Normative order and contestation in regional organizations of the global South

Abstract

Studies of ROs have tended to focus on Western ROs (such as the EU or NATO) or use them as benchmarks in relation to Southern ROs. But several generalizable characteristics of Southern ROs depart from those of the West: (1) more ambiguous goals, which may be due to (2) greater political and cultural diversity of its members, and (3) greater resistance to hegemonies or conceding sovereignty – the post-colonial mindsets of young states. These tendencies have led to decentralized but elite-led decision-making structures in ROs. At the same time, the problems facing them are not different from others, including *inter alia*, conflict resolution, maintaining legitimacy, and promoting regional integration, and there are some remarkable similarities in their institutional histories.

This paper will thus look at normative dynamics in two Southern ROs – the AU and ASEAN – characterized by these features of diversity and resistance to centralization. Emerging from heterogeneous beginnings, their norms tended to differ from Western ROs because of the diverse norm circles that comprise the decision-making structures, even as they face external problems similar to other ROs. Diversity and resistance to centralization therefore make norm contestation at a fundamental level likely (e.g. whether or not to intervene, rather than how to intervene), while the stakes involved are higher as actions are precedent-setting in low institutional settings with fewer rules.

The paper will thus contribute to understanding how normative orders emerge (and when they did not) in the midst of contested normative positions, a salient question in a transforming global community.

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Introduction

To some observers, the relative ineffectiveness and lack of enforcement underpinning the institutional structures in regional organizations (ROs) of the global South has lent them a moniker as “talk shops” where little is or can be achieved. This has led to ROs being relegated only to interest of their respective area specialists or scholars from their regions, who have often stressed their specificities rather than attempted to formulate generalizable characteristics, in part a reaction against ‘totalizing’ discourses that has been a consistent strand in post-colonial thought. As such, relatively little has been done comparatively. While to some degree, the study of Southeast Asia has begun to be acknowledged to offer a contribution to political science more broadly, the same cannot (yet) be said of connecting the study of Africa with political science or IR theory, but I believe this is an area of enormous potential, though it remains difficult to successfully cross regions successfully.

This paper attempts to demonstrate that comparative regional studies are not only interesting of themselves, but also capable of recasting key issues in IR, and generating novel insights to familiar questions. The tracing of some convergence in terms of institutional processes of ROs (in spite of their political diversity) suggests what sorts of norms will embed and under what circumstances. This model is distinctive from other international institutions such as the EU (with a strong normative precepts) or the UN (with a concentration of decision-making powers among a select few at the Security Council, but very diluted decision-making powers at the General Assembly). I look particularly at a distinctive phenomenon of the emergence of normative orders from contested positions, using heuristic cases from each of the African Union (AU) and Association of Southeast Asian Nations (ASEAN).

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1 Kuhonta, Slater, and Vu, eds., Southeast Asia in Political Science: Theory, Region and Qualitative Analysis (Stanford: Stanford University Press, 2008).
In experimental fields of economics, politics, or other social sciences, norms emerge through iteration: A strategy or decision that is consistently picked in such experiments becomes a ‘convention’. If it is successful at what it is intended to do, it tends to replicate or allow its proponents greater success, which they then tend to spread to others. This normative aspect of a convention is an emergent property of iteration, and may generate causal effects – i.e. once people agree something should be done, actors may then be instigated to act in the way they feel they are expected to act. While it is not possible to recreate experimental conditions in historical analysis of regionalisms, the same understanding applies: the paper methodologically treats norms as emergent properties of choices that are consistently picked, even if under different historical circumstances. Interest thus turns to the numerous smaller or lesser decisions that constitute the larger order or regime.

**Historical foundations and methodological implications**

Students of regionalism in the global South may be familiar with the need to justify the ‘regionness’ of the area they are studying: As Hettne and Soderbaum describe, ‘regionness’ is “the process whereby a geographical area is transformed from a passive object to an active subject capable of articulating the transnational interests of the emerging region.” And scholars of Southeast Asia have often pointed out the artificiality of ‘Southeast Asia’ as a regional entity at its origins. To some degree, the creation of ASEAN played a role in formalizing and enunciating the regionness of Southeast Asia.

