments were subsumed under social empowerment to denote the complexity of social, while health-related instruments were then subsumed under psychological empowerment to signify the holistic individual development of women.

domestic laws (i.e., Reproductive Health Law) remain contentious (i.e., limited to post-abortion care). In terms of ASEAN commitments, on the other hand, health concerns for women are impassively mentioned in some declarations and work plans with no mention of specific commitments.

Fifth, the mutual inclusivity of the regional commitments and domestic policies to each dimension of empowerment suggests the interdependence of the issues affecting women's empowerment in the Philippines and the larger ASEAN community. Social, political, and security issues also affect women's psychological well-being and, to some extent, their ability to participate in economic activities.

Sixth, across regional commitments and domestic policies, a paradigm shift is observable, where women are no longer seen as recipients of development and assistance but rather as active partners in advancing their status and welfare in societies.

Following the proposition forwarded in the Empowerment-Participation Framework (Gutierrez 2023) and the existing assessment of the regional commitments in ASEAN and legislative frameworks in the Philippines, it can be deduced that the participation of women in both ASEAN and the Philippines may be expected to increase over time. Unlike the Philippines, however, women's involvement has observably progressed over the years because of the dynamism of domestic women's social movement and a conducive institutional environment. Thus, the challenge for ASEAN as a region is to facilitate the social movements that promote gender equality and complement these movements with an environment that enables them to flourish.

Moving Forward in Gender Equality

Discussions on ASEAN revitalisation will be incomplete without accounting for the humanistic, specifically gender-related perspectives of community building and regionalism. In promoting a people-centred and people-oriented ASEAN Community, a conscious effort must be made to deliberately revitalise ASEAN based on the needs of its member states and its people, lest it remain rhetoric. The key challenge remains to mainstream gender equality effectively in ASCC and the larger ASEAN Community. Following the insights obtained, several recommendations for practical reforms in promoting a revitalised, people-oriented, and people-centred ASEAN Community are outlined below.

First, as emphasised in various ASEAN declarations and work plans, a whole-of-ASEAN approach is crucial in promoting a people-centred, people-oriented, and gender-equal ASEAN.

This entails integrating the gender equality agenda beyond the ASCC and should encompass the AEC and APSC. To do so, the AEC and APSC communications (i.e., declarations, commitments, etc.) should explicitly include a section on gender equality. Such an initiative also symbolises that both pillars acknowledge that issues relating to gender equality cut across the region's economic, socio-cultural, and political-security agenda. A declaration solidifying this united commitment of ASEAN signals the seriousness and depth of commitment that ASEAN must promote gender equality.

Second, a mix of introspective (i.e., examination of domestic affairs) and extrospective (i.e., examination of international trends) approaches to gender mainstreaming is recommended. In terms of introspection, in the case of the Philippines' dynamic women's social movements, it can be observed how domestic actions can influence international demands for more concrete commitments to gender equality. As an extrospection, regional commitments can further build on the ASEAN Gender Mainstreaming Strategic Framework (2021–2025), an “inward-looking-outward” approach to promoting and mainstreaming gender equality, which is essential in reinforcing ASEAN's commitment to practising what they preach—where ASEAN can become a role model to its member states and the larger community.

Fourth, an innovative engagement strategy through technology, digitalisation, and social media is necessary to promote gender equality in the region. Social media and other streaming platforms such as Facebook, Instagram, TikTok, Netflix, and YouTube, among others, have already been widely used to promote a variety of social agenda (i.e., the #MeToo movement). In this regard, awareness-raising campaigns and engagement strategies can also be employed through these platforms to reach the ASEAN population (i.e., youth).

Fifth, 'inclusivity' and 'sustainability' discourses should intuitively include gender-related discussions. The proactive integration of gender-related initiatives and agenda to communications about 'sustainability' and 'inclusivity' should be made. This can be reflected in mundane day-to-day business operations (i.e., professional exchanges and communications, work plans) to large-scale networking events (i.e., forums, conferences, meetings). In doing so, commitments relating to gender equality and women's empowerment should be streamlined in the larger sustainable and inclusive development agendas.

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CHAPTER 6

ASEAN's Ionic Bond: Reimagining ASEAN's Human Rights Framework

Mr. Charles Fredricksson O. de Belen

Introduction

In 1967, the Association of Southeast Asian Nations (ASEAN) was established by five Southeast Asian countries¹ that acquired political independence after a significant period of colonisation. Its establishment was meant to fill the power vacuum left in the region by major global powers through the creation of a regional organisation that can act as a self-help mechanism for its members, manage neighbourly conflicts, and amplify their voice in the international community by uniting it into a singular collective voice (Ponciano 2017). It also aimed to prevent the advances of communist ideologies in the region (Ciorciari 2012).

