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INTERNATIONAL AFFAIRS

The ASEAN agreements are not as straightforward as we imagine them to be

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The initial declaration signed between the founding members was a simply worded document containing merely five articles, affirming the establishment of the organisation while stating its names and purposes.

Updated on Nov 29, 2021 12:56 PM IST

By Hindustan Times

The Association of Southeast Asian Nations (ASEAN) was established on the August 8, 1967 with five countries, namely, Malaysia, Thailand, Singapore, Philippines, and Indonesia. Over the years, ASEAN added five other nations; Myanmar, Brunei, Cambodia, Vietnam, and Laos, with the aim of creating a regional intergovernmental organisation which promotes intergovernmental collaboration and cooperation, and facilitates economic, political, socio-cultural, educational, military and security integration among its members.

Since its establishment, ASEAN has conducted thousands of meetings which have culminated with the creation with a variety of agreements. While agreements have been reached, the lack of any clear nomenclature, and the lack of definition provided to nomenclatures such as "ASEAN Instruments" has affected the implementation of such instruments, leading to the creation of what can be termed as "soft law", and not "hard law".

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A lack of clarity in nomenclature used has also led to confusion, and misunderstandings with regards to what terms refer to. The internal instruments of ASEAN include over 30 different titles without any official and comprehensive definitions provided. Terms such as Action Plan, Strategic Plan, and others of the kind have been used without any official definition. A term such as "ASEAN Instrument" has been used across a multiplicity of documents and agreements with no comprehensive definition set out.

These issues could, however, be attributed to a few reasons. The membership of ASEAN has a variety of countries with a variety of inherent differences. On one hand, while you have a country like Singapore, often referred to as the financial and commercial capital of Asia, you also have a country like Cambodia with a staggeringly low Gross Domestic Product (GDP).

There has also been a shift in the functioning of ASEAN post the creation of the new ASEAN Charter. The ASEAN was initially a political creature which mainly reached agreements through an informal process called the ASEAN Way. While emphasis was on reaching common consensus with regards to decision-making among the member states, this led to the lack of development of set of clear, stable, and predictable rules, thus reinforcing the tendency of the weakness of the institutions.

While one could argue that ASEAN has been successful in its endeavours, establishing itself as a crucial player in the Asians-Pacific community, the lack of clarity has played to its detriment. The consensus-based model adopted by ASEAN for making decisions has led to the exposure of the inherent differences present between the members, leading to an issue in arriving at common solutions for difficult problems.

The study has been accessed by clicking here.

(Harsh Mahaseth is a lecturer and PhD candidate, Jindal Global Law School, and a senior research analyst, Nehginpao Kipgen Center for Southeast Asian Studies, O.P. Jindal Global University, Sonapat, India. Karthik Subramaniam is an undergraduate student at NALSAR University of Law, Hyderabad, India.)

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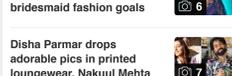
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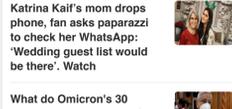
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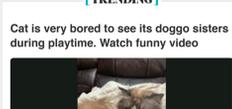
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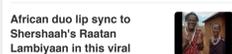
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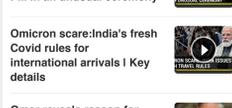
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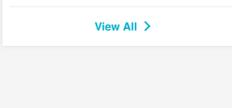
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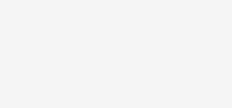
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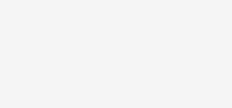
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