What is often overlooked is that in the immediate post-colonial period, at the outset of the creation of these regional organizations, the very definition of the states that would comprise

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the ROs were themselves in question. We take for granted the existence and self-reinforcing nature of the Westphalian system today, but the geographical boundaries and nature of post-colonial states was in fact an open question. Konfrontasi [Confrontation] in the 1960s ignited conflict between Indonesia and Malaysia (including Singapore), centred around questions of what status a territorial entity (or entities) encompassing the Malay Archipelago would have. Similar questions were forcefully argued in Africa by Kwame Nkrumah and others, over the extent and nature of Pan-Africanism, and how Africa’s post-colonial regional architecture should develop.

The early leaders of post-colonial states were less beholden to today’s state boundaries, but I argue that this reservation was not merely about the delineation of state boundaries, but an existential one about the nature of the post-colonial system of governance, which has become overlooked because of our propensity for treating the state as a unit in international relations. One sign of this is the plethora of (short-lived) African multilateral experiments that began as decolonization gathered pace.

Take for example Kwame Nkrumah’s short-lived experiment of the Union of African States, also known as the Ghana-Guinea-Mali Union. Agreement between the Nkrumah and Ahmed Sekou Toure of Guinea led to its formation in 1959, later adding in Mali in 1961 following the collapse of the Mali federation (a grouping of Mali and Senegal). While we know with the benefit of hindsight that this federal arrangement never got off the ground (poor connectivity and historical events coming together to defeat the project), ambitious plans for common currency, common security policy, and other shared activities between the three were laid out. Interestingly, the grouping bridged the Anglophone/Francophone divide in West Africa, and was intended, in Nkrumah’s vision, to form the basis of the much more ambitious ‘United States of Africa’ that would unite all of the continent. Nkrumah found leaders more sympathetic
to a federalist vision from Francophone territories, which had been technically governed from Dakar under French West Africa (1895-1960). The Ghana-Guinea-Mali union was also one of the key actors in the so-called Casablanca group that supported a federal Africa, in opposition to the Brazzaville (later Monrovia) group, that favoured individual sovereignty. In studying the experiments that came to form the Organization of African Unity (OAU), what is most striking is that the idea of the African state was itself in a flux.

While we now think of the Casablanca and Brazzaville groups as early initiatives in regionalisms, Kloman writing in 1962 (before the formation of the OAU) classifies them as ‘African Unification Movements’, amongst several others. Another experiment was the Conseil de l’Entente (Council of Understanding) formed between Cote d’Ivoire, Upper Volta (Burkina Faso), Niger, Dahomey (Benin), and later adding Togo. This grouping attempted to form a counterweight to the Mali federation, and expanded Cote d’Ivoire’s influence in the Francophone states.

Curiously, early regionalism in Southeast Asia was also characterized by a diversity of projects, in spite of a much smaller composition of countries. A ‘divergent’ grouping of culturally diverse states, early regional initiatives included the so-called ‘Greater Malay Confederation’ (known as Maphilindo – Malaya-Philippines-Indonesia) and Southeast Asia Treaty Organization (SEATO). SEATO might have been interesting for being a ‘regional’ organization comprising a majority of members from outside the region, but Maphilindo illustrated the fluidity of the leaders’ early understanding of sovereignty. Ostensibly an attempt to unite the Malay Archipelago based on linguistic commonality, Sukarno came to view

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8 Ibid., 396.
independent Malaysia as a potential threat to Indonesia. Maphilindo was thus formed in June 1963 on the eve of Malaysia’s independence, and called for consultations to achieve ‘mufakat’ or consensus, particularly relating to issues surrounding the island of Borneo, to which all three countries laid some claim. As it happened, Maphilindo collapsed as Sukarno himself directed military incursions into Malaysia following its independence in the period known as Konfrontasi that lasted until Sukarno’s deposal in 1966.