Since it was founded, ASEAN and its member states have had the twin challenges of ensuring nation-building and national security due to the region's context in the global landscape. This meant that ASEAN members heavily pursued nation-building and national security to acquire domestic legitimacy. Consequently, national security and economic development became indivisible concerns to secure domestic legitimacy (Plantilla 2008). One of ASEAN's prominent leaders, Lee Kwan Yew, once stated that democracy led

¹ Philippines, Malaysia, Singapore, Thailand, and Indonesia.

to undisciplined and disorderly conditions which were inimical to development while emphasising that Eastern culture dictated the placement of economic growth and national security beyond human rights (Tharoor 2015). Such a perspective led to ASEAN's significant prioritisation of programmes and projects geared towards economic development, such as the ASEAN Free Trade Area, the ASEAN Preferential Trade Agreements, and the now ASEAN Economic Community, at the expense of concepts like human rights.

Notably, its human rights instruments were adopted as a means of protest. ASEAN adopted the Bangkok Governmental Human Rights Declaration in 1993 due to the perception that existing international instruments, such as the 1948 United Nations Declaration on Human Rights (the UNDHR), overemphasise civil and political rights at the expense of one's basic needs and rights to develop (Mohamad 2002). For example, ASEAN's resistance towards wider adoption of human rights was due to its perception that adherence towards it would cause it to lose its competitive advantage in the global economy in such areas as cheap labour. This, in turn, may prejudice its economic development, which is critical for ASEAN Member States' perpetuation of their domestic legitimacy.

Furthermore, compared to the Western conception of civil and political rights as "first generation rights" or as preconditions to economic development and stability, ASEAN values differ as these are influenced by the belief that stability and economic development are necessary preconditions to civil and political rights rather than the outcome thereof (Ciorciari 2012).

This prevailing belief may explain ASEAN's lack of initiative in human rights enforcement compared to other regional organisations. For example, no ASEAN country has ratified all 26 international human rights instruments. Only two of its members² ratified all nine major human rights conventions³, and only three⁴ of the said major human rights conventions have been ratified by all ASEAN members, as provided below.

	CERD	CCPR	CESCR	CEDAW	CAT	CRC	CMW	CED	CRPD
Malaysia				X		X			X
Laos	X	X	X	X	X	X		X	X
Cambodia	X	X	X	X	X	X	X	X	X
Philippines	X	X	X	X	X	X	X		X
Thailand	X	X	X	X	X	X		X	X
Myanmar			X	X		X			X
Vietnam	X	X	X	X	X	X			X
Singapore	X			X		X			X
Indonesia	X	X	X	X	X	X	X	X	X
Brunei				X	X	X			X

2 Cambodia and Indonesia.

3 International Convention on the Elimination of All Forms of Racial Discrimination ("CERD"), International Covenant on Civil and Political Rights ("CCPR"), International Covenant on Economic, Social, and Cultural Rights ("CESCR"), Convention on the Elimination of All Forms of Discrimination against Women ("CEDAW"), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT"), Convention on the Rights of the Child ("CRC"), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ("CMW"), International Convention for the Protection of All Persons from Enforced Disappearances ("CEDR"), and Convention on the Rights of Persons with Disabilities ("CPRD").

4 CEDAW, CRC, and CPRD.

Meanwhile, only five members have organised their own National Human Rights Council. At the same time, the ASEAN Intergovernmental Commission on Human Rights (the AICHR) has spent six million dollars on 121 activities, none of which have caused any significant progress in the human rights situation (Bustos 2022). Finally, human rights were not even mentioned in any of ASEAN's community-building efforts until the 2004 Vientiane Action Programme (Davies 2013).

Due to the precedents mentioned above, relevant global and regional stakeholders have labelled Asia as the "black hole" or the "last frontier" for human rights protection in the world (Sarwar 2018). In a survey of the ASEAN's human rights situation in 2020, 80% of the respondents felt it was severely deteriorating, while 40% felt that the AICHR failed to adopt and implement human rights (Forum-Asia 2020).

ASEAN's Transition into Recognising Human Rights

Since the inception of ASEAN, the term "human rights" has not appeared in the Bangkok Declaration. Rather, ASEAN and its members affirmed their commitment to the human rights principles in the United Nations Charter (Tampubolon 2021). By the 1990s, the trend in ASEAN was to steadily increase market integration to accelerate economic development. However, while ASEAN found success in its economic development, it consequently aggravated non-traditional security challenges in the region, such as drug trafficking, cybercrime, illegal gambling, terrorism, human trafficking, environmental damage, and transnational crimes, among others, due to more liberal movement of people, resources, and capital. National boundaries do not confine worse, new security challenges that have risen, nor are their victims necessarily governments, as they target non-state stakeholders such as vulnerable social groups (Baviera 2017). For example, ASEAN has faced various global pandemics, from the severe acute respiratory syndrome (SARS) to Coronavirus (COVID-19), avian flu, super typhoons such as Typhoon Haiyan of the Philippines, and climate refugee migration, among others. The link between human rights and regional security is best demonstrated in the Bali Concord II, which provides that to "bring ASEAN's political and security cooperation to a higher plane", it is necessary to envision an ASEAN Security Community where its members can live in a "just, democratic, and harmonious environment" (Poole 2015).

