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THE PRINCIPLE OF NON-INTERVENTION IN SOUTHEAST ASIA: ASEAN'S APPROACH

Abstract: One of the most compelling reasons to study international law is its regional dimension - the way in which the universal principles of this legal framework are interpreted, adapted, and implemented across different parts of the world. Although international law aspires to universality, in practice it often reflects local legal traditions, historical circumstances, cultural values, and the political realities of individual regions. It is precisely these regional approaches that reveal the intricate balance between sovereignty and interdependence, between universal norms and local identities.

Keywords: Non-intervention, ASEAN, Sovereignty

1. Introduction: Pluralism and Regionalism in International Law

One of the most compelling reasons to study international law is its regional dimension, the way in which the universal principles of this legal framework are interpreted, adapted, and implemented across different parts of the world. Although international law aspires to universality,¹ in practice it often reflects local legal traditions, historical circumstances, cultural

¹ Several years ago, Roman Kwiecień wrote: 'In the era of so-called globalisation, the question of the universality and unity of international law may appear rhetorical, or even unnecessary. It might seem that in a globalised world, international law would naturally have become universalised as well. (...) However, this assumption is far from self-evident. (...) The universality of international law is not something permanently established and is constantly subject to challenge.' Kwiecień, *Teoria i filozofia prawa międzynarodowego: Problemy wybrane*, 81, 90. (own translation, PU). For three different understandings, or levels, of the universality of international law, see: Simma, "Universality of International Law from the Perspective

values, and the political realities of individual regions. It is precisely these regional approaches that reveal the intricate balance between sovereignty and interdependence, between universal norms and local identities.²

It should be noted that the concepts of region, regionalism, and regionalisation lack a precise and universally agreed legal definition. In this respect, international law frequently draws upon conceptual frameworks developed in the field of international relations and other social sciences.³ The delimitation of regions generally takes into account geographical proximity (as a permanent factor), as well as economic, political, social, and other variable criteria. From the standpoint of international law, a significant feature of regionalism lies in the conclusion of treaties that serve as the legal foundation for regional integration, as well as in the establishment of international organisations tasked with implementing and managing such integration processes.⁴ Against this backdrop, it is also possible to distinguish between ideologically motivated and pragmatically oriented regional international law, reflecting differing approaches to the normative and institutional development of regional legal orders⁵. I will return to this important distinction in the final part of this text. For now, it should be emphasised that regionalism in international law does not necessarily – and in most cases does not – mean a departure from the universality of international law. Rather, it serves as evidence of its pluralism, which has been elevated to one of the most important values of contemporary international law after World War II in the form of the principle of the sovereign equality of states. As Roman Kwiecień wrote:

of a Practitioner”; for a comprehensive analysis of the concept of universality in international law, see: Nollkaemper, “Universality”.

2 See also: Schreuer, “Regionalism v. Universalism”; “Ultimately, the real antagonism is not between regionalism and universalism but between national sovereignty and international cooperation. Regional and universal efforts have rarely got into each other’s way but have both been severely obstructed by nationalism and inward-looking politics of States”.

3 Mik, *Fenomenologia regionalnej integracji państw. Studium prawa międzynarodowego. Tom II: Regionalne organizacje integracji państw z perspektywy analitycznej prawa międzynarodowego*, 11-31.

4 This position can be found in the works cited by C. Mik, including those of G. Rysiak, J. Gilas, and T. Jasudowicz: Mik, *Fenomenologia regionalnej integracji państw. Studium prawa międzynarodowego. Tom II: Regionalne organizacje integracji państw z perspektywy analitycznej prawa międzynarodowego*, 28-31.

5 Mik, *Fenomenologia regionalnej integracji państw. Studium prawa międzynarodowego. Tom II: Regionalne organizacje integracji państw z perspektywy analitycznej prawa międzynarodowego*, 32-36.

The idea of a pluralist international law presupposes the existence of a single international legal order with universal scope of application and enforcement, whose creators and beneficiaries are all states—despite the political, cultural, and social differences that divide them. At the same time, pluralism in contemporary international law is safeguarded by the principles of that law, including, among others, the freedom to choose a political, economic, and social system, and the prohibition of intervention in the internal affairs of states.⁶

Of special interest in this context is the Asian region, a diverse continent where economic powerhouses coexist with countries rooted in authoritarian traditions and emerging democracies, all contributing to the development of a shared, albeit uneven, vision of international order.

Against the backdrop of these theoretical remarks, examining the principle of non-intervention in the internal affairs of states from the perspective of Southeast Asia and ASEAN is particularly compelling. Firstly, because Asia – despite previously expressed rhetorical reservations⁷ – has largely embraced the existing framework of international law, the institutions of which, as is well known, were shaped primarily in Europe over the course of centuries.⁸ One clear example of this is the establishment and subsequent development of ASEAN, the most effective international organisation in Asia and arguably one of the most successful regional organisations outside of Europe,⁹ which covers essentially all Southeast Asia¹⁰, excluding East Timor, which is seeking membership in ASEAN¹¹. Secondly, because

6 Kwiecień, “Hegemonializm v. pluralizm społeczności państw a jedność i powszechność prawa międzynarodowego”, 238-239.

7 See for example: Nehru, “India Quarterly”.

8 Despite the clear bias present in numerous international law rules—owing to the fact that it was largely a ‘ruler’s law’ during its formative years—Asian states have overwhelmingly supported the acceptance of its tenets. In fact, none of the newly independent countries rejected international law on the basis of its European origin or inherent bias, see for example: Anand, “Universality of International Law: An Asian Perspective”.

9 For example Chinese think tank describes ASEAN as ‘the most enduring and successful regional organisation in the developing world’, https://en.icc.org.cn/thinktank_theories/theoretical_research/350.html, Accessed 22 May 2025.

10 The close connection between ASEAN and the Southeast Asian region is also evidenced by Article 6 of the ASEAN Charter, which requires that a member state must be geographically located in Southeast Asia. ASEAN. Charter of the Association of Southeast Asian Nations. <https://asean.org/wp-content/uploads/images/archive/publications/ASEAN-Charter.pdf>, Accessed 22 May 2025.

11 It is worth noting that East Timor’s accession to ASEAN was recently protested by Myanmar, due to... East Timor’s violation of the principle of non-interference in internal affairs, in this case

the process of regional integration among Asian states places emphasis differently: sovereignty continues to hold a central position,¹² understood primarily as a protective response to the relatively recent legacy of colonialism. As Antony Anghie aptly argues, ‘colonialism, far from being peripheral to the discipline of international law, is central to its formation.’¹³ It is also worth noting that all the countries which would later become members of ASEAN and were already independent at the time participated in the 1955 Bandung Conference of Non-Aligned States, and all of them were also present at the 2012 Non-Aligned Movement Summit in Tehran. Thirdly, because a culturally homogeneous Asia does not exist.¹⁴ Rather, it is a geographical conglomerate of various civilisations and their many variants, displaying significant diversity even within the relatively compact and densely populated area of the ASEAN countries. This conglomerate is by no means unfamiliar with strong nationalisms, sentiments that are certainly not exclusive to European societies.¹⁵ Finally, Southeast Asia is considered, alongside the United States and parts of the European Union, as one of the primary engines of contemporary socio-economic development.¹⁶ The twenty-first century, as many have predicted, is expected to belong to Asia.

This article assumes a sequential structure. It begins by presenting the principle of non-intervention in general terms, followed by an analysis of ASEAN as a regional organisation. The discussion then focuses on how the principle of non-intervention remains a foundational element of international law and regional cooperation in Southeast Asia, particularly as enshrined in ASEAN’s legal and institutional framework. Originating in

supporting the Myanmar opposition. <https://www.irrawaddy.com/news/burma/myanmar-junta-opposes-timor-lestes-asean-membership.html> Accessed 12 July 2025.

12 ‘China has been victimised by hegemony and power politics since the Opium War. Even today, China has yet to achieve full reunification, and its territorial sovereignty continues to be undermined; Dai, “Remarks at the Center for Strategic and International Studies”, Ministry of Foreign Affairs of the People’s Republic of China, 7 July 2016. http://surabaya.china-consulate.gov.cn/eng/jrzg_2/201607/t20160707_5332028.htm Accessed 22 May 2025; For an in-depth analysis of China’s conception of sovereignty, see: Carrai, *Sovereignty in China: A Genealogy of a Concept Since 1840*.

13 Anghie, “The Evolution of International Law: Colonial and Postcolonial Realities”.

14 Asia is not one, and there is no singular idea of Asia. It is composed of multiple (though not always mutually exclusive) conceptions, some grounded in material forces such as economic growth, interdependence, and physical power, and others based on ideational foundations like civilisational linkages and normative aspirations, Acharya, “Asia Is Not One”.

