



S. Rajaratnam School of International Studies

A Graduate School of Nanyang Technological University

Rule of Law Norms: The African Union and ASEAN in comparative perspective

Joel Ng

Senior Analyst, RSIS



Introduction

- Common origins, divergent paths
- Security concerns, preserving independence and sovereignty
- Rule of law as an emerging framework for institutional safeguards while promoting integration
- Converging interests provide room for technical cooperation and exchange between AU and ASEAN on economic, social and political affairs



Rule of Law

- *“The “rule of law” ... refers to a principle of governance in which all persons, institutions and entities ... are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.” – Kofi Annan*



History: Bandung Conference, 1955

- Bandung Declaration:
 1. Respect for fundamental human rights
 2. Respect for sovereignty and territorial integrity
 3. Recognition of equality of all races and all nations
 4. Abstention from intervention or interference in internal affairs of another country
 5. Respect for the right of self-defence
 6. Abstention from serving interests of big powers or exerting pressures on other countries
 7. Refraining from acts of aggression or use of force
 8. Settlement of international disputes by peaceful means
 9. Promotion of mutual interests
 10. Respect for justice and international obligations



History: OAU

- Pan-Africanism
- Nkrumah's "United States of Africa"
- OAU formed in 1963 as "United Nations of Africa"
- However, weak institutions
- Regional blocs formed
- OAU ineffectual in response to intra-African crises



Similarities and Divergence: From OAU to AU

- Contradictions between principles of non-interference, support for self-determination
- First wave of dictators (CAR, Uganda, etc) led to Banjul Charter (1981); but ACHPR initially weak
- Crises in Liberia/Sierra Leone, Burundi, and especially Rwanda led to questioning of OAU
- Reconstitution as AU: emphasising good governance, rule of law; creating institutional support and mandating intervention when necessary
- New drives to economic integration: NEPAD, OHADA



History: ASEAN

- Formed in 1967, states in conflict but wider threat seen in Indochina
- Initial treaties revolved around security, non-aggression: ZOPFAN, Treaty of Amity & Cooperation
- Expanded arrangements after Cold War
- Agreements formed were overwhelmingly economic
- Acceptance of Cambodia, Laos, Myanmar and Vietnam in late 1990s created development gap



Similarities and Divergence: ASEAN economic integration

- Acceleration of trade-related agreements in 1990s
- Need to enforce the rule of law in order to narrow gap with CLMV countries
- ASEAN integration initiatives; infrastructural connectivity
- Crises with Asian financial crisis, SARS, 9/11, Aceh Tsunami, emphasised interconnectedness of ASEAN
- “People-centred” approach in new ASEAN Charter: respect for rule of law, good governance, human rights, democracy



S. Rajaratnam School of International Studies

A Graduate School of Nanyang Technological University

Lessons

- Both regions had very different histories and challenges
- AU more influenced by political events; but now driving economic integration
- ASEAN more influenced by its economic drive to integration; but also trying to build an “ASEAN Community” around people
- Rule of law and good governance central to both
- As each moves into spheres the other has experienced, lessons learned from respective areas can provide platform for technical exchange and cooperation



S. Rajaratnam School of International Studies

A Graduate School of Nanyang Technological University

Thank You