These developments triggered a shift in perception of ASEAN's singular focus on the economy. These security challenges have led to domestic demand for accountability and better protection of the people's welfare (Mohamad 2002). Several members have publicly stated their commitments to advancing and advocating for global human rights, with commitments to incorporate them into their domestic legal structures. All 10 ASEAN member countries have become signatories to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights (Tampubolon 2021). This shift in perception was similarly observed in the European Union, which was initially established to be mainly an economic organisation but has evolved to one advancing human right. Notably, the European Union faced similar security challenges to ASEAN (Rachminawati 2021). Accordingly, as controls on external borders intensify, frontier controls are abolished due to market integration. The social dimension of market integration must be solved regionally as it is beyond the scope of any national legislature (Rachminawati 2021).

In recognition of this shift in perception, ASEAN promulgated the ASEAN Charter in 2007, which subsequently led to the formation of the AICHR in 2009 and the body's adoption of the ASEAN Human Rights Declaration (the AHRD) in 2012. ASEAN did so with the aspiration that Southeast Asian citizens and their progeny shall someday enjoy the same rights and freedoms that all other people worldwide are endowed with.

ASEAN Intergovernmental Commission on Human Rights

In 2007, then-president Gloria Macapagal-Arroyo of the Philippines proposed the inclusion of a human rights body in the ASEAN Charter (the Charter) during the High-Level Task Force meetings. After multiple heated discussions and consultations involving the ASEAN's Eminent Persons Group of senior officials from all its members, ASEAN approved the Charter, including the human rights body, the AICHR.

The AICHR's establishment in 2009 marked the creation of the first institution in ASEAN that would champion human rights and possibly influence the codification of norms outlined in the ASEAN Charter. It also provided ASEAN with an opportunity to re-affirm its commitment to human rights while promoting security in the region, as the AICHR's Terms of Reference (TOR) expressly states that the AICHR will "contribute to the promotion of stability and harmony in the region" (Poole 2015).

The AICHR was tasked to raise public awareness of human rights, develop the AHRD, promote and protect human rights, engage in capacity building to help its members implement its human rights obligations, encourage ASEAN members to adopt international human rights instruments, and provide advisory and technical assistance to ASEAN in human rights areas. However, while the AICHR had lofty goals in promoting and enforcing human rights in the region, its capability to promote any change in the human rights situation in ASEAN is limited by its mandate, authority, and structure (Poole 2015).

The institutional restrictions placed on the AICHR by its members were due to its adherence to the principles of non-interference and sovereignty. For example, the AICHR's mandate, as defined by its Terms of Reference, recognises the universality of human rights. However, its simultaneous recognition of the ASEAN Way or the need to adhere to non-interference in the internal affairs of other ASEAN members (Mwengkang 2012) severely constrained the capability of the AICHR to influence change in the affairs of its members.

Regarding its structure and authority, the AICHR was constructed as a consultative intergovernmental body subject to the political will of ASEAN members rather than as an autonomous institution with the ability to independently decide on cases brought before it. The AICHR was designed to allow all members of ASEAN to have an effective veto against its decisions (Ciorciari 2012). Its TOR also suffers from having a broad and ineffective mandate that prioritises promotion over protection; lacks any formal mechanism to receive complaints and allegations of human rights violations; lacks transparency in its activities, programmes, and projects; lacks the power to investigate, monitor, and enforce; and lacks any formal working relationship with National Human Rights Institution (the NHRI) of its member states. These gaps have created difficulty for ASEAN in fulfilling its mandate (Indrayanti and Saraswati 2019). Besides, the AICHR does not have the power to issue legally binding decisions as it is only authorised to issue regional declarations and facilitate consultations and reports (Ciorciari 2012).

Furthermore, the AICHR's duty to explicitly promote and protect it was not provided in its mandate, thus creating doubt regarding its authority to resolve cases. The AICHR also suffers from other challenges, such as the lack of a permanent secretariat and the fact that its members are sparingly required to attend to their duties, making it unlikely for its members to develop an independent institutional identity.

Moreover, the restrictions on the AICHR's fund-raising capabilities to only promotion, capacity-building, and education made it dependent on ASEAN Member States for funding. Consequently, it is difficult for the AICHR to evolve outside the confines set by ASEAN.

These systemic constraints prevent the AICHR from influencing 'top-down' organisational mandates, imposing lateral pressure, and enabling civil society and its members' citizens to consolidate any bottom-up challenge against their respective governments (Stensland 2012). ASEAN and its members also put a significant premium on sovereignty and subscription to non-interference in each other's affairs under the so-called 'ASEAN Way', further limiting any impact the AICHR can have.

These limitations are borne from the initial motivations of ASEAN members in creating the AICHR, being guided not by any intrinsic moral value but by their need to appear legitimate (Poole 2015), especially considering the political upheavals and rampant abuses conducted by the Myanmar government against any dissent to its domestic regime. This is echoed by multiple statements from the representatives of Malaysia, the Philippines, and Thailand, and even the staunchest opponents of the creation of the Human Rights Body, Myanmar, Laos, Cambodia, and Vietnam, who recognised the need for an ASEAN Human Rights Body to bolster the region's legitimacy (Poole 2015).