15 See for example: Kingston, *Nationalism in Asia: A History Since 1945*.

16 Kłodkowski, *Azjatycka wielka gra: Indie i Azja Południowa w sporze o regionalną i globalną dominację w XX i XXI wieku*, 79.

the Bangkok Declaration of 1967 and reinforced by key documents such as the 1976 Treaty of Amity and Cooperation (TAC), this principle reflects a shared commitment among ASEAN member states to protect sovereignty, maintain regional stability, and prevent external interference. The article presents ASEAN's theory and practice of non-intervention as well as examines efforts to reinterpret or challenge the non-intervention principle through evolving frameworks such as "constructive engagement," "flexible engagement," and "enhanced interaction." In conclusion two dominant theoretical perspectives – constructivism and realism – are presented to explain the persistence and strategic use of non-intervention in ASEAN. At the same time, this article seeks to address the following questions: How has the principle of non-intervention evolved within ASEAN's legal and institutional framework since its founding in 1967? To what extent do constructivist norms and realist interests shape ASEAN's continued adherence to the principle of non-intervention? What role does the political diversity of ASEAN member states play in sustaining this principle? Can ASEAN's evolving mechanisms – such as flexible engagement – effectively reconcile the tension between non-intervention and regional accountability? Finally, is the adherence to the principle of non-intervention in the internal affairs of states a manifestation of ideologically oriented regional international law?

2. The Non-Intervention Principle as a Norm of International Law

2.1. General Remarks and Formal Sources

As a principle of international treaty law, the non-intervention appears in the Montevideo Convention of 1933 on Rights and Duties of States for the first time. Its Article 8 states: 'No state has the right to intervene in the internal or external affairs of another.'¹⁷ Since the convention is still a positive international law today, so is Article 8 in its simple wording. However, it is noteworthy to remind that the most important international treaty today – the UN Charter – does not explicitly spell out the principle of non-intervention as a rule governing relations between member states. It is rather implied in the statement of Principles of the UN (Article 2) and decoded from art 2.4., which prohibits 'the threat or use of force against the territorial integrity or

¹⁷ Convention on Rights and Duties of States. Signed at Montevideo on December 26, 1933, Article 8, http://avalon.law.yale.edu/20th_century/intamo3.asp (26.04.2025).

political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.’¹⁸ On the other hand, Article 2.7. situates the non-intervention in a vertical relation between the UN and the member state, where the word intervene in the proper context appears only once in the entire UN Charter. Still, at the level of treaty law the principle of non-intervention has received considerable support in the founding documents of international organisations¹⁹. Also, the Vienna Convention on Diplomatic Relations of 1961 imposes a duty not to interfere in the internal affairs of the State on persons enjoying diplomatic privileges.²⁰ It opens an entire area for legal and political analysis within the sub-field of diplomatic law, recently addressed in literature.²¹

In reservoirs of soft law some thirty-five resolutions specifically addressing intervention and interference have been adopted by the UN General Assembly since 1957, especially in the 1960s, 1970s, and 1980s and this has to a degree continued even into the present century. According to M. Jamnejad and M. Wood, the three most significant are: the 1965 Declaration on the Inadmissibility of Intervention; the 1970 Friendly Relations Declaration; and the 1981 Declaration on the Inadmissibility of Intervention and Interference.²² Within the layer of case law (providing an argumentative support for the creation of customary law) the International Court of Justice considered intervention as the ‘manifestation of a policy of force, such as has in the past given rise to the most serious abuses’, and as such as prohibited by international law²³. In its landmark 1986 *Nicaragua* judgment²⁴, touching upon the issue, the ICJ stated:

18 <http://www.un.org/en/sections/un-charter/un-charter-full-text/> (26.04.2025).

19 Charter of the Organization of American States, non-intervention and non-interference, http://www.oas.org/en/sla/dil/inter_american_treaties_A-41_charter_OAS.asp; Organization of African Unity Charter, non-interference, https://www.au.int/web/sites/default/files/treaties/7759-file-oau_charter_1963.pdf; Treaty of Friendship, Co-operation and Mutual Assistance Between the Soviet Union and Certain East European Communist Governments (The Warsaw Pact), non-intervention, <http://digitalarchive.wilsoncenter.org/document/123891>; Conference on Security and Co-operation in Europe Final Act, non-intervention and non-interference, <http://www.osce.org/helsinki-final-act> (26.04.2025).

20 Vienna Convention on Diplomatic Relations, Done at Vienna on 18 April 1961, United Nations, Treaty Series, vol. 500, p. 95, Article 41.

21 Behrens, *Diplomatic Interference and the Law*.

22 Jamnejad and Wood, “The Principle of Non-intervention”, 350-351.

23 *Corfu Channel (United Kingdom v. Albania)*, Merits, Judgment of 9 April 1949, [1949] I.C.J. Rep 9, at 35.

24 Strong criticism of that judgment was presented by D’Amato, “Trashing Customary International Law”.

The principle of non-intervention involves the right of every sovereign State to conduct its affairs without outside interference; the principle forbids all States or groups of States to intervene directly or indirectly in the internal or external affairs of other States; though examples of trespass against this principle are not infrequent, the Court considers that it is part and parcel of customary international law.²⁵

In 2005 the ICJ reiterated that the principle of non-intervention prohibits a State ‘to intervene, directly or indirectly, with or without armed force, in support of an internal opposition in another State.’²⁶ Yet, despite cited legal documents and literature, the principle of non-intervention in its broad understanding is still one of more debatable issues in public international law.

2.2. Deconstruction of the Principle(s)

Several questions can be asked in trying to understand contemporary meanings of non-intervention. Since the term is often used interchangeably with non-interference (see for example the founding documents of international organisations above), the first clarification is whether there is one or, in fact, two principles with different meanings and scopes of application? The Cambridge English Dictionary provides the definitions of the two terms:

- intervene: to intentionally become involved in a difficult situation in order to improve it or prevent it from getting worse.
- interfere: to involve yourself in a situation when your involvement is not wanted or is not helpful.²⁷

Such a common understanding may explain why the vast majority of legal writings on the subject focus on the non-intervention principle in its intentional meaning. Indeed, according to Oppenheim, ‘the interference must be forcible or dictatorial, or otherwise coercive, in effect depriving the state intervened against of control over the matter in question. Interference pure

²⁵ *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. U.S.)*, Merits, Judgment of 27 June 1986, [1986] I.C.J. Rep 14, paras. 202, 205, 206, 208, 209.

²⁶ *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Merits, Judgment of 19 December 2005, [2005] I.C.J. Rep, paras. 164 and 165.

²⁷ <http://dictionary.cambridge.org/dictionary/english/>.

and simple is not intervention.’²⁸ The requirement of coercion is clear from the 1970 Friendly Relations Declaration:

No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind.²⁹

Also, in the above-cited Nicaragua judgment, the ICJ stated that:

A prohibited intervention must (...) be one bearing on matters in which each State is permitted, by the principle of State sovereignty, to decide freely. One of these is the choice of a political, economic, social and cultural system, and the formulation of foreign policy. Intervention is wrongful when it uses methods of coercion in regard to such choices, which must remain free ones.³⁰

What are the methods of coercion? Certainly, there are many. Equally clearly the illegal use of force will be on the top of the scale, since this type of coercion is prohibited by the UN Charter, a constitutive document of contemporary intentional community.³¹ In the past two decades intervention has been equated with the threat of and the use of force and this has occupied international law researchers, resulting in voluminous publications on the topic.³² It is more difficult to trace interventions, which do not involve unlawful or unauthorised use of force. These need to be differentiated from mere involvements in situations when the involvement is not wanted nor helpful, yet it is lacking a coercive fervour. It needs to be said that interference without intention to change a country’s policy is not only allowed, but is necessary for a diverse community of states, which in fact cooperated more

28 Jennings and Watts, *Oppenheim’s International Law*, 428.

29 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, UN Doc. A/Res/2625(XXV).

30 *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. U.S.)*, Merits, Judgment of 27 June 1986, [1986] I.C.J. Rep 14, para. 205.

31 It is so even in the eyes of critics of the constitutionalisation of international law.

32 In recent Polish legal monograph over 140 books and even more articles are cited on the subject of (military) intervention; Domagała, *Od interwencji humanitarnej do odpowiedzialności za ochronę. Społeczność międzynarodowa wobec wymuszania przestrzegania praw człowieka*, 286-298.

than waged war against themselves in the history of mankind. Accordingly, statements by government officials of various ranks, often politicians outside the cabinet, claiming that another subject of international law has violated the principle of non-interference must be examined with particular care and scrutiny. Leaving political meanings outside of the scope of the present analysis, the problem remains whether a gradation can be traced in an ordered scale from non-interference, through non-intervention to the prohibition of the use of force? If so, where are the thresholds? In this regard the exact content of the principle is still open to doubt, which is further reinforced by recent state practice.³³ Moreover, sometimes foreign interference escalates into a diplomatic crisis, political unrest, regime change, after which the former aliens engage in good offices, mediation or conciliation, which are a relatively legal form of solving disputes. Illegal interference becomes a legal dispute settlement.

As N. Aloupi rightly observed,

two main-similar but not identical aspects of non-intervention/non-interference can be identified. (...) The first facet of non-intervention/non-interference derives from the principle of territorial integrity and inviolability and prohibits certain actions on foreign soil, whereas its second facet derives from the principle of a state's independence and prohibits any interference in a state's domestic affairs. (...) Nevertheless, the lines are blurred by the fact that a third principle is closely interrelated with the previous two (...) prohibition of any threat or use of force against the territorial integrity or political independence of any state, as codified in article 2(4) of the UN Charter.³⁴

In my opinion there are thus three manifestations of non-intervention:

- the first, where non-intervention is understood as mere prohibition of the threat or use of force against the territorial integrity of any state.
- the second, where non-intervention is understood as prohibition of the threat or use of force against political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

33 Aloupi, "The Right to Non-intervention and Non-interference", 575.

34 Ibid., 571-572.

- the third, where non-intervention is understood as prohibition of coercive interference into choices, which must remain free ones, in the *domaine réservé* of any state by means other than the threat or use of force.