As such, scholars of regions in the global South, if not constrained by the use of the ‘state’ as an ontological unit in international relations, may have been led to overlook certain kinds of processes. This period of multilateral creativity and experimentation even with the nation-state conception is now overshadowed by the more familiar architectures that finally endured. Yet oddly, the convergence of these diverse regional experiments into more familiar Westphalian states and regional architectures suggest there potential in looking for clues in the emergence of normative orders in these regions.

Political Diversity

Most of the early post-colonial regimes took on political systems shared by their former colonial rulers, and were thus superficially democratic to varying degrees. However, absolute authoritarian rule soon took over, particularly in Africa, as numerous coups effectively overturned the inherited structures of governance and military dictatorships became the norm. ASEAN states in the 1960s-80s also mostly comprised authoritarian or semi-authoritarian regimes.

While these regimes shared a characteristic of single-party or dictatorial rule and a lack of democratic institutions, they had less in common in terms of the actual political structures that

comprised these governments. Muammar Gaddafi’s ‘Socialist People’s Libyan Arab Jamahiriya’ could hardly be compared to Idi Amin’s regime in Uganda though both were ‘authoritarian’. Furthermore, the intensely personal nature of authoritarian rule tended to increase the diversity of formal political structures. At the regional level, the implication is that there were few models to follow for ROs, especially if reference points were mechanisms from fully democratic systems. Nevertheless, multilateral cooperation required more egalitarian relationships, and thus structures unlike their domestic ones had to be employed in the regional organizations. Yet with such political diversity, it is unsurprising that contestation would continue even after the ROs were established.

The OAU was established involving circles with vastly different aims for regionalism. The Casablanca group sought a federalist union government of African states, while the larger Monrovia group sought a regionalist structure with functional groupings – leading to a weaker or looser structure for the OAU. While the Monrovia group won the greater battle in determining the organizational structure (and hence the OAU’s approach to the norms of sovereignty and non-interference), the Casablanca group’s views on colonialism, apartheid, and racism were reflected in the eventual Charter. The OAU’s purposes were thus to promote its ideals of African unity and solidarity as well as eradicate colonialism and promote cooperation and ties between African states. The emphasis on sovereignty in four of the seven principles in Art. III show the extent to which the views of the Monrovia group prevailed in these deliberations.

The early views as to the purposes of ASEAN were no less divergent. As Shaun Narine explains, the different members had different reasons for desiring its creation:

Malaysia, Singapore, and the Philippines supported ASEAN as a way to constrain Indonesia, while providing Jakarta with a channel for its aspirations to regional prominence. However, these states had other interests in the organization. The pullout of the British military had important security implications for Malaysia and Singapore…. To Singapore, belonging to ASEAN symbolized that it was accepted and tolerated by its neighbours as an equal state. For Malaysia and the Philippines, ASEAN was an opportunity to enhance their national prestige. … Thailand hoped that ASEAN would become the basis for the “collective political defense” of the region, forming an organization that could supplement and perhaps eventually replace its own security relationship with the United States.15

Furthermore, the political diversity even of the original members was anomalous by most comparisons to other regions.16 If the ‘core’ members of ASEAN had reached some level of convergence in terms of multilateral aspirations by the 1990s, the introduction of the new members (Cambodia, Laos, Myanmar, and Vietnam, often termed the ‘CLMV’ countries) not only increased the diversity, but also introduced new challenges for setting common goals due to disparities in the levels of development.

Thus both organizations are characterized by political diversity and divergent goals of their members, who were also facing changing political structures (particularly member states in Africa, with frequent coups).

**Ambiguous Goals**

From these diverse goals for their regional organization, it was thus understandable that ambiguous goals came to be developed, except where they coalesced around substantive crises. Sharing common problems tended to allow for multilateral cooperation, but where none could

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be found, goals tended to remain stated in ambiguous or lofty terms. What brought both these organizations together, the issues that they could coalesce around, were common concerns. Rules were instituted if they furthered these functions.