Notably, the creation of regional organisations, like ASEAN, is usually influenced by the need of regional organisations to build international image and reputation to strengthen their legitimacy for stakeholders outside the region since this would consequently allow the members of the region to engage external stakeholders and allow them to wield influence beyond their region socially, politically, and economically (Duxbury and Tan 2016). Unfortunately, in the case of the AICHR, this has become a major influence of its creation, if not the sole.

Thus, although the establishment of the AICHR, the ASEAN Human Rights Declaration, and the increasing subscription of ASEAN members to international human rights conventions are landmark achievements for the region, the constraints mentioned above meant that ASEAN is still unable to significantly impact the deteriorating human rights situation in ASEAN, such as the humanitarian crisis of the Rohingya and ethnic minorities in Myanmar, eroding democratic institutions and civic spaces, extra-judicial killings in the Philippines (APHR 2019), and increasing religious persecution and politically motivated persecution in Vietnam (RFA 2022).

We have seen rampant human rights abuses committed by various members of ASEAN, from penalising homosexuality, adultery, and rape with the death penalty in Brunei; to unfair incarceration without due process of human rights activists such as Ms. Lodkham Thammavong, Mr. Soukane Chaithad, and Mr. Somphone Phimmasone in Laos; large-scale ethnic cleansing of the Rohingya Muslims in Myanmar; refolement of asylum seekers to Cambodia by Thailand; arbitrary detention of journalists and human rights defenders in Vietnam; pervasive violence against the LGBT population in Malaysia; and the 'War on Drugs' in the Philippines that already took hundreds of lives (Santos 2022).

These incidents, coupled with the lack of domestic accountability mechanisms (as only six of the members of ASEAN have a working NHRI according to the data by the Southeast Asia National Human Rights Institutions Forum⁵), severely constrained the AICHR's capability to meaningfully respond to the incidents due to the 'ASEAN Way'. Thus, to remedy the situation, ASEAN must establish a new body that does not have the infirmities of the AICHR and a change of perspective from the 'ASEAN Way' must also be done.

5 National Commission on Human Rights of the Republic of Indonesia (Komnas HAM RI), the Suruhanjaya Human Rights of Malaysia (SUHAKAM), the Commission on Human Rights of the Republic of Philippines (CHRP), National Human Rights Commission of Thailand (NHRCT), Myanmar National Human Rights Commission (MNHRC), and Provedoria dos Direitos Humanos e Justiça (PDHJ) of Timor Leste.

Finding the Right Direction Towards the ASEAN Way

To understand the ASEAN Way as codified in the Treaty of Amity and Cooperation in Southeast Asia⁶, one must first understand what Asian values are. According to Dr. Chang-Yau Hoon, Asian values are guided by the following ideologies:

- 1). Human rights are not universal and thus cannot be universally applied. The form that human rights take depends on "particular social, economic, cultural and political conditions";
 - 2). Society should focus on the family rather than the individual, thereby justifying the view that the interest of the country can and should override that of a single citizen;
 - 3) Social and economic rights take precedence over the rights of the individual; and
 - 4) Part of a country's right to self-determination is the ability to exercise domestic jurisdiction over human rights without outside interference.
- (Hoon 2004)

Further, the ASEAN Way was borne out of the experience of ASEAN members of being forced to live in cloisons étanches shunning contact with their neighbouring countries by their former colonial masters (Ponciano 2017), which further strengthened their individuality and weakened possible areas of commonality among them.

As a result, the decision process for any determination on human rights issues is highly individualised, allowing a large leeway for governments to justify potential abuses and/or violations under the guise of it being the ASEAN Way. Furthermore, the premium that ASEAN puts on self-determination, sovereignty, and non-intervention means that it will be difficult to enforce even if any determination is made. The ASEAN Way embodied in the Javanese practices of *musyawarah* [consultation] and *mufakat* [consensus] has become a shield against abuses rather than a tool to advance the welfare of the people (Kawamura 2011). This advanced culture of cooperation among ASEAN Member States is based on promoting their self-interest rather than for the collective public good or a rule-based normative order.

To balance the trend towards the shift in focus of ASEAN towards human rights and the ASEAN Way, it is necessary to create an interpretation of the ASEAN Way that accommodates the core ideologies of the Asian values while enabling an agreeable regional intervention on the domestic affairs of ASEAN members.

To this end, ASEAN can apply the doctrine of margin of appreciation first provided for in the case of *Handyside vs. the United Kingdom*⁷. This doctrine enables a minimum level of human rights protection while allowing differentiation due to the particularities of each member of the European Union (the EU) (Frantziou 2014). The margin of appreciation allows contracting states the capacity to deliberate domestically sensitive issues where little or no common ground among other contracting states exists, thus allowing for the acknowledgement of fundamental value divergences (Indrayanti and Saraswati 2019). Here, the scope of the margin of appreciation of rights is relative to the consensus of the member states over how it should be protected in any given situation (Saul 2011).