Taken together, the micro and meso-scales fulfil the disposition of the norm in Article 2(4) of the UN Charter, for they employ a threat or use of military power. These are interventions *sensu stricto* the prohibition of which can be said to have reached the status of *ius cogens* norm.³⁵ The third understanding encompasses non-military coercion techniques and amounts to intervention *sensu largo*, which I call coercive interference. It remains among the most intractable issues in the field for: 1. the intention to change a country's policy must be proved; 2. there exists a number of dynamic derogations; often abused 3. non-military coercive interference can backfire with a military one *sensu stricto* shifting the first into the background of legal analysis, often forgotten or underestimated. Therefore, the contemporary interpretation of the principles of non-intervention and non-interference manifests itself in both *sensu stricto* and *sensu largo* forms. The latter, characterised by political ambiguity and conceptual fluidity, is increasingly subject to exceptions and reinterpretations, functioning as a dynamic principle with a pronounced regional dimension.

3. Non-Intervention as a Foundational Norm in ASEAN's Legal and Institutional Architecture

3.1. ASEAN: Historical Context and Formal Legal Sources

The Association of Southeast Asian Nations (ASEAN), established on 8 August 1967 through the adoption of the Bangkok Declaration, represents one of the most significant sub-regional organisations within the broader international legal order. Originally founded by five member states – Indonesia, Malaysia, the Philippines, Singapore, and Thailand – ASEAN has since expanded to include Brunei Darussalam (1984), Vietnam (1995), Laos and Myanmar (1997), and Cambodia (1999), bringing its current membership to ten states.³⁶ As a sub-regional organisation, ASEAN serves as a key

³⁵ Ibid., 578.

³⁶ <https://asean.org/about-us/> (Accessed 22.05.2025).

platform for political dialogue, economic cooperation, and regional stability in Southeast Asia.

The legal and institutional foundations of ASEAN were established with the adoption of the Bangkok Declaration in 1967.³⁷ The founding document created ASEAN with key objectives that promoted economic growth, supported social progress, encouraged cultural development, and maintained regional peace grounded in justice, the rule of law, and respect for the UN Charter. It also emphasised mutual assistance, cooperation in education and professional development, trade expansion, infrastructure improvement, and collaboration with other international and regional organisations. As stated by Rodolfo Severino, Former Secretary General of ASEAN:

ASEAN was established in 1967 by five countries – Indonesia, Malaysia, Philippines, Thailand, and Singapore. Except for Thailand, all of these countries had just acquired political independence from centuries of colonisation and foreign domination. This common experience motivated the countries of Southeast Asia, like most newly independent developing countries, to work together to preserve their common interest. Forming a regional organisation could fill the power vacuum left by the major powers, which used the region for proxy wars and major power rivalry. Forming a regional organisation could provide a self-help mechanism for these newly independent countries enabling them to concentrate on nation-building and economic development. Forming a regional organisation could also provide more weight to their collective voice in the international community.³⁸

Interestingly, the term external interference appears only once in the text of the ASEAN Declaration, specifically in the preamble, where it refers to interference originating from outside actors, i.e., states not belonging to the organisation. It should be recalled that the early formation of ASEAN, consisting of its five founding members, carried a distinctly anti-communist and anti-colonial character, reflecting the geopolitical tensions of the time.³⁹

37 ASEAN. The ASEAN Declaration (Bangkok Declaration). Bangkok, August 1967. <https://agreement.asean.org/media/download/20140117154159.pdf> (Accessed 22.05.2025).

38 <https://asean.org/asean-and-the-growth-of-regional-cooperation-in-southeast-asia-by-rodolfo-c-severino-jr/>, Accessed 11 July 2025.

39 ‘The initial aim was to encourage regional cooperation and create a collective front against the spread of communism in Asia, reflecting the geopolitical concerns of the era’.

As stated in the Declaration: ‘the countries of South-East Asia (...) are determined to ensure their stability and security from external interference.’⁴⁰

The Zone of Peace, Freedom and Neutrality Declaration (ZOPFAN, 1971) further strengthened ASEAN’s legal and political commitment to non-interference and regional autonomy. In its preamble, the signatory states expressly reaffirmed their commitment to the principles of ‘respect for the sovereignty and territorial integrity of all states, abstention from the threat or use of force, peaceful settlement of international disputes, equal rights and self-determination, and non-interference in the affairs of States’. They also recognised ‘the right of every state, large or small, to lead its national existence free from outside interference in its internal affairs as this interference will adversely affect its freedom, independence and integrity’. Building on these principles, the signatories – Indonesia, Malaysia, the Philippines, Singapore, and Thailand – declared their determination ‘to secure the recognition of, and respect for, Southeast Asia as a Zone of Peace, Freedom and Neutrality, free from any form or manner of interference by outside Powers.’⁴¹

This dedication to regional autonomy was later solidified through the Treaty of Amity and Cooperation (TAC) in 1976, which formally codified ASEAN’s principles into the binding language of international law. The Treaty represents one of the most significant legal instruments codifying ASEAN’s commitment to the principle of non-intervention. Described as ‘a legally binding code for inter-state relations in the region and beyond’, the TAC enshrines core principles of peaceful coexistence, sovereignty, and regional stability that have come to define ASEAN’s normative framework. As of October 2024, the Treaty has expanded its reach, with 55 High Contracting Parties, including not only ASEAN members but also external states and regional organisations. At the core of the TAC’s legal framework lie its clear prohibitions on interference. Article 2 provides that ‘In their relations with one another, the High Contracting Parties shall be guided by the following fundamental

ASEAN. Encyclopaedia Britannica. <https://www.britannica.com/topic/ASEAN>. Accessed 22 May 2025; Between 1946 and the establishment of ASEAN in 1967, the majority of the region’s states had gained their independence. ASEAN is a product of this history and the colonial origins and legacies of its member states, Southgate, *ASEAN Resistance to Sovereignty Violation: Interests, Balancing and the Role of the Vanguard State*, xii.

⁴⁰ ASEAN. The ASEAN Declaration (Bangkok Declaration). Bangkok, August 1967. <https://agreement.asean.org/media/download/20140117154159.pdf> Accessed 22 May 2025.

⁴¹ ASEAN. Zone of Peace, Freedom and Neutrality Declaration. Kuala Lumpur, Malaysia, 27 November 1971. <https://www.pmo.gov.my/wp-content/uploads/2019/07/ZOPFAN.pdf>. Accessed 22 May 2025.

principles'. Specifically, Article 2(b) affirms 'the right of every State to lead its national existence free from external interference, subversion or coercion', while Article 2(c) reiterates the commitment to 'non-interference in the internal affairs of one another.'⁴² Further emphasising the protective function of sovereignty, Article 11 obliges High Contracting Parties to 'strengthen their respective national resilience in their political, economic, socio-cultural as well as security fields in conformity with their respective ideals and aspirations, free from external interference as well as internal subversive activities.'⁴³

The principle of non-interference has been consistently reaffirmed and reinforced in ASEAN's subsequent political declarations, particularly through the Bali ConCORDs. The Declaration of ASEAN Concord I (1976), adopted in Bali, emphasised 'non-interference in the internal affairs of nations',⁴⁴ embedding this principle at the heart of ASEAN's political identity during the Cold War. Decades later, the Declaration of ASEAN Concord II (Bali Concord II, 2003) again underscored ASEAN's commitment by 'reaffirming the fundamental importance of adhering to the principle of non-interference and consensus in ASEAN cooperation.'⁴⁵ Finally, the Bali Concord III (2011), adopted as ASEAN pursued a more prominent role in global affairs, reaffirmed these core values, committing ASEAN to 'respect the principles of the independence, sovereignty, equality, territorial integrity, non-interference, and national identity of all nations.'⁴⁶

Finally, the ASEAN Charter, signed in Singapore in November 2007, established the constitutional basis for ASEAN's legal personality and institutional framework, incorporating the long-standing principle of non-interference into its legal order. The preamble explicitly recognises the 'fundamental importance of amity and cooperation, and the principles of sovereignty, equality, territorial integrity, non-interference, consensus and

42 ASEAN. Treaty of Amity and Cooperation in Southeast Asia. <https://asean.org/wp-content/uploads/2021/01/20131230235433.pdf>, Accessed 22 May 2025.

43 Ibid., Article 11.

44 ASEAN. The Declaration of ASEAN Concord. Bali, Indonesia, 24 February 1976. <https://asean.org/the-declaration-of-asean-concord-bali-indonesia-24-february-1976/>. Accessed 22 May 2025.

45 ASEAN. Declaration of ASEAN Concord II (Bali Concord II). <https://asean.org/speechandstatement/declaration-of-asean-concord-ii-bali-concord-ii/>. Accessed 22 May 2025.

46 ASEAN. Bali Declaration on ASEAN Community in a Global Community of Nations (Bali Concord III). <https://asean.org/wp-content/uploads/2021/09/Bali-Concord-III.pdf>. Accessed 22 May 2025.

unity in diversity'. The Charter's operative provisions further institutionalise these commitments. Article 2(2)(e) reaffirms ASEAN and its Member States' adherence to the principle of 'non-interference in the internal affairs of ASEAN Member States'. Closely connected, Article 2(2)(f) guarantees respect for 'the right of every Member State to lead its national existence free from external interference, subversion and coercion.'⁴⁷

Thus, the principle of non-interference in the internal affairs of states is, of course, not the only, but an extremely important principle referred to in ASEAN legal acts.