Both organizations had normative reference points outlined by the Bandung Declaration (1955) and the UN Charter. The creation of the Non-Aligned Movement and resistance against colonial powers created resistance to hegemony in both regions. The OAU moreover had a guiding discourse of Pan-Africanism, and the decolonization process took longer and was more fraught with tension than in ASEAN member states, where independence of most states occurred without conflict or protracted struggle. Thus, aside from the maintenance of peace and security, ASEAN struggled to articulate its early goals, guided only by the vague notions in its founding declaration.

For both organizations, it is instructive to look at the first multilateral treaties they agreed upon. Specific actions tended to follow specific shared problems.

The OAU Charter was written in the shadow of decolonization. For African leaders, what united them was the struggle for decolonization, exemplified by the slow process towards the independence of Southern Rhodesia (Zimbabwe), South-West Africa (Namibia) and opposition to the Apartheid regime in South Africa. However, the inclusion of the condemnation of assassinations and subversive activities (OAU Charter Art. III(5)) undoubtedly reflected their own fears, brought about by the assassination of Sylvanus Olympio of Togo in January 1963. 17 The prohibition of coming to power through coups in the Constitutive Act of the AU would continue this trend for the particular concerns of African leaders on the preservation of their power to make their way into the rules of the regional organization.

The first OAU treaties were on diplomatic immunities and privileges (1965, entered into force 1965), the conservation of nature (1968, entered into force 1969), and the civil aviation commission constitution (1969, entered into force 1972). All of these were strictly functional, and non-political. It may thus have been surprising that the next treaty to enter into force was the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (1969, entered into force 1974; hereafter OAU Refugee Convention). Remarkably, the OAU Refugee Convention had several innovations and expansions of the existing UN Refugee Convention (1951), including an expansion of the definition of a ‘refugee’, outlining principles for voluntary repatriation, and espousing the principle of burden-sharing in the context of managing refugee populations. These reflected the additional complexities relating to addressing refugee populations in Africa.

ASEAN, unlike the OAU, was not founded on a legal charter but a non-binding declaration. Instead, the first normative instruments and treaties were the declaration of the Zone of Peace Freedom and Neutrality (ZOPFAN, 1971), the Treaty of Amity & Cooperation (TAC), and Bali Concord I (both 1976). These reflected their own set of common concerns, particularly the Vietnam War and the (perceived) threat of the spread of Communism in Southeast Asia. The invasion of Cambodia by Vietnam was thus universally condemned in ASEAN, and gave pressing concern in the region to the need to respect sovereignty.

What was also remarkable, was the much slower pace of treaty formation in Southeast Asia (compared to the OAU), in spite of the smaller membership. Member states were aware that bilateral tensions between members could threaten the very existence of ASEAN itself (as seen with the demise of Maphilindo), and thus the Thai foreign minister in 1973 stated ‘[t]he immediate task of ASEAN … is to attempt to create a favourable condition in the region

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19 Joint Statement on Political Issues, Kuala Lumpur, Malaysia, 1980
whereby political differences and security problems among Southeast Asian nations can be resolved peacefully.\textsuperscript{20}

Thus both organizations lacked the sort of tangible targets such as those which organizations such as the European Economic Community started to develop as far back as the 1970s. While the OAU did commit to the Treaty establishing the African Economic Community (AEC) (1991, came into force 1994), progress has been slow or uneven, even at the regional economic communities which are meant to comprise the building blocks for the eventual continental common market. The baseline at the RO level was really continued stability and commitment to the peaceful settlement of disputes. But elevating to the next level took both organizations nearly 40 years, albeit in much different circumstances (which I discuss later).