This doctrine considers the proportionality of any response and the vulnerability of the individual affected before determining whether a violation has occurred. Once deployed, this doctrine could temper politicised rights claims, acknowledge fundamental value divergences, and recognise the importance of pluralism, democratic politics, and subsidiarity to find mutually beneficial and principally cohesive resolutions towards those claims and divergences (Indrayanti and Saraswati 2019). This will also balance any concerns on supranational supervision by making any domestic implementation responsive to individual peculiarities

6 24 February 1976.

7 04 November 1976, European Court of Human Rights.

surrounding the case and the involved ASEAN member (Tae-Ung 2012). Thus, adopting this doctrine may make any intervention palatable to the affected government and become a normative force that will temper cultural, historical, religious, and philosophical differences within ASEAN.

By increasing the regional adoption of any intervention of the ASEAN Human Rights Court (AHRC), ASEAN can achieve similar success enjoyed by the European Court on Human Rights (ECHR) and the Inter-American Court on Human Rights (the IACHR) in becoming regional human rights bodies that are effective “norm incubators” where norms on human rights and its appreciation were developed over time as these regional courts provide increasing guidance on its appreciation and protection.

This doctrine can be applied by any future AHRC as a guiding principle in its decision-making to allow ASEAN members to accept the Court’s jurisdiction and prevent any future hostility against any form of intervention.

Feasibility of Creating ASEAN Human Rights Court

To determine the feasibility of establishing an AHRC, it is important to note recent developments in ASEAN involving its principles as provided for in its recently determined pillars and the environment in which it operates.

ASEAN Human Rights Court Alignment in Principle

According to the ASEAN Socio-Cultural Community (the ASCC) Blueprint 2025 in the ASEAN Summit⁸, the ASCC seeks to create (a) a committed, participative, and socially responsible community for the benefit of ASEAN people; (b) an inclusive community that promotes a high quality of life, and equitable access to opportunities for all, and promotes and protects human rights; (c) sustainable community that promotes social development and environmental protection; (d) resilient community with enhanced capacity and capability to adapt and respond to social and economic vulnerabilities, disasters, climate change, and other new challenges; and (e) a dynamic and harmonious community that is aware and proud of its identity, culture, and heritage.

Similarly, accordingly to the ASEAN Political-Security Community (the APSC) Blueprint 2025 in the ASEAN Summit⁹, the APSC seeks to create (a) a rules-based, people-oriented, people-centred community bound by fundamental principles, shared values and norms, in which our peoples enjoy human rights, fundamental freedoms and social justice, embrace the values of tolerance and moderation, and share a strong sense of togetherness, common identity and destiny; (b) a resilient community in a peaceful, secure and stable region, with enhanced capacity to respond effectively and in a timely manner to challenges for the common good of ASEAN, in accordance with the principle of comprehensive security; (c) an outward-looking community that deepens cooperation with our external parties, upholds and strengthens ASEAN centrality in the evolving regional architecture, and plays a responsible and constructive role globally based on an ASEAN common platform on international issues; and (d) a community with strengthened institutional capacity through improved ASEAN work processes and coordination, increased effectiveness and efficiency in the work of ASEAN Organs and Bodies, including a strengthened ASEAN Secretariat, as well as with increased ASEAN institutional presence at the national, regional and international levels.

For ASEAN to principally align with the ASCC and APSC Blueprints, it is imperative that an AHRC is created. As previously discussed, the AICHR is structurally infirm to realise the aspirations of the APSC and ASCC. For any establishment to achieve the aspirations laid out in the APSC and ASCC blueprints, it must be able to decide on cases independently and ensure its enforceability. Furthermore, both blueprints’ aspirations can only be realised if full respect for human rights is accorded to their respective citizens.

8 22 November 2015.

9 22 November 2015.

ASEAN Human Rights Court Pragmatic Alignment

For a Regional Human Rights system to be successful, it must have the following functions: (a) a state reporting process, through which governments inform on their implementation of regional human rights treaties; (b) monitoring human rights conditions through “rapporteurs” and other special mechanisms focused on particular countries or themes; (c) addressing complaints concerning alleged human rights violations by a member state and directing the state to provide redress where appropriate; (d) request or ordering emergency protection often called interim, provisional or precautionary measures when an individual or the subject of a complaint is at immediate risk of irreparable harm; (e) conducting public hearings, conferences, and seminars on human rights topics of concern; and (f) issuing advisory opinions on the interpretation or application of regional human rights standards (Reinsberg 2014).

However, the AHRC can follow suit with the African Court on Human and People’s Rights (ACHPR) strategy to be pragmatic in its creation. Rather than automatically attaching all the powers mentioned above to the newly created AHRC, its powers and authorities can be slowly introduced over time to allow ASEAN members to acclimate to the presence of these rules. For example, the ACHPR initially lacked funding, was subservient to the African Union, and had weak enforcement mechanisms. Furthermore, similar to ASEAN, the African Union has strong self-determination and non-interventionist policies. Yet, the ACHPR was soon able to shed these infirmities over time once the citizens saw its value and became accustomed to the presence of the ACHPR. Here, the AHRC can also take the same route as the ACHPR until it fulfils the abovementioned criteria of an effective Regional Human Rights System.