3.2. The ASEAN Way: Diplomacy, Consensus, and the Norm of Non-interference in Light of Traditional Sovereignty

The above cited provisions clearly illustrate that the principle of non-intervention holds a particularly prominent position within ASEAN. However, the principle itself is not explicitly defined;⁴⁸ instead, it is embedded within and closely linked to other well-established principles of general international law, such as the peaceful settlement of disputes, sovereign equality, territorial integrity, and the prohibition of aggression, threats, and the use of force. However, as noted in the literature 'ASEAN has invested peculiar meanings in these concepts which are otherwise generally recognised by the international community as norms of international law.'⁴⁹ In my view, the ASEAN principle of non-intervention is interpreted primarily within the framework of the United Nations, reflecting its rather early and conservative understanding, rooted in the mentality of the 1960s and 1970s, particularly since ASEAN's constitutive legal instruments repeatedly reference the United Nations Charter and general international law. Here, too, one may raise the question of the material scope of the non-intervention principle and the relationship between the frequently interchangeable terms non-intervention and non-interference. ASEAN's repeated references to the United Nations understanding of non-intervention, particularly to the Declaration on Principles of International Law Concerning Friendly Relations among States (1970), indicate that ASEAN member states oppose

⁴⁷ ASEAN. Charter of the Association of Southeast Asian Nations. <https://asean.org/wp-content/uploads/images/archive/publications/ASEAN-Charter.pdf>. Accessed 22 May 2025.

⁴⁸ ASEAN has never defined the non-interference norm, Nguyen, "Norm or Necessity? The Non-Interference Principle in ASEAN".

⁴⁹ Deinla, *The Development of the Rule of Law in ASEAN: The State and Regional Integration*, 8.

not only armed intervention, but also any attempts to influence a state's political, economic, or social system. In other words, all sovereign choices made by a state – which should remain free – are to be protected from unlawful external influence. In this sense, non-intervention is understood as the prohibition of coercive interference into choices, which must remain free ones, in the *domaine réservé* of any state by means other than the threat or use of force.

In his widely cited monograph, Amitav Acharya explains:

In operational terms, the obligations imposed by ASEAN's doctrine of non-interference on its members had four main aspects: (1) refraining from criticising the actions of a member government towards its own people, including violation of human rights, and from making the domestic political system of states and the political styles of governments a basis for deciding their membership in ASEAN; (2) criticising the actions of states which were deemed to have breached the non-interference principle; (3) denying recognition, sanctuary, or other forms of support to any rebel group seeking to destabilise or overthrow the government of a neighbouring state; (4) providing political support and material assistance to member states in their campaign against subversive and destabilising activities.⁵⁰

With regard to the actors capable of violating the principle in question, it can be argued that ASEAN Member States consistently stress their rejection of any external interference, reflecting long-standing concerns over sovereignty violations, whether by former colonial powers or current global or regional hegemonic actors. This perspective is especially evident in the above-presented Zone of Peace, Freedom and Neutrality Declaration (ZOPFAN, 1971), where the signatory states declared their determination 'to secure the recognition of, and respect for, Southeast Asia as a Zone of Peace, Freedom and Neutrality, free from any form or manner of interference by outside Powers'.

However, the principle of non-interference naturally applies not only to external actors but also to the organisation's own members, as evidenced by Article 2(2)(e) of the ASEAN Charter, which reaffirms ASEAN and its Member States' adherence to the principle of 'non-interference in

⁵⁰ Acharya, *Constructing a Security Community in Southeast Asia: ASEAN and the Problem of Regional Order*, 58.

the internal affairs of ASEAN Member States.’⁵¹ Within intra-ASEAN relations, this principle has consistently been recognised as a cornerstone of regional peace and stability. As Singapore’s Foreign Minister observed in 1997, ‘[n]on-interference in the affairs of another country was... the key factor as to why no military conflict had broken out between any two member states since 1967.’⁵² Described in the literature as ‘the main factor behind the ASEAN miracle’, ‘one of the main political attractions of membership in ASEAN’⁵³ and ‘the single most important principle underpinning ASEAN regionalism’⁵⁴ the principle of non-intervention constitutes a central element of a broader philosophy of regional governance in South East Asia known as the ASEAN Way, which is rooted in a traditional understanding of sovereignty. As noted by Imelda Deinla:

The ASEAN Way not only describes the conduct of relations of member states but also encapsulates the core principles and values of the association based on strict adherence to the principles of national sovereignty and non-intervention.⁵⁵

Hence, the ASEAN Way, a distinctive mechanism of regional cooperation which leaders and officials consider central to the organisation’s identity has come to define ASEAN’s core organisational principles and norms, encompassing both behavioural and procedural dimensions. The behavioural component functions as a collective *code of conduct* while the procedural element emphasises consultative processes designed to manage and contain problems. Primarily aimed at maintaining a stable internal environment, the ASEAN Way relies on symbolic gestures and indirect methods of addressing conflicts. Diplomacy within ASEAN often involves postponing difficult issues, compartmentalising disputes to prevent them from spilling over into other areas of cooperation, and employing quiet, behind-the-scenes negotiations.⁵⁶ This interesting diplomatic practice springs

51 ASEAN. Charter of the Association of Southeast Asian Nations. <https://asean.org/wp-content/uploads/images/archive/publications/ASEAN-Charter.pdf>. Accessed 22 May 2025.

52 Jayakumar, “Non-interference in the Affairs of Another Country Was... the Key Factor as to Why No Military Conflict Had Broken Out Between Any Two Member States since 1967”, 29.

53 Ramcharan, “ASEAN and NonInterference: A Principle Maintained”.

54 Acharya, *Constructing a Security Community in Southeast Asia: ASEAN and the Problem of Regional Order*, 57.

55 Deinla, *The Development of the Rule of Law in ASEAN: The State and Regional Integration*, 8.

56 Narine, *Explaining ASEAN: Regionalism in Southeast Asia*, 31.

from its cultural foundation, rooted in the Malay traditions of *musyawarah* (consultation) and *mufakat* (consensus),⁵⁷ which were introduced to Southeast Asian diplomacy by Sukarno and the Indonesians. Originating in the traditional village societies of the Malay world, these practices reflect a decision-making style that privileges collective agreement and deliberation. The ASEAN Way centres on the management and containment of conflicts through a consultative process primarily driven by the goal of maintaining a stable internal environment. To achieve this, ASEAN employs techniques rooted in symbolism and indirect methods of addressing contentious issues. Such cautious diplomacy also incorporates the strategic use of coded language, where even the term ASEAN itself can signify prosperity, stability, regional consciousness, or socialisation, depending on the context.⁵⁸ As observed in the literature:

The ASEAN Way is a realistically modest approach to dealing with intra-ASEAN relations. It recognises what it is possible to achieve between states. By appealing to the lowest common denominator, it does not push the institution beyond what it can sustain. It does not allow disagreement in some areas to prevent cooperation in others. In these respects, it is a brilliant and productive approach to international relations; it is one of ASEAN's genuine strengths. However, the ASEAN Way is also symptomatic of ASEAN's institutional weakness. (...) ⁵⁹

The internal (intra-regional) dimension, directed toward ASEAN member states, and the external (extra-regional) dimension, aimed at non-member states, are in fact mutually reinforcing. The effective prevention of intervention by influential regional powers and global actors in the domestic politics of Southeast Asian states was made possible exactly through the establishment of ASEAN, a regional agreement initially focused on security, which only later expanded to encompass other areas of cooperation.⁶⁰ However, this required opening to subregional collaboration among highly diverse

57 Jorgensen-Dahl, *Regional Organization and Order in Southeast Asia*, 166.

58 Antolik, *ASEAN and the Diplomacy of Accommodation*, 9-10.

59 Narine, *Explaining ASEAN: Regionalism in Southeast Asia*, 33.

60 There is wide agreement among academics that ASEAN was established as a security community, though perhaps in a rather implied and limited manner. See, for example, Emmerson, "Security, Community, and Democracy in Southeast Asia: Analyzing ASEAN"; Acharya, *Constructing a Security Community in Southeast Asia: Asean and the Problem of Regional Order*, 1-8.

states, with different political systems, often marked by mutual conflicts. These disputes have involved issues such as land and maritime boundaries, insurgencies, and border clashes, matters that directly touch upon the traditional notion of sovereignty. This notion has been further entrenched by deep-rooted historical animosities and varying perceptions of threats among member states. From this perspective, adopting the principle of non-intervention as ASEAN's flagship norm proved particularly beneficial, especially during the initial phases of state-building, sovereignty consolidation, and the reinforcement of national unity. It also facilitated the gradual development of the notion of *resilience*, first at the state level and later within the organisation itself, actively promoted by Indonesia within ASEAN's framework. These in fact two concepts of national resilience and regional resilience, closely linked to the principle of non-interference, emerged as key slogans embraced by all ASEAN member states. From the Indonesian perspective, domestic stability within each ASEAN country was seen as a fundamental precondition for both regional security and cooperation.⁶¹ As observed in literature the concept of national resilience emphasises the non-military, internal dimensions of security.