**Decentralized Elite-led Decision-making**

These central characteristics thus led the ROs to converge on a system of elite-led but decentralized decision-making. The period when authoritarian rule dominated in both regions prevented the delegation of powers to secretariats or technocrats. Instead, major decisions in both ROs would come at heads of states or ministerial summits. Retaining the ability for these heads of state to have maximal leeway in decision-making necessitated a thin regional legislation, or else an ineffectual one. This happened in both cases.

For the OAU, a prolific regional legislation, following its own bureaucratic trajectory, was not followed up by significant institutional mechanisms for enforcement. It lacked the ‘clout’ of a hegemon to impose discipline,\textsuperscript{21} nor was rule of law significantly entrenched among its members for procedural discipline.

\textsuperscript{20} Quoted in Acharya, *Constructing a Security Community*, 61.

\textsuperscript{21} van Walraven, "Heritage and Transformation," 37.
Thus while the OAU Refugee Convention may have committed states to respect the legal rights of refugees, the onus for camp management continued to fall largely in the hands of the international community through the UN High Commissioner for Refugees and NGO partners. The African Charter on Human and Peoples Rights (1981, came into force 1986) lacked anything more than a Commission for carrying out investigations, but no enforcement powers, and a critically small budget through to the 1990s. Major decisions are all concentrated at the Assembly of the Heads of States and Governments, while the OAU Secretariat continued to be chronically underfunded.

A similar picture held in ASEAN, but with far less – not merely ineffectual – legislation. ASEAN would not commit to treaties which it could not enforce, and thus this led to a thin legal institutional framework in the region. Aside from the TAC, ASEAN’s only other legally-binding treaty was a preferential trade agreement in 1977, some 10 years after its formation. It took another 10 years for a second agreement, the Agreement for the Promotion and Protection of Investments, to arrive in 1987.

Instead, ASEAN leaders tended to favour informal agreements made face-to-face at regional summits, the culture of which became known as the ‘ASEAN Way’. The ASEAN Way has been described as ‘a lowest common denominator approach, … based on consultation, inclusiveness, organizational minimalism, and the peaceful resolution of disputes’. The net result was that legislation was slow in coming, with informal agreements in closed negotiations preferred.

Thus, while the OAU could have been said to legislate ahead of capacity for enforcement ASEAN legislated behind capacity. In either case, legislation was therefore subsidiary to

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23 Ibid., 67.
what was actually occurring. That is to say, in the OAU, legislation was created but did not matter, whereas in ASEAN, legislation did not appear until it was close to \textit{fait accompli} (which meant it hardly ever appeared). What was more important was the actions of members in both organizations, effective instruments such as institutional rules were only necessary to the extent they supported actors’ goals. Thus it is unsurprising that both came to favour the elite decision-making process and reserve power from a central bureaucracy (like what was happening in Europe). In both cases, the entrenchment of non-interference in their early post-colonial challenges had limited the extent of multilateral approaches to situations of concern.

**Institution-building or Contestation?**

These shared characteristics between both ROs of (1) political diversity, resulting in (2) ambiguous common goals, creating (3) decentralized, elite-led decision-making in their institutional structures, would suggest that contestation would be more likely, rather than less. These characteristics also explain the relative lack of development of a stronger regional institutional structure – multilateral interaction was thin, so bureaucratizing such processes would not necessarily have been in the best interests of the actors involved, even in circumstances where consensus rather than contestation held. However, for a brief period, both organizations had a period of remarkable convergence in terms of institution-building, and this gives us a clue about the underlying mechanism in the emergence of normative orders from politically diverse ROs.

After the Cold War, parallel pressures on the ROs about their effectiveness emerged, even as completely independent circumstances spurred their development. The wave of democratization in the 1990s had, particularly in Africa, led to a new optimism for liberalization and economic growth, as well as drives by major powers like Nigeria and South
Africa to reform their regional architectures for more progressive foreign policies.\textsuperscript{24} The rise of post-Apartheid South Africa and the sobering lessons from the 1994 Rwanda genocide led to a rethinking about the OAU’s commitment to non-interference. Meanwhile, pressure on ASEAN on human rights in the 1990s, especially the debate over Asian states’ positions in relation to the Vienna Declaration on human rights (qualified by the Bangkok Declaration, both in 1994) caused ASEAN members to more clearly enunciate their normative positions on the matter.