Furthermore, the conditions are ripe to lobby for the existence of the AHRC.

- (a) The Asian Financial Crisis of 1997 and the existence of various cross-border problems showed that a consensus and non-interventionist approach is already outdated and incapable of resolving these issues due to the lack of capacity of domestic governments to comprehend these problems;
- (b) Due to the various political upheavals being experienced by ASEAN members, adherence to the AHRC can be a source of domestic legitimacy to pacify any domestic upheaval;
- (c) Due to the various instances of human rights abuses in the ASEAN region, international pressure for accountability can encourage ASEAN to adopt the AHRC as its members would prefer to be under its jurisdiction to exact accountability rather than any international tribunal due to the former being able to apply the ASEAN Way in its determination;
- (d) For ASEAN to be taken seriously as a global actor on the international stage, it must show its commitment to human rights, the rule of law, and democracy, considering that these principles have attained paramount importance in the global order (Duxbury and Tan 2016); and
- (e) The AHRC can be a normative force for community building as it plays a direct role in shaping ASEAN’s definition of human rights and identifying contemporary common regional goals where the members can anchor their we-feeling nationalism (Baviera 2017) and provide a pathway for its aspiration for deeper integration through its shared identity.

Finally, assuming that ASEAN still holds a significant preference towards socio-economic rights compared to civil and political rights (McKay and Vizard, 2005), the direction of ASEAN should still favour enhancing civil and political rights. Notably, while the precedence given to socio-economic rights has helped ASEAN members transition from low to middle-income status, basic economic rights create an economy based on low-cost labour and production of low-value goods (Dollar 2015). Thus, if ASEAN seeks to transition to high-income status, it needs to develop skilled human capital, which is usually intertwined with robust protection of civil and political rights (Bharat 2019).

Therefore, ASEAN’s principled and pragmatic alignments provide a conducive environment for creating the AHRC. Similar to what was observed before the creation of the ACHPR, the AHRC can be feasibly created.

Comparative Progress of ASEAN Human Rights Court with African Court on Human and People's Rights

Given the prevalence of the ASEAN Way in ASEAN, ASEAN can slowly develop its structure, authorities, and mandates, similar to the ACHPR, which has faced similar resistance to its adoption from its members. Notably, to balance its members' preferences and realise the creation, the ACPHR was initially formulated in a relatively weakened state compared with the mandates, authorities, and structure of its counterparts, the ECHR and the IACHR. For example, aside from those mentioned above, it was structured to be subservient to the African Union and have confidentiality provisions, additional mechanisms in case of serious and massive violations by its members, and provisions to permit restrictions on guaranteed rights by domestic law. Most ACPHR members also lacked significant participation in NHRIs at its creation, compared with ASEAN, where most of its members already have working NHRIs coupled with express declarations of support to international human rights instruments and legal structures. Finally, compared with the ECHR, which did not then have a constitution that guaranteed human rights, ASEAN already has its ADHR.

These circumstances show that while ASEAN has lagged in the creation of a regional human rights court compared with its other regional counterparts, it has the elements it needs to create one and is in a prime position to establish the same, compared with the situation of other regions when they created their regional human rights courts. A prime example of this is ASEAN's response to Myanmar, which, while not as comprehensive as interventions made in the ECHR and the IACHR, has shown that ASEAN members are increasingly accommodating ASEAN's influence towards their domestic affairs while also showcasing that its members' stance on non-interference is rigid in rhetoric but fluid in practice (Stensland 2012). Furthermore, ASEAN members, such as Indonesia, Thailand, and Malaysia, have resorted to democratic and open selections for their representatives to the AICHR (Tobing 2019). These developments show that, given enough time, any ASEAN Regional Human Rights body would correct its institutional constraints and organically improve itself.

ASEAN's Future Needs ASEAN Human Rights Court

Beyond establishing the APSC and ASCC, ASEAN's increasing economic integration has caused its members to become more interdependent, thus blurring the boundaries between domestic and transnational affairs (Stensland 2012). Furthermore, in the absence of any normative force, the diverse identities in ASEAN can further dilute political consistency in the region, which will relegate it to a mere free trade zone (Rachminawati 2021).

The AHRC can counter-act and prevent this by gradually creating a shared regional identity in ASEAN by establishing regional norms based on mutual respect for human rights and promoting uniformity in each member's interpretation of the rule of law, as envisioned in the ASCC. Having common positions on vital issues will promote the region's political cohesion, which is much needed to accelerate deeper integration in ASEAN (Severino 2007).

