

ASEAN Law and Policy

Seminar 2

ASEAN, the Legal Creature (2007–)

- Rationale for transformation to Law & Institutions
- What ASEAN wants to achieve via integration and tri-pillared Community-building
- New concepts, norms, and principles – Legal personality, Rule of Law and Institutions, and HR and Democracy, reinforcement of ASEAN Centrality
- New institutions and competences – Summit, AMM, ACC, SG, Sectoral Groups.

Please read:

- Report of the Eminent Persons Group (EPG) on the ASEAN Charter (2007), pp. 3-18.
- Walter Woon, *The ASEAN Charter: A Commentary* (Singapore: NUS Press, 2016), pp. 40-78.
- Jean-Claude Piris and Walter Woon, *Towards a rules-based community: an ASEAN legal service* (CUP, 2015), Ch. 1, pp. 40-64.

Please read **closely** (also found in “ASEAN Instruments” folder):

- ASEAN Charter (2007)

And **skim**:

- ASEAN Political Security Community Blueprint (2009)
- ASEAN Economic Community Blueprint (2007)
- ASEAN Socio-Cultural Community Blueprint (2009)

Further reading:

Robert Beckman, Leonardo Bernard, Hao Duy Phan, Tan Hsien-Li, and Ranyta Yusran, *Promoting Compliance* (Cambridge: Cambridge University Press, Feb 2016), Ch. 1.

Amitav Acharya, *Constructing a security community in Southeast Asia: ASEAN and the problem of regional order* (Routledge, 2009), Ch. 2.

Rodolfo Severino, *ASEAN* (ISEAS, 2008).

1. What is the rationale behind the ASEAN Charter aspirations?
2. The ASEAN Charter (2007) significantly transformed ASEAN in terms of the rule of law and the rule of institutions.
 - What are these ground-breaking legal and institutional changes that help to achieve the Charter’s goals?
 - Do the new institutions and competences of ASEAN wield real power? What degree of power do they have? Do they wield potential expanded powers?
3. Comparing ASEAN in its first forty years of existence (1967-2007) and the onset of the Charter, consider the following:
 - Who holds the power? Is it the ASEAN member state(s) or the ASEAN Secretariat (representing the organisation as a single entity)? Or a combination of states and institutions?
 - How has the Charter changed, if at all, the locus of power in ASEAN? How has the power distribution changed?
4. Consider the major constituent instruments of ASEAN in its first forty years (Bangkok Declaration, TAC, Bali Concord I and Bali Concord II):

- How have the principles, purposes and actions of ASEAN changed?
 - Has ASEAN demonstrated rule of law characteristics through the adoption and practice of these instruments? To what degree has the rule of law been evidenced?
5. The ASEAN Community has just been declared officially established on 1 January 2016. Has the ASEAN Charter succeeded in bringing about the intended outcomes? Why? Why not?
- What do you see as hindering the further development of the ASEAN Community?
6. What is the tension (or clash) between the norms of the Old (pre-2007) and New (post-2007) ASEAN?
- Which do you think is a more effective organisation and/or more suited to the ASEAN member states – the Old or New ASEAN? What is the likely trajectory of ASEAN development – the rule of law or politics?