By the end of the 1990s, both organizations had concluded that they needed to reassert their relevance and strengthen their institutions in their respective regions. Thus both began to look for ways in which to overhaul their existing structures, and in the OAU’s case dramatically so, as it repealed the very organization itself and reconstituted itself as the African Union in 2002.

The OAU’s slow changes in legislation still precluded intervention but also discussion of situations of concern.\textsuperscript{25} However, this began to change in 1990 when the Assembly of the Heads of State redefined non-interference to only mean tangible actions, rather than the debate or adoption of resolutions. By 1992, the Secretary-General Salim Salim of Tanzania was arguing for a right to intervene in extreme breakdowns of order, though at this point he could not secure enough support for the norm.\textsuperscript{26}

However, events took a decisive turn when Muammar Gaddafi called an extraordinary summit in Sirte in 1999 and proposed the establishment of a new Pan-African entity (literally resurrecting Nkrumah’s ‘United States of Africa’). While Gaddafi’s outlandish notions were roundly rejected, a remarkable convergence of Nigerian and South African foreign policy

\textsuperscript{24} Tieku, "Explaining the Clash and Accommodation of Interests of Major Actors in the Creation of the African Union," \textit{African Affairs} 103, no. 411 (2004).
\textsuperscript{25} van Walraven, "Heritage and Transformation," 45.
\textsuperscript{26} Ibid., 49-50.
agendas did allow for not just the restructuring but complete replacement of the OAU. Thabo Mbeki’s liberal agenda had strong influence on the wording of the Constitutive Act that would follow. At the Lomé Summit in 2000 where the new charter would be endorsed, the Eminent Panel’s report on the 1994 Rwandan genocide was also presented. In it, they decried the OAU’s failure to act as a ‘shocking moral failure’ in which Rwanda’s Hutu regime attended the Tunis 1994 Heads of State Summit as a full and equal member while the genocide was in full swing. Against this shadow, Salim’s call for a right to intervention appeared to have been finally heeded, enshrined in Art. 4(h) of the new Constitutive Act of the AU.

For ASEAN the controversial expansion at the end of the 1990s (bringing in Myanmar, particularly, which had been strongly opposed by the West) and the Asian financial crisis had led it to a period of soul searching in order to strengthen the organization. Less dramatically than the OAU, it initiated an eminent persons group to study the ways in which to strengthen ASEAN in 2006, leading eventually to the creation of the ASEAN Charter (2007) and a slew of ‘ASEAN Community’ projects built on 2020 timeframes (and eventually accelerated to 2015).

Yet the period that followed immediately after – the first real tests of the extent of these normative commitments – did not result in agreement on the needed courses of action, nor did they establish which norms took precedence in cases of contestation. Instead they exposed the thinness of the commitment to principles such as the Responsibility to Protect (R2P) and considerable disagreement on actions needed in crisis situations. In the AU, moreover, the

27 Tieku, "Explaining the Clash and Accommodation of Interests of Major Actors in the Creation of the African Union."
28 Ibid., 262.
regional economic communities intended to be the building blocks for the AEC created regional rivalries at a political level.

While AU interventions on the pretext of R2P increased, particularly in Sudan, Somalia, Mali, and so on, this contrasted with dithering over intervention in Cote d’Ivoire and Libya in 2011. Sub-regional organizations such as the Economic Community of West African States (ECOWAS) and the Arab League favoured intervention, and despite the AU’s precedence setting on the right to intervene as provided for in its Constitutive Act, individual AU leaders nevertheless favoured political mediation and blocked intervention plans in both cases. The (non-)decisions were then overtaken by circumstance as ECOWAS and French forces pushed ahead to intervene directly in Cote d’Ivoire, while an Arab League-sponsored UNSC resolution resulted in NATO intervention in Libya.