Furthermore, this common identity will, in turn, further strengthen the legitimacy of ASEAN as a competent global actor, similar to the legitimacy gained by other regional bodies after establishing their adherence to the rule of law, democracy, and human rights (Löffelmann 2010). This legitimacy will also dissuade and prevent other global superpowers currently vying to influence ASEAN for their agendas from trying to individually influence ASEAN members to their political campaigns, as these members now strongly adhere to ASEAN as a regional organisation.

Conclusion

According to then-Philippine Foreign Minister Alberto Romulo during the 2006 Colloquium on Human Rights, "ASEAN's continued ability to promote interstate peace is dependent on one crucial element, the commitment of each government to enact laws and policies to protect and promote human rights in the region." This is true especially as ASEAN aspires to realise its ASCC and APSC Pillars, as the realisation of these pillars is contingent on ASEAN adhering to a strong rule of law and a citizenry capable of self-governance and an aspiration towards a collective good. The AHRC can anchor this by providing the necessary support to the citizens should their domestic governments fail them. This, in turn, will translate into the support and subscription of the citizens of ASEAN members to the ASEAN identity, thus allowing for collectivisation and deeper integration in the region.

Through the AHRC, ASEAN can finally stay true to the Preamble of its Charter when it declares, "We, the Peoples of the Member States of the ASEAN xxx." This declaration is significant as it affirms the "ASEAN Citizen" concept.

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CONCLUSION

Mr. Chhayheng Soth

In a perfect world, a perfect ASEAN would be possible. While we challenged its loopholes, our core objective is not to discredit the significance and relevance of the association. On the contrary, this is an effort to mobilise intellectual inputs on how ASEAN should address its challenges and increase its relevance. Through the six in-depth analytical articles presented in this publication, we hope we have taken a step toward that end. With that, the following is the summary of practical recommendations proposed by our authors for each of the ASEAN's pillars.

ASEAN Political-Security Community

ASEAN's Tryst with Community-Building: Towards Comprehensive Dispute Settlement

ASEAN must resolutely collaborate with China through initiatives that stimulate mutual trust and prevent disputes. Simultaneously, ASEAN must strive to mitigate inequalities by promoting forward-thinking policies. This could also be accomplished by lessening ASEAN Member States' overt reliance on China, hindering their co-option and broadening their circle of allies, fostering genuine cooperation with more partners based on shared interests, benefits, and complementarities, and ultimately incorporating them into the fold of ASEAN-led mechanisms. With the primary objective of expeditiously finalising the COC negotiations, ASEAN must meticulously maintain the progress of negotiations, confidence-building measures, and preventive diplomacy initiatives with China. ASEAN and China ought to concentrate cooperation in the sphere of the Blue Economy, sustainable development, and preservation of marine ecology of the SCS. Both parties should then investigate prospects for collaboration in employing, managing, and conserving marine life and coastal ecosystems for development in various sectors. ASEAN must emphasise sustainable shared resource management and maritime conduct in the SCS with China to nurture confidence-building and preventive diplomacy.

ASEAN Peacekeeping Force: A Justification and Potential Framework

Calls have been made for ASEAN to take on a larger security role within the region through an ASEAN Peacekeeping Force (APF), justified by its outlined significance, benefits, ASEAN's security baseline, the Treaty of Amity and Cooperation (TAC), and the ASEAN Regional Forum (ARF), as well as the ASEAN Military Ready Group on Humanitarian Assistance and Disaster Relief (AMRG HADR), and examining the principles and norms that underpin the multinational organisation security architecture.

ASEAN Economic Community

A Post-Pandemic Critical Assessment of ASEAN Economic Community Through Investment Integration

ASEAN is compelled to re-evaluate introducing systemic and structural changes to how integration and investment facilitation can be advanced.

A different take on framework agreements and MRAs: Although framework agreements and MRAs standardise the investment environment among AMS to achieve convergence of investment regulations, domestic regulations and sovereignty are not in danger. These agreements may compel AMS to improve their economies, including domestic laws, procedures, and protocols.

Harmonisation of investment policy and its consequences: ASEAN can collectively improve investment facilitation measures by reducing investment entry barriers as AMS increase their respective appeal to FDI. ASEAN may standardise investment rules and regulations that will simplify conducting business within the area, thanks to the convergence of AMS. Such actions will spread to other crucial areas for facilitating investment.

Improved governance, reduced red tape, monitoring and evaluation: Investment reforms must be combined with deliberate efforts to enhance the bureaucracy governing the entire investment cycle. Streamlining overlapping processes and effectively removing red tape are the two fastest ways to accomplish this. ASEAN can benefit from the provisions of the MPAC and NSW regarding the creation of criteria for monitoring and evaluating current investment policies.

Maximising ASEAN centrality in newer and bigger RTAs: ASEAN must continue to liberalise services trade, pursue more FDI liberalisation and facilitation, and significantly ease non-tariff trade barriers, notably those behind the border measures. This can be promoted further by ASEAN's participation in newer and larger RTAs like the RCEP and the CPTPP, in addition to bilateral FTAs. Although ASEAN has individual ASEAN+1 FTAs with each of its six dialogue partners—China, Japan, Korea, India, Australia, and New Zealand—these can be expanded to create an even more comprehensive regional FTA. ASEAN members must not view these RTAs as threats but rather as a strong justification for beginning economic upgrading. The introduction of newer, larger RTAs serves as a wake-up call for economies to change and move toward higher income status. ASEAN must continue to work to improve its internal integration through the AEC to keep its position at the centre. ASEAN must first move toward economic modernisation and harmonisation to become a benchmark for investment facilitation and integration.