It is an inward-looking concept, based on the proposition that national security lies not in military alliances or under the military umbrella of any great power, but in self-reliance deriving from domestic factors such as economic and social development, political stability and a sense of nationalism.⁶²

In light of the above, it is not surprising that the principle of non-intervention is also strictly observed in the vertical dimension, that is, along the axis between the international organisation and its member states. As noted, 'ASEAN remains non-intrusive because its member states share an understanding that domestic issues should be solved on their own without any outside intervention, and that each has sufficient state strength to handle these issues.'⁶³ This reflects ASEAN's underlying assumption that national resilience and sovereignty are to be respected not only among states but also in relation to the organisation itself, thus limiting ASEAN's institutional

61 Acharya, *Constructing a Security Community in Southeast Asia: ASEAN and the Problem of Regional Order*, 58.

62 Irvine, "Making Haste Slowly: ASEAN from 1975".

63 Suzuki, "Why is ASEAN not Intrusive? Non-Interference Meets State Strength", 162.

authority to intervene in members' internal affairs. As observed by Tom Ginsburg:

One of ASEAN's successes has been the development of a distinctive form of regionalism. Elsewhere in the world, regional organisations are seen as eroding national sovereignty. However, ASEAN has played a role in reinforcing sovereignty, understood in the classic sense of the UN Charter. ASEAN's sovereignty-reinforcing regionalism, which has strengthened rather than weakened national state capacity.⁶⁴

Also, due to the considerable diversity among its Member States, ASEAN addresses internal and external challenges through a triad of trust, consultation, and consensus. Anchored in the principles of sovereignty and non-interference, the organisation deliberately avoids creating strong, independent institutions or conferring autonomous legal competences over its Member States. Its decision-making processes are predominantly consensus-driven, often relying on informal understandings rather than formal legal provisions or procedures. A defining feature of ASEAN remains its weak enforcement capacity: no ASEAN body, including the ASEAN Secretary, possesses enforcement powers, with the Secretary limited to monitoring functions. While informal mechanisms prevail across most political levels, exceptions exist in specific areas such as binding trade agreements. In practice, the reliance on consensus – unbound by rigid procedural controls – enables flexible pathways to achieve shared objectives, making harmonised standard-setting, often involving private actors and associations, an effective approach to integration. The complete lack of a regional judicial body, which leaves dispute resolution to the domestic judicial and administrative systems of Member States, further highlights ASEAN's limited accountability structure.⁶⁵ Such features illustrate how ASEAN differs from comparable regional organisations that typically limit national sovereignty in favour of deeper institutional integration.

In conclusion, the normative dimension of the non-interference principle in Southeast Asia and ASEAN – framed within Jürgen Habermas's well-known distinction between normativity and factuality – can be seen as a reflection of traditionally conceived sovereignty, specifically

⁶⁴ Ginsburg, "The State of Sovereignty in Southeast Asia", 420.

⁶⁵ Huck, "Informal International Law-Making in the ASEAN: Consensus, Informality and Accountability", 137-138.

the Westphalian model associated with the modern state. In this context, it is particularly relevant to refer to the widely debated theory of world order differentiation, proposing three layers of state development, introduced by R. Cooper at the beginning of the 21st century:

First there are now states – often former colonies – where in some sense the state has almost ceased to exist a ‘premodern’ zone where the state has failed and a Hobbesian war of all against all is underway (countries such as Somalia and, until recently, Afghanistan). Second, there are the post imperial, postmodern states who no longer think of security primarily in terms of conquest. And thirdly, of course there remain the traditional ‘modern’ states who behave as states always have, following Machiavellian principles and *raison d’état* (one thinks of countries such as India, Pakistan and China).⁶⁶

In his renowned book *The Breaking of Nations*, he wrote:

The second part of the world is the modern. Here the classical state system remains intact. States retain the monopoly of force and may be prepared to use it against each other. If there is order in this part of the system, it is because there is a balance of power or because of the presence of hegemonic states which see an interest in maintaining the status quo (...). The modern world is for the most part orderly, but it remains full of risks (...). An important characteristic of the modern order (...) is the recognition of state sovereignty and the consequent separation of domestic and foreign affairs, with a prohibition on external interference in the former.⁶⁷

The modern state is a traditional nation-state that holds a monopoly on the legitimate use of force and possesses the capacity to exercise it in pursuit of its interests. It prioritises the protection of its national borders, physical resources, and core values, primarily through military means. While it engages in trade and the pursuit of economic prosperity, economic benefits, civil liberties, and cultural values are often subordinated to the overriding goal of security. Sovereignty remains a defining attribute of the state, taking the form of traditional Westphalian sovereignty.⁶⁸

66 Cooper, “The new liberal imperialism”; see also e.g.: Cooper, “The post-modern state and the world order, Demos”.

67 Cooper, “The Breaking of Nations: Order and Chaos in the Twenty-First Century”, 21-22.

68 Czaputowicz, *Suwerenność*, 325.

3.3. The Principle of Non-Intervention in ASEAN Practice

While the principle of non-intervention is firmly established in ASEAN's legal framework, its practical implementations has revealed both the resilience and the inherent limitations of the norm. On numerous occasions, ASEAN has maintained strict adherence to its foundational commitment to non-interference, even in the face of serious internal political crises among its member states. Events such as the Cambodian conflict in the 1990s, repeated military coups in Thailand, the protracted Rohingya crisis in Myanmar, and, most recently, the 2021 military coup in Myanmar, have all put ASEAN's non-intervention doctrine to the test, challenging both its normative strength and political adaptability. In response, ASEAN has generally favoured dialogue, quiet diplomacy, and consensus-building over direct condemnation or sanctions, reaffirming its prioritisation of sovereignty and domestic jurisdiction. At the same time, these cases have exposed the limits of the principle, sparking debates over whether ASEAN's evolving approaches - such as constructive engagement, flexible engagement, and the Five-Point Consensus, signal genuine normative change or merely represent strategic adjustments aimed at preserving organisational cohesion while upholding its longstanding tradition of non-interference. Several prominent conflicts in the region demonstrated a preference for diplomatic engagement over direct intervention.

The Case of Anwar Ibrahim

In 1998, Malaysian opposition leader Anwar Ibrahim was arrested, prosecuted, and incarcerated on charges widely perceived as politically motivated. Despite significant international criticism regarding human rights violations and the politicisation of the judiciary, ASEAN member states refrained from issuing any official condemnation or pursuing collective action, adhering firmly to the principle of non-intervention. The incident was treated strictly as a domestic matter of Malaysia, exemplifying ASEAN's longstanding commitment to respecting state sovereignty in politically sensitive internal affairs. However, it is worth noting that voices of dissent within the broader ASEAN community did emerge. The ASEAN Parliamentarians for Human Rights (APHR) – an independent group of legislators from across the region – repeatedly called for Anwar's immediate and unconditional release, emphasising that 'Anwar's conviction flew in the face of international legal standards and

seriously undermined the credibility of Malaysia's justice system.'⁶⁹ APCR argued that the case exemplified a broader pattern of shrinking civic space and intensified repression of government critics in Malaysia, warning of its implications for both Malaysia's democratic process and ASEAN's human rights credibility. It is worth recalling that APCR's position remained outside the formal institutional framework of ASEAN itself. The official ASEAN bodies maintained their silence, reflecting the ASEAN Way's strong emphasis on consensus, respect for sovereignty, and avoidance of interference even in matters implicating fundamental rights and democratic governance.

The Aceh Insurgency (Indonesia, 1999-2005)

The conflict in Aceh centred on separatist demands from the Free Aceh Movement (GAM), which sought independence from Indonesia. Years of violence resulted in extensive human rights abuses, displacement, and instability. Throughout the conflict, ASEAN maintained its stance of non-involvement, treating the situation as an internal matter of Indonesia and thus adhering to its long-standing principle of non-intervention. The conflict was ultimately resolved through a negotiated settlement, culminating in the Memorandum of Understanding (MoU) signed in August 2005 between the Indonesian government and GAM. The subsequent peace process was monitored not by ASEAN, but by the Aceh Monitoring Mission (AMM),⁷⁰ led by a European Union-appointed representative. ASEAN as a collective body did not play an official role in the monitoring mission. However, individual ASEAN member states – Thailand, Malaysia, Brunei, the Philippines, and Singapore – participated alongside monitors from the EU, Norway, and Switzerland. This arrangement highlights a nuanced application of ASEAN's non-intervention principle: while the organisation refrained from institutional involvement, individual member states contributed to the peace process without compromising ASEAN's collective stance.

69 Baguilat, APCR Board Member, <https://aseanmp.org/publications/post/asean-mps-call-for-release-of-malysias-anwar-ibrahim/> (27.04.2025).

70 Barron, Erman and Nugroho, *The Contested Corners of Asia: Subnational Conflict and International Development Assistance – The Case of Aceh, Indonesia*, 14.