In ASEAN, despite the acknowledgement of principles of human rights and democratization in its Charter, ASEAN did not change its stance over the longstanding issue with human rights violations in Myanmar, preferring to continue its quiet diplomatic pressures internally, while rebuffing overt pressure externally. The ASEAN Human Rights Declaration that was intended to advance human rights protection in the region, came to be criticized for the large escape clauses and lack of enforcement mechanisms or communications procedures (for the Commission established), and its final text came to reflect the ‘lowest common denominator’ of its members.

**How were normative agreements reached?**

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30 Stensland, Lotze, and Ng, *Regional Security and Human Rights Interventions*, 8, 39.
When goals were broadly defined with less tangible implications, such as in constitutional revisions, agreement was relatively straightforward in both ROs. And in spite of a propensity towards contestation, normative agreement could build up, though it tended to be most apparent around processual matters, such as in the formalizing of the ASEAN Way. However, as goals became more precisely defined, and the tangible implications became clearer, agreements could be harder to reach. This was because the political and normative diversity of the members precluded certain types of actions.

In both ROs, what they most commonly agreed upon (from their post-colonial experiences) was the principle of non-interference.\(^{33}\) For African states, the struggle for decolonization had become protracted in cases such as Southern Rhodesia and South-West Africa, and kept it fresh on the minds of their members, where they were among the few non-controversial items of clearly regional concern. For ASEAN states, the Vietnam War and the invasion of Cambodia had led to real determination that sovereignty must be enshrined and non-interference upheld. ASEAN opposed Vietnam until the close of the Cold War.

These experiences set the stage for the normative debate on human rights in the 1990s. Both were adamant that human rights issues were subsidiary to the principle of non-interference (even if OAU members ostensibly had extensive commitments according to the Banjul Charter). However, both faced troubling crises on their doorsteps in which the notion came to be circumscribed. For the OAU, the inaction in Rwanda was a profound tragedy, and furthermore the grand vision for African Economic Community would not be achieved without reformulation of the OAU’s core principles.\(^{34}\) For ASEAN, the more abstract problem (human rights abuses on a smaller scale) materialized in physical repercussions through the EU’s

\(^{33}\) Acharya, *Constructing a Security Community*, 70-71.

\(^{34}\) Tieku, "Explaining the Clash and Accommodation of Interests of Major Actors in the Creation of the African Union," 252.
stonewalling of a regional free trade agreement in the context of its inclusion of Myanmar as a member. As such, both organizations came to reformulate their approaches at the beginning of the 2000s, and qualified their previously entrenched stances on non-interference.

They thus both reached a convergence in terms of institution-building in the 2000s, when they reframed their organizations through extensive new charters. However, agreement beyond these broad parameters was harder to reach. The new norms served the most purposes to the most actors in each regional organization, at least in a retrospective view of how they would ideally resolve issues that had come up in the past. However, when it came to tests of these new commitments with fresh crises, it was clear consensus had still not yet been agreed.

**When were normative agreements not reached?**

Disagreement remained over how to approach old problems. Activists had been applying pressure on the member states (and sometimes the ROs) to strengthen human rights protection especially after the end of the Cold War. At times, they were supported by Western states, though this could fluctuate as foreign policies varied according to different administrations. The slow process towards the establishment of the African Court of Human and Peoples Rights and the contestation over the ASEAN Human Rights Declaration provide two good examples.

Most scholars accept that the enactment of the African (Banjul) Charter on Human and Peoples Rights (1981, came into force 1986), was in reaction to the embarrassment of the regimes of Jean Bedel Bokassa of the Central African Republic and Idi Amin of Uganda respectively. The Commission created to promote and protect the rights was largely ineffectual and it was over 20 years later that the protocol that provided for a human rights court came into force (2004). Subsequently, when the Court made embarrassing rulings, such as ordering investigation into human rights abuses committed by Muammar Gaddafi, it was simply

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ignored. The protractedness in advancing human rights through the Banjul Charter any further lends credence to the idea that there was no subsequent intention to do more than make a statement.