Economic Integration the ASEAN Way: How to Narrow Development Gap

The development gap between ASEAN Member States continues to be an obvious economic issue. More regional collaboration and integration might resolve this assortment of development-related issues. Examining the implications of regional economic integration on economic development views is necessary to comprehend this. The main recommendation is to use political means to encourage the expansion of regional production networks in Southeast Asia. Strengthening the regional production network will unleash a collective economic powerhouse by integrating the highly diverse production variables of ASEAN Member States, especially given the region's strong integration into global value chains. Increased

intra-ASEAN trade would go hand in hand with robust local production networks. This would lead to the proliferation of know-how and capital in direct investments from more developed to less developed ASEAN countries.

ASEAN members must establish a compelling strategic framework for creating local production networks that consider all facets of cross-border trade. Non-tariff trade barriers must be reduced to the greatest extent possible to establish a regional framework supporting regional production networks' growth. At the same time, the harmonisation of standards is another pressing concern. To facilitate cross-border trade, ASEAN must continue pursuing its current standardisation path.

Promoting home-grown business SMEs is required to make it easier for local production networks to form, achieve high regional value-added, and escape the middle-income trap. More efforts are needed to support domestic businesses, particularly SMEs. ASEAN members must encourage entrepreneurship. Nevertheless, the promotion of the secondary sector is crucial. High-value creation in ASEAN will only be possible if the industrial base is robust and competitive. Strong vocational training programmes and a greater emphasis on STEM subjects in school are needed to develop the necessary human capital for improved manufacturing activities.

The AEC Blueprint 2025 is insufficiently effective in dealing with ASEAN's structural issues or the region's most pressing problems with current trends like protectionism. Although regional economic integration and cooperation can go hand in hand with the ASEAN approach, closing the development gap through these initiatives will take much more work in the future from ASEAN members. Only a united ASEAN can carry out such an attempt, which is problematic given the current geopolitical climate and the evolving great power rivalry between China and the US in Southeast Asia.

ASEAN Socio-Cultural Community

Towards People-Oriented and People-Centred ASEAN Community: An Assessment of ASEAN's and the Philippines' Gender-Related Commitments

It is crucial to make a concerted effort to rejuvenate ASEAN based on the requirements of its member states and its people to ensure that it does not merely serve as rhetoric. A whole-of-ASEAN approach is essential in building a people-centred, people-oriented, and gender-equal ASEAN. This requires extending the ASCC's gender equality objective to include the AEC and APSC. To achieve this, a section on gender equality should be included expressly in all AEC and APSC statements. This programme also represents an acknowledgement by both pillars that gender equality concerns affect the region's economic, socio-cultural, and political-security priorities. A statement formalising this shared ASEAN commitment demonstrates the sincerity and depth of ASEAN's commitment to advancing gender equality. It is advised that efforts at gender mainstreaming combine reflective and extrospective. In terms of reflection, it can be seen how domestic efforts might affect international demands for more tangible pledges to gender equality in the case of the active social movements of women in the Philippines. An 'inward-looking-outward' approach to promoting and mainstreaming gender equality is crucial in reinforcing ASEAN's commitment to practising what they preach—where ASEAN can become a role model to its member states and the larger community. Encouraging civil society groups and organisations to engage in society actively is important. This can be achieved by developing networking opportunities and venues that raise people's awareness of gender equality to encourage their active participation in promoting the cause.

Developing gender equality requires creative engagement through technology, digitalisation, and social media. The #MeToo movement, among other social agendas, has been heavily promoted using social media and other streaming platforms. In this context, these channels can also be used for engagement tactics and awareness-raising efforts to connect with the youth of ASEAN. Discussion on gender issues should naturally be a part of 'inclusivity' and 'sustainability' discourses. It is important to proactively incorporate gender-related programmes and agendas into messaging about 'sustainability' and 'inclusivity'. This can

be seen in everything from routine day-to-day company operations to significant networking occasions. As a result, the bigger sustainable development and inclusive development agendas should streamline promises regarding gender equality and women's empowerment.

ASEAN's Ionic Bond: Reimagining ASEAN's Human Rights Framework

ASEAN should establish the ASEAN Human Rights Court with a change of perspective from the ASEAN Way. The court must have clear mandates and duties, including state reporting, monitoring through rapporteurs, reviewing and deciding complaints, and requesting or ordering emergency protection. It is necessary to construct an interpretation of the ASEAN Way that considers the central tenets of Asian values while enabling a consensual regional intervention in the internal affairs of ASEAN members to counteract the trend towards the shift in focus of ASEAN towards human rights and the ASEAN Way.

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