The East Timor Crisis (1999)

Following a UN-sponsored independence referendum in East Timor in 1999, pro-Indonesian militia groups launched widespread violent attacks against civilians, resulting in a severe humanitarian crisis and ultimately leading to international intervention. Despite the gravity of the situation and the scale of the violence, ASEAN, of which Indonesia was a member, did not take any collective action or issue formal condemnation, adhering strictly to its principle of non-interference. However, as lawlessness increased and militia groups threatened to storm the UN compound in Dili, on 10 September 1999 the UN Secretary-General publicly urged the Indonesian Government to accept offers of assistance from several Governments – including Australia, New Zealand, the Philippines, and Malaysia – without further delay” He warned that if Indonesia refused, it could not escape responsibility ‘for what could amount, according to reports reaching us, to crimes against humanity.’⁷¹ Nevertheless, some ASEAN member states – Thailand, Malaysia, the Philippines, and Singapore – participated individually in the Australian-led International Force for East Timor (INTERFET) under UN mandate.⁷²

Initially, Indonesia did express unease and frustration about the prospect of international military intervention in East Timor,⁷³ viewing it as an internal matter. However, as violence escalated beyond what Indonesia could manage alone, mounting international pressure – including the UN Secretary-General’s warning and the adoption of UN Security Council Resolution 1264⁷⁴ authorising a multinational force – made external involvement unavoidable. When ASEAN member states joined INTERFET, their participation was treated as a series of sovereign national decisions rather than an ASEAN action, allowing the organisation as a whole to remain neutral and maintain its principle of non-interference. No formal negative repercussions emerged within ASEAN, which reinforced a familiar pattern: ASEAN’s institutional identity stayed consistent, while individual states demonstrated pragmatic flexibility in responding to severe humanitarian crises. As observed by Amitav Acharya:

71 <https://peacekeeping.un.org/mission/past/etimor/Untaetchrono.html> (26.04.2025).

72 See further: Dupont, “ASEAN’s Response to the East Timor Crisis”.

73 <https://reliefweb.int/report/timor-leste/indonesia-rejects-military-intervention-east-timor> (12.07.2025).

74 UN Security Council Resolution 1264.

The controversy surrounding the Thai call for ‘flexible engagement’, combined with the earlier debate in ASEAN about ‘constructive intervention’, and ASEAN’s inability to offer a timely and collective response to the crisis over East Timor’s separation from Indonesia in 1999, highlights the problem ASEAN faces. At the time of its founding, the key norms of ASEAN, including the doctrine of non-interference, were derived from the UN Charter and were compatible with the norms of other international institutions. Today, however, the international community has increasingly accepted a less stringent view of sovereignty even as ASEAN resists any such shift. This disjunction between ASEAN’s regional practice and the changing norms of sovereignty at the global level is a serious challenge to the organisation’s credibility and international standing.⁷⁵

The East Timor case continues to have relevance for ASEAN’s evolving identity. Following years of discussion and gradual integration, Timor-Leste is set to be granted full ASEAN membership in October 2025.⁷⁶

Mediation in the Philippines-MNLF Conflict (1993-1996)

One of the rare instances where ASEAN cautiously diverged from its strict non-intervention norm was Indonesia’s role in facilitating peace talks between the Government of the Republic of the Philippines and the Moro National Liberation Front (MNLF). The negotiations led to the signing of the 1996 Final Peace Agreement. While this process was led by Indonesia, it was deliberately framed as a bilateral initiative rather than a formal ASEAN intervention, allowing ASEAN as an organisation to preserve its non-interference doctrine while enabling quiet diplomatic engagement by individual member states. Following this, Malaysia assumed the role of mediator after 2001, this time negotiating between the Philippine government and the Moro Islamic Liberation Front (MILF), which led to the signing of the Framework Agreement on the Bangsamoro in 2012⁷⁷, and ultimately to the landmark

75 Acharya, *Constructing a Security Community in Southeast Asia: ASEAN and the Problem of Regional Order*, 206.

76 Timor-Leste to be granted full Asean membership in October, <https://globalnation.inquirer.net/279176/timor-leste-to-be-granted-full-asean-membership-in-october> (3.06.2025).

77 Muzaffar, “The Peace Agreement between the Philippine Government and the Moro Islamic Liberation Front: Significance and Challenges”, 20-24.

Comprehensive Agreement on the Bangsamoro in 2014.⁷⁸ Despite these significant developments, ASEAN as an institution remained formally absent throughout the peace processes: no official statements were issued by ASEAN regarding the conflict or its resolution, nor did the Philippines or Thailand request ASEAN's formal mediation or good offices.⁷⁹

The Southern Thailand Insurgency (Patani Conflict, Post-2001)

The Southern Thailand insurgency, rooted in the historical annexation of the Malay Patani Sultanate, represents one of Southeast Asia's longest-running internal conflicts. Although armed unrest in the region dates back to 1948, the conflict experienced significant escalation after 2001, evolving into a complex and violent insurgency driven by ethno-religious grievances, identity politics, and long-standing socio-economic marginalisation of the Malay Muslim minority in Thailand's deep south. In line with its established approach, ASEAN has neither issued official statements nor engaged in formal mediation regarding the conflict. No requests for ASEAN's involvement as mediator or provider of good offices have been made by Thailand or other member states.⁸⁰ The conflict continues to be treated as a domestic issue under Thailand's sovereign authority. As such, the Patani insurgency serves as a clear illustration of ASEAN's sustained commitment to the non-intervention principle, despite ongoing and escalating violence. At the same time, Thailand has actively pursued bilateral and multilateral cooperation outside ASEAN's institutional framework, particularly through global and

78 Esquerra and Burgonio, "Philippines, MILF Sign Landmark Peace Deal".

79 However, recent years have seen ASEAN begin to explore modest peace-building initiatives. Notably, the ASEAN Institute for Peace and Reconciliation (ASEAN-IPR) has emerged as a small, but symbolic, institutional step toward enhancing ASEAN's capacity for conflict resolution and mediation. The inaugural ASEAN-IPR Training Series on Peace Processes and Peace Building, held in February 2019 in Makati City, Philippines, brought together over 100 participants from all ten ASEAN member states, including government officials, academics, and peace practitioners. While still in its early stages, such initiatives suggest ASEAN's growing recognition of the need to develop institutional expertise in conflict management, albeit without abandoning its core principle of non-intervention (ASEAN-IPR 2019), ASEAN Institute for Peace and Reconciliation (ASEAN-IPR). Mainstreaming Peace and Reconciliation in ASEAN – ASEAN-IPR Training Series: Approaches in Peace Processes and Peace Building in Southeast Asia and the Role of Mediators, 1st Leg. Makati City, 21-22 February 2019.

80 Rupperecht, "Separatist conflicts in the ASEAN region: comparing Southern Thailand and Mindanao", 32-33; see further: Na Thalang, "Resolving the Conflict in Thailand's Southern Border Provinces: Contentions between Upholding State Authority and Human Rights within the ASEAN Context".

regional counter-terrorism initiatives⁸¹, however currently Thailand engages in broader security dialogues under the ASEAN Regional Forum (ARF)⁸². Also, in January 2018, Thailand joined five other Southeast Asian countries – the Philippines, Singapore, Brunei, Indonesia, and Malaysia – in launching the Our Eyes Initiative (OEI), a multilateral intelligence-sharing platform aimed at strengthening regional collaboration on radicalism, violent extremism, and terrorism.⁸³

Military Coups in Thailand (2006, 2014)

Thailand experienced military coups in 2006 and again in 2014, both of which ushered in extended periods of military rule and imposed significant restrictions on political freedoms and democratic governance. Despite widespread international concerns about Thailand's democratic backsliding, ASEAN member states remained silent, strictly adhering to the principle of non-intervention. Although in December 2013, ASEAN Heads of State and Government called on all concerned parties in Thailand to resolve the internal political situation through dialogue and consultation in a peaceful and democratic manner, the military coups themselves did not elicit any firm or coordinated reaction from ASEAN comparable, for instance, to the response of the European Union. However, certain member states cautiously expressed concern while carefully respecting ASEAN's non-interference framework. As Indonesia's Foreign Minister Marty Natalegawa stated:

Indonesia was following with deep and profound concern the developments in Thailand. Without intending to interfere in the internal affairs of Thailand, as part of the ASEAN Community, in particular the ASEAN Political and Security Community, and in accordance with the Charter of ASEAN which emphasises adherence to democratic principles and constitutional government,

81 Thailand entered into counter-terrorism cooperation with Australia in 2011, and a formal counterterrorism treaty was developed in response to security threats becoming publicly visible by 2016. Thailand further participated in an international counter-terrorism conference in Bali in August 2016, which focused on cross-border insurgency movements.

82 Tang, "A Case Study of Separatist Movement in Thailand: South Thailand Insurgency", 32-34.

83 See further: Usuluddin, Pujo, and Barik, "A Common Threat Analysis of Intergovernmental Policy Convergence in the Framework of Regional Integration: A Case Study of the ASEAN Strategic Partnership 'Our Eyes'".

the developments in Thailand merit Indonesia's and ASEAN's attention (...) Indonesia would communicate with Myanmar as chair of ASEAN to mobilise ASEAN's contribution to establishing conditions conducive to the restoration of democratic government in Thailand.⁸⁴

Nevertheless, ASEAN refrained from any institutional action, and the post-coup government in Thailand continued to be fully recognised by fellow ASEAN members. For example, Vietnam formally recognised the military-led government, as reflected in the continuation of state visits and official engagements. As Junsu Seo observes

There is no agreed declaration or stipulated resolution on the principle prohibiting the use of force against regime change, and the organisation lacks the legitimacy to intervene in member states when coups occur. This is why citizens who were in mass protests asked for international support outside Southeast Asia.⁸⁵

Moreover, ASEAN has not developed an international order for democratic regime change, and this institutional gap is expected to persist. The region's political culture remains heavily shaped by a history of frequent coups, military influence in domestic politics, the personalisation of political leadership, and weak institutionalisation of democratic norms. In this context, the occurrence of coups in Southeast Asia remains a relatively normalised political phenomenon, one that ASEAN's non-intervention doctrine implicitly tolerates by design.