Similarly, the ASEAN Charter provided for a regional human rights body as well as establishing an ASEAN Human Rights Declaration. The ASEAN Intergovernmental Commission on Human Rights (AICHR) was criticized for having been created with no protection powers or communications procedures to receive reports of human rights abuses.\textsuperscript{36} The subsequent ASEAN Human Rights Declaration was further criticized for making excessive deference to appeals to ‘public order’, ‘public morality’ and other escape clauses that could weaken it beneath existing international human rights standards.\textsuperscript{37}

As can be seen, human rights agreements were formalized only to the extent that they served the member states’ purposes and functions, and further institutionalization was greatly resisted. With weak rule of law, OAU/AU members were not hesitant to enact legal commitments, but did little to enforce them. With a greater weight placed on legal commitments in ASEAN, legislation was less forthcoming from the outset, and especially so in the case of human rights. Because contestation on principles of political rule was a more likely scenario in politically diverse memberships, members were unlikely to reach consensus unless a common problem or an issue could frame the debate.

**Conclusion**

This discussion outlines some of distinctive developments in regional organizations of the global South. Whereas the conditions for entry into a RO like the EU immediately restricts


political diversity, the AU and ASEAN were based on geographical definitions with few conditions for entry. Their specific historical experiences have also tended to be much more influential on their normative development than in broader organizations like the UN, which is either dominated by the Permanent Five at the Security Council, or else making extremely broad commitments at the level of the General Assembly.

This political diversity in the ROs had consequences: It led to a preponderance for more ambiguous goals, and a preference among leaders for decentralized, elite-led decision-making. With such institutional thinness, contestation at much more fundamental levels such as even the guiding norms of the organization could be possible at any time. In such conditions, the stakes could seem extremely high at any given crisis, because of the precedents that might be set when agreeing to certain actions.

Consensus on issues such as non-interference could be agreed because it related to the existential fears of all member states – both ROs having sharing formative experiences in which the importance of non-interference was driven home. Processual norms, such as the “ASEAN Way”, also became entrenched, due to the composition of the organization, but norms relating to values or identity tended to either be rejected or remain at very abstract levels.

Meanwhile, norms that were not tied to some useful function for elite decision-makers tended to flounder. Human rights norms, for all the optimism provided by charter developments at the beginning of the 2000s, have generally failed to gain traction, and continued to be hobbled in institutional processes.

This very broad overview has shown that a common institutional approach to examining organizational processes can expose much more extensive similarities than might be expected from relatively different regional organizations. Yet it also raises several questions as to the continued nature of contestation as the political complexion of their members themselves
change. If members become more democratic, in effect swinging the diversity back towards
greater homogeneity, might the institutional characteristics of the RO change as well? When
equal members oppose each other, who wins out, and under what circumstances?

Liberal and realist accounts do not explain these processes well, giving too much weight to
ideational factors or material power. At the same time, the fundamental mechanics are of great
interest, because the emergence of norms from diverse actors with few shared norms at the
outset is suggestive of philosophical notions of the blank slate or state of nature. Contractarian
arguments that norms will form on the basis of mutual benefit appear convincing in this
environment.

As the world moves to a more multi-polar and diverse international environment, studying the
institutional trajectories of regions in the global South show that they may come to some
semblance of convergence, but what they converge upon is distinctive from what traditional
international relations theories might expect. For norms to embed in their regional
organizations, they must serve a function acceptable to decision-makers who must be
understood as coming from diverse political systems. If they are increasingly socialized to work
with each other, it appears procedural norms will take root first, before ideational ones. Where
external pressure is used to enforce a normative commitment, it is likely to be undermined
through bureaucratic resistance which returns us to the original point that a norm spreads on
the basis of the functions it serves, and thus external pressure is less likely to be successful.
Bibliography


