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## Unpacking the “Rules-Based Order”

By Joel Ng

### SYNOPSIS

*The “Rules-Based Order” is increasingly being appealed to against the changing regional structures of the Asia-Pacific. However, understanding what each proponent understands, including differing views, about the term is vital for building a firm consensus to move it forward.*

### COMMENTARY

THE IDEA of a “Rules Based Order” (RBO), and the need for it, has gained prominence in recent years, especially in defence and strategic papers, including by the four members of the Quadrilateral Security Dialogue (or Quad) – the United States, Japan, India, and Australia.

A “rules-based order” is at first glance attractive. Indeed, “RBO” itself is redundant: Order must be established through rules that constrains the players. But proponents in the West may make assumptions about translating the legal structures from their domestic systems into the international system. While domestic rule of law requires policing, courts, and punishments, the international system has rarely worked this way at any time in history. The analogy is in a danger of falling apart at the first sign of scrutiny.

### Ambiguity and Suspicion of “Rules-based Orders”

There is visible discomfort at the correlation between promoting the RBO and the Quad countries' views on a rising China, whom some assert is acting unilaterally and threatening the global order. Connecting the dots, many have concluded that the Quad's vision of a “Free and Open Indo-Pacific” (which places heavy emphasis on an RBO) is a containment strategy for China.

But it also goes further: non-liberal countries suspect that promotion of a particular RBO is being used to smuggle in liberal structures and concepts especially as they pertain to domestic systems.

However, the continued ambiguity by proponents of RBO could be deliberate. In failing to define the structures entailed by an RBO, they hope to avert objections and claim consensus support for the idea. ASEAN states will be familiar with the discourse, since long before the resurgence of RBO as a concept promoted by liberal powers, ASEAN was promoting the “rules-based community” as it sought to enhance integration.

### **Different Conceptions on Creating a Rules-based Order**

However, the institutions ASEAN settled on between the Bali Concord II (2003) and the ASEAN Community in 2015 do not look anything like a domestic legal system. There are no police, no courts, and little punishment for non-compliance. Peer pressure (of a very gentle sort, without infringing on national sovereignties) and self-discipline are the major enforcement mechanisms, and while some formal avenues exist such as the Dispute Resolution Mechanism, they have not been resorted to.

While ASEAN members who work together relatively well could only agree on such limited mechanisms, it is hard to see whether there is sufficient agreement, and indeed trust, in the wider region for more extensive and harmonised institutions for an RBO.

What then are we to make of the consensus support for a general idea of RBO while having such different forms of implementation? The devil is in the details. Rules do not enforce themselves, and they may form in different ways: Sometimes they are imposed, but sometimes they start as a habit that many follow and eventually pressure others to follow suit – that is, they start as a norm.

As one moves from the general to the specific, it becomes clear that there are very different approaches to the development of rules and how they constitute “order”. The old powers at the end of World War II, following renewed impetus after the Cold War, have been used to imposing their rules. However, unease remains outside their spheres and the act of imposition may be as important as the content of the rules themselves.

### **Averting Risk of Fragmentation**

A worry now is that multiple “orders” may start to emerge in the regional security architecture. We have already seen this with international multilateral financial institutions. The most notable since World War II have been the Bretton Woods institutions of the International Monetary Fund (IMF) and World Bank.

While everyone agrees in-principle on the need for macroeconomic stability for the global financial system, emerging players from Japan to China and India became unhappy with the way the IMF and World Bank were managed with decision-making controlled largely by the US and Europe.

As Joseph Liow has [observed](#), alternatives were created with the Asian Development

Bank (ADB), followed by the Asian Infrastructure and Investment Bank (AIIB) and New Development Bank (NDB), and even ASEAN's Chiang Mai Initiative Multilateralism (CMIM), amongst other new macroeconomic institutions. These only emerged after many calls to reform the IMF failed to be heeded from within.

The upside of this experience is that a plurality of institutions need not necessarily be feared, if they work in conjunction with each other. However, failure to reform the system to the satisfaction of the major players makes fragmentation more likely, and on hard security, the question of how differences are resolved between systems is an existential one.

### **Resolving Impasse**

To resolve this impasse, it may be useful to venture back into a seemingly academic conceptual exercise, but it would be vital for mapping out where consensus exists or not. That is, the cloud of ambiguity should be lifted on the "RBO", if it is not a constraining action but one designed to mutually benefit all actors in the Asia-Pacific.

A survey could be conducted that seeks to ask not merely what rules are to be followed, but what visions actors have about the institutions that must be used to establish the rules, what their mechanisms would be, and how decisions are reached within them. This may expose serious differences, but without asking the question, we would not be able to understand where the common ground lies from which to build consensus.

Uncovering the major actors' views on these specifics might be the only way to avert the fragmentation of the system even as it would have significant implications for the future of the Asia-Pacific's security architecture.

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