The Situation in Myanmar

In 1989, a military dictatorship took over power in Myanmar. The junta refused to convene parliament and hand over power to the National League for Democracy (NLD), led by Aung San Suu Kyi, despite the NLD's landslide victory in the national elections in 1990. Aung San Suu Kyi was under house arrest from 1989 to 1995, and then again from 2000 to 2002 and 2003 to 2007. Unlike Cambodia, Myanmar was admitted to ASEAN in 1997 despite strong objections from the US and the EU motivated by human rights violations

84 Ririhena, "RI Calls for Restoration of Democracy in Thailand".

85 Seo, "Erosion of Democracy in Thailand and Myanmar", 56.

and the lack of democracy in the former Burma. After all, with its abundant natural resources, Myanmar was a potential engine of economic growth for ASEAN. Second, ASEAN did not want to delay Myanmar's accession to the association, given the country's potential rapprochement with China. In this context, the concept of constructive engagement emerged in ASEAN, with the expectation that economic development would accelerate the process of political liberalisation in Myanmar. As commentators have noted, the concept of constructive engagement proved ineffective when, in 2003, the military junta in Myanmar placed Aung San Suu Kyi under house arrest for the third time. As a result, Western powers began to exert increasing pressure on the organisation to force greater ASEAN involvement in former Burma. The European Union boycotted all meetings and cooperation projects with ASEAN in which Myanmar participated. The United States also suspended free trade talks with ASEAN to signal its disapproval of Myanmar's political behaviour. In response, ASEAN ministers jointly called for the first time on Myanmar to release members of Aung San Suu Kyi's party. In 2004, in the absence of progress in democratising Myanmar, the United States and some EU members, led by the United Kingdom, threatened to boycott the 2006 ASEAN summit led by Myanmar unless the junta released Suu Kyi from house arrest. Influential ASEAN member states such as Malaysia, Singapore and Indonesia also pressured Myanmar to resign from its rotating chairmanship of the association. Arguing that Myanmar's internal affairs had regional implications, ASEAN interfered in Myanmar's domestic political process in 2006, sending a delegation to Myanmar led by the Malaysian foreign minister to investigate the country's progress on human rights. In addition, ASEAN publicly called on the Myanmar government to accelerate political reforms and demanded tangible results, the strongest statement ever made by ASEAN on the domestic politics of one of its member states. When Myanmar's military government suppressed a protest by Buddhist monks, ASEAN foreign ministers openly expressed their dismay and urged the junta to exercise restraint. Unfortunately, after five years of rule by pro-democracy forces, on 1 February 2021, the military junta overthrew the democratically elected government of the National League for Democracy (NLD), and its leader, long-time oppositionist and Nobel Peace Prize laureate Aung San Suu Kyi, was arrested. The coup interrupted the slow process of democratisation in a country that had been under military dictatorship for decades. Myanmar's human rights crisis has become a global issue. On 24 April 2021, at the ASEAN Secretariat in Jakarta, ASEAN member state leaders proposed that the Myanmar junta implement the following five-point consensus: (1) an immediate cessation

of violence and utmost restraint by all parties; (2) constructive dialogue among all parties to seek a peaceful resolution in the interests of the people; (3) the appointment of a special envoy of the ASEAN Chair, assisted by the ASEAN Secretary-General, to mediate the dialogue process; (4) the provision of humanitarian assistance through the AHA Centre; and (5) the special envoy's visit to Myanmar to meet with all relevant stakeholders.⁸⁶ On 9 October 2024, ASEAN leaders gathered in Vientiane, Lao PDR, for a critical review of the implementation of the Five-Point Consensus (5PC) on Myanmar. This special session reflected ASEAN's ongoing struggle to balance its core principle of non-intervention with increasing regional and international pressure to address Myanmar's prolonged political crisis following the 2021 military coup. ASEAN leaders expressed 'deep concern over the escalation of conflicts and humanitarian situation' in Myanmar, denounced continuing violence against civilians and public facilities, and urged "immediate cessation" of hostilities. However, ASEAN reaffirmed its fundamental position that any solution to the crisis must be Myanmar-owned and -led,⁸⁷ fully consistent with ASEAN's doctrine of sovereignty and non-interference. Despite acknowledging substantially inadequate progress in implementing the Five-Point Consensus, ASEAN decided to retain the 5PC as its main reference point, reaffirming its diplomatic rather than coercive approach.

4. Conclusion

As a regional organisation, ASEAN has consistently upheld the principles of national sovereignty and non-intervention, reflecting the shared interest of its member states in managing their own political and internal security challenges without external interference. This perspective has been formally codified in the international legal instruments adopted by ASEAN. As demonstrated by both theoretical considerations and empirical examples discussed above, this principle continues to serve as the foundation of the sub-regional organisation of Southeast Asian states. ASEAN, it must be recalled, was initially established primarily to ensure regional security, particularly by enhancing the region's resilience to external interference. This objective has

86 See for example: Tene, *ASEAN Five-Point Consensus on Myanmar*.

87 Association of Southeast Asian Nations (ASEAN). ASEAN Leaders' Review and Decision on the Implementation of the Five-Point Consensus. Vientiane, Lao PDR, 9 October 2024. https://asean.org/wp-content/uploads/2024/10/4-Final_Review-and-Decision-of-the-ASEAN-LEADERS-on-the-5PC-2024.pdf.

been pursued through the development of national resilience, understood as essential to maintaining both domestic and regional stability. National resilience, defined as the security of the nation derived from the strength of national development, encompasses various dimensions of nation-building. By shielding member states from external interference and pressure, ASEAN has enabled them to focus on nation-building efforts, particularly in achieving economic growth and development. In this framework, regional resilience is conceived as the aggregate result of each member state attaining its own national resilience.

The adoption of the ASEAN Charter and the subsequent path toward the establishment of the ASEAN Community, alongside the broader process of regional integration – a development closely monitored by the governments of Asian states – raise the open question of whether the principle of non-intervention might undergo possible modifications within ASEAN. As noted in the Report of the Eminent Persons Group on the ASEAN Charter:

ASEAN's progress in building the ASEAN Community may be attributed to the spirit of cooperation and the time-tested principles of consultation and consensus, with due consideration to the diversity of ASEAN Member States. But to accelerate regional integration, ASEAN would need to improve on the "ASEAN Way", although it has worked well in the past. Recent events such as the Asian Financial Crisis, the SARS epidemic and the Asian tsunami disaster of 2004 remind ASEAN Member States that their well-being and future are now more intertwined. This will require ASEAN Member States to calibrate their traditional approach of non-interference in areas where the common interest dictates closer cooperation. More effective decision-making processes are also necessary to deal with less sensitive issues as well as to respond to urgent crises.⁸⁸

Thus, is ASEAN's principle of non-intervention gradually evolving into a more flexible norm, or does it remain fundamentally resistant to deeper regional accountability? Since the 1990s, ASEAN has slowly and cautiously begun to experiment with some adjustments to its non-intervention principle. One of the first was constructive engagement, which was originally applied toward Myanmar during the 1990s. Later, Thailand proposed the idea

88 ASEAN Secretariat, Report of the Eminent Persons Group on the ASEAN Charter (Jakarta: ASEAN Secretariat, 2006), 18.

of flexible engagement in the late 1990s, suggesting a slightly more open approach to sensitive issues. ASEAN also explored enhanced interaction, which allowed for more proactive, though still consensual, involvement among member states. The most visible institutional developments have occurred in response to Myanmar's 2021 coup. ASEAN adopted the Five-Point Consensus, selectively excluded Myanmar's junta from certain high-level meetings, and provided humanitarian assistance through the ASEAN Coordinating Centre for Humanitarian Assistance on Disaster Management (AHA Centre).⁸⁹ However, despite these steps, ASEAN has not fundamentally moved away from its core legal principle of non-intervention. Thus far, these above cited mechanisms have only partially softened the non-intervention doctrine without fundamentally altering it. Flexible engagement and enhanced interaction have allowed for more open discussions and the application of informal pressure, particularly in humanitarian crises such as those in Aceh and Myanmar after 2021. However, these remain non-binding, consultative approaches that lack any form of legal enforcement. ASEAN's institutional structure continues to be characterised by the absence of valid coercive instruments – such as sanctions, suspensions, or binding decisions – which are commonly found in more legalised regional organisations like the European Union. As a result, while ASEAN's response to crises like Myanmar demonstrates limited institutional innovation, it remains fundamentally rooted in consensus, non-intrusiveness, and a state-centred approach.

