Economic Rights and Regional Integration: Considering the EU and ASEAN Charters within the Perspective of Global Regional Integration

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Abstract

The paper is confined to addressing the question of whether a relationship exists between ‘economic rights’ and ‘regional integration’; confined because the title has several manifestations and interpretations. I categorically assert that there is not: regional integration is governed by WTO’s Article XXIV, which is utterly silent on ‘economic rights’, or for that matter ‘human rights’; human rights being the basic rights to which all humans are entitled, often held to include the right to life and liberty, freedom of thought and expression, and equality before the law. I find that the EU is the only regional integration scheme that has been endeavouring to give economic rights a legally-binding basis, but this will not happen fully even when the Lisbon Treaty has been ratified, due to the enactment not being embracive since Poland and the UK have opt-out protocols; thus rendering the term regional integration somewhat meaningless within this context. This, however should not distract from the fact that the EU has been able to make progress with and achieve the promotion of human rights in areas where single member state efforts have been to no avail; feats that would otherwise not have been possible without the creation of a single European state. The implications of this for the yet-to-be-ratified ASEAN Charter are briefly tackled where they are pertinent within the EU context.

- JEL Classification: F13, F15, I00, P00, Z00
- Key Words: regional integration, human rights, economic rights, WTO rules

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I. Introduction

There have recently been claims that ‘regional integration’ and the promotion of ‘human rights’ are intertwined. This has been the case even before the proclamation by the European Union (EU) in 2000 of its Charter of Fundamental Rights of the European Union\(^1\); hence well in advance of the adoption in 2007 by the Association of South East Asian Nations (ASEAN) of its Charter of the Association of South East Asian Nations\(^2\), in which they are categorically specified. Since the EU and ASEAN seem not only to be in the same boat on this issue, but also that ASEAN is essentially emulating the EU in this regard and generally, the aim of this paper is to tackle this subject with this perspective in mind. However, because both associations are regional integration schemes, in which practically every country in the world participates\(^3\), it seems more appropriate to have the wider perspective by discussing human rights within the global context of regional integration.

The paper begins by setting the scene by providing a justification for why the discussion is limited to only ‘economic rights’. It goes on to consider the legal framework under which regional integration operates, proceeds to human rights and their affinity or otherwise to regional integration. The paper finishes by explaining why the EU is unique when it comes to economic and human rights and by providing instances that show where the EU has succeeded when all efforts at the national level had been to no avail.

II. Setting the Scene

‘Human rights and regional integration’ is a very wide-ranging subject. It could be about the mere existence of a relationship between ‘human rights’ and ‘regional integration’ such that the rules of the game dictate that they should go hand in hand; hence the concern would be about whether or not regional integration schemes have been complying with the legal requirements for human rights. It could also be about whether or not existing schemes of regional integration have voluntarily been incorporating human rights into their treaties, in which case we


\(^2\)Signed on 20 November 2007; see, Association of South East Asian Nations (2007b).

\(^3\)See El-Agraa (2007) for these.