An interesting question is whether ASEAN's non-interference principle can change in the future and which ASEAN bodies could help shape that change. With the ASEAN Charter and the plans for an integrated ASEAN Community⁹⁰, ASEAN has opened a new chapter in its institutional development, balancing tradition with innovation to remain resilient and relevant. The Charter now serves as the legal and institutional foundation for deepening and widening ASEAN integration across its three pillars: the Political-Security Community, Economic Community, and Socio-Cultural

89 At the 19th ASEAN Summit on 17 November 2011, the ASEAN Leaders officially launched the ASEAN Coordinating Centre for Humanitarian Assistance on Disaster Management, commonly known as the AHA Centre. Its primary role is to facilitate cooperation and coordination among ASEAN Member States, as well as with relevant United Nations bodies and international organisations, in promoting regional collaboration in disaster management.

90 ASEAN Community is envisioned as a community with enhanced capacity and capabilities to both respond effectively to challenges and to seize opportunities, see: <https://asean.org/our-communities> (Accessed 12.07.2025), see also: Kuala Lumpur Declaration on the 10th Anniversary of the Establishment of the ASEAN Community, 26 May 2025.

Community. These pillars provide the general framework within which different ASEAN bodies can potentially engage with questions related to the principle of non-interference. First, the ASEAN Summit, composed of the Heads of State or Government, is the highest policy-making body. While its primary function is to set broad directions and priorities, it can provide informal political impetus for rethinking or contextualising non-interference, particularly through consensus statements and Leaders' Retreats⁹¹. Second, the ASEAN Ministerial Meetings (AMM), especially the annual ASEAN Foreign Ministers' Meeting, also have scope to influence the application of non-interference. Notably, in the aftermath of the Asian Financial Crisis and regional conflicts, AMM sessions began to serve as forums for discussing constructive intervention and flexible engagement proposals⁹², marking the start of a more pragmatic discourse on how to handle cross-border impacts of domestic crises. Third, the ASEAN Secretariat, while primarily administrative, gained greater institutional authority with the ASEAN Charter of 2007. The Secretariat and its Secretary-General can now facilitate coordination, monitor implementation of agreements, and issue reports. Although the Secretariat does not have independent political power to override the non-interference principle, its analytical role and ability to propose agenda items⁹³ subtly shape regional discourse on sensitive issues, such as transboundary haze or humanitarian crises. Fourth, the ASEAN Intergovernmental Commission on Human Rights (AICHR),⁹⁴ established in 2009, was a notable development that added a dedicated body with a human rights mandate, despite its limited enforcement powers. Inaugurated by ASEAN Leaders on 23 October 2009 at the 15th ASEAN Summit in Cha-Am Hua Hin, Thailand, AICHR symbolises ASEAN's collective commitment, at least in principle, to respect and protect human rights and fundamental freedoms. This commitment was further reinforced by the adoption of the ASEAN Human

91 See for example: 46th ASEAN Summit (Retreat) - 26 May 2025, <https://myasean2025.my/46th-asean-summit-retreat-26-may-2025/>.

92 In 1998, Thailand's Prime Minister Dr. Surin Pitsuwan proposed flexible engagement to allow member states to discuss domestic issues with cross-border effects — an idea that was not met with applause but nonetheless marked the start of ongoing debates about the meaning of non-interference, Pitsuwan, S. (1998) Opening statement at the 31st ASEAN Ministerial Meeting, Manila, 24 July.

93 For example, the idea of rethinking ASEAN's principle of non-interference was signalled by the ASEAN Secretariat with the haze of regional financial crisis, see: Severino, R. Jr (1998) Secretary-General of ASEAN at the 8th Southeast Asia Forum, Kuala Lumpur, 15 March, via Internet.

94 <https://aichr.org/about-aichr-2/> (Accessed 12.07.2025)

Rights Declaration (AHRD)⁹⁵ in November 2012 and the Phnom Penh Statement on its adoption,⁹⁶ which together demonstrate an incremental opening towards regional human rights cooperation. The AICHR is designed as an integral part of ASEAN's organisational structure and serves as the overarching institution responsible for the promotion and protection of human rights within ASEAN. However, its practical influence remains limited because it is fundamentally an intergovernmental and consultative body that relies on consensus and state representation.⁹⁷ Finally, specialised bodies under the Socio-Cultural Community pillar, such as the ASEAN Committee on Disaster Management (ACDM)⁹⁸ and regional bodies/committees on transnational issues,⁹⁹ play an indirect role. They offer functional avenues¹⁰⁰ for enhanced interaction on issues like environmental crises, public health, or migration, areas where rigid non-interference can undermine regional resilience. Thus, while ASEAN remains, at its core, an intergovernmental organisation, where ultimate decision-making authority lies firmly with the member states, certain bodies have emerged that can, at least in theory, influence the interpretation and operationalisation of non-interference.

This raises another question: can international relations theory offer deeper explanations for ASEAN's enduring attachment to the principle of non-intervention? In the field of international relations, scholars have sought to explain the meaning and function of the principle of non-interference within ASEAN through the lens of various theoretical approaches. Among these, two schools of thought – realism and constructivism – deserve particular attention.¹⁰¹

95 <https://asean.org/asean-human-rights-declaration/> (Accessed 12.07.2025).

96 <https://asean.org/phnom-penh-statement-on-the-adoption-of-the-asean-human-rights-declaration-ahrd/> (Accessed 12.07.2025).

97 According to its Terms of Reference, the AICHR shall be guided by the principle of non-interference in the internal affairs of ASEAN Member States (2.1.b), and each Member State appoints its own Representative (5.2), who remains accountable to and may be replaced at the discretion of the appointing government (5.6). <https://aichr.org/wp-content/uploads/2020/02/TOR-of-AICHR.pdf> (Accessed 12.07.2025).

98 <https://mneawp.asean.org/asean-committee-on-disaster> (Accessed 12.07.2025).

99 <https://asean.org/major-sectoral-bodies-committees-2/> (Accessed 12.07.2025).

100 The idea of enhanced interaction through practical cooperation echoes the concept of functional integration in European Union theory, where technical or sectoral collaboration is seen as a pathway to deeper regional integration (P.U.).

101 Compare the excellent theoretical study: Lengeling, ““(Non-)Intervention Is Always for Someone and for Some Purpose’: A Critical Theory Analysis on the Principle of Non-Interference within ASEAN”.

With a degree of justified simplification, realism can be described as an approach that focuses on the most essential features of international politics, regardless of whether these features align with normative expectations or preferences. Realism emphasises a sober understanding of the world as it is.¹⁰² In this framework, states are the primary actors in international relations, treated as unitary and homogeneous entities, where governments are seen as the sole representatives of state interests. The internal structure or political system of a state is considered irrelevant to its foreign policy behaviour; states are treated as black boxes.¹⁰³ From a realist perspective, states act rationally, evaluating potential gains and losses and utilising available resources to pursue their interests. Their foreign policy decisions are guided by calculations of power, security, and national survival, rather than by internal political considerations or normative commitments. Therefore, from a realist perspective, ASEAN's persistent adherence to the principle of non-intervention can be interpreted as a rational strategy of self-preservation by its ruling elites. In realist theory, states prioritise survival, sovereignty, and the maintenance of domestic political stability. Within ASEAN, these concerns are amplified by the political structures of its member states, many of which are governed by authoritarian, semi-authoritarian, or hybrid regimes. ASEAN brings together a wide range of political systems. It includes monarchies like Brunei, socialist states such as Vietnam and Laos, electoral authoritarian regimes like Cambodia, hybrid democracies such as Malaysia, Thailand, and at times Indonesia, as well as fragile transitional states like Myanmar. This extreme diversity leaves little shared ground when it comes to sensitive issues of domestic governance. In this context, the principle of non-intervention serves as the lowest common denominator, allowing these different regimes to coexist within ASEAN without challenging each other's legitimacy. As a result, political diversity strengthens the non-intervention norm, making it both a practical solution and a source of regional stability. As observed in the literature, general attitudes toward national sovereignty and foreign intervention across East Asia can be broadly categorised into three groups: traditional, non-traditional, and intermediate positions. Within the traditional group, states such as Myanmar, Vietnam, and Malaysia continue to reject evolving notions of limited sovereignty. These countries firmly oppose international intervention and strongly uphold the principle

102 Bell, *Under an Empty Sky: Realism and Political Theory*.

103 Czaputowicz, *Teorie stosunków międzynarodowych*, 49.

of non-interference in the internal affairs of sovereign states. They routinely dismiss external criticism regarding domestic human rights conditions, religious policies, and internal governance, adhering to a classical interpretation of sovereignty as absolute and indivisible. By contrast, a second group, consisting of Thailand, the Philippines, Singapore, Indonesia, and Brunei, demonstrates an emerging openness within ASEAN to certain forms of external engagement. Although these states were previously strong defenders of absolute sovereignty, they have gradually become more receptive to selective forms of international involvement, particularly in areas such as humanitarian assistance, regional conflict management, and international cooperation on counterterrorism and transnational crime. At any rate, for the majority of ASEAN regimes, non-intervention operates as a form of political insurance, shielding them from external actors whether foreign powers, international organisations, or even fellow ASEAN members, who might otherwise exert normative or legal pressure concerning democratisation, human rights violations, or political liberalisation. In this context, sovereignty becomes synonymous with regime survival and shared interest produces what some scholars have described as “authoritarian solidarity” also in regional international organisations.¹⁰⁴ Although ASEAN comprises states with varying degrees of democratic governance, even its more democratic members have a vested interest in preserving internal stability, preventing political contagion, and avoiding precedents that might invite future interventions in their own domestic affairs. Thus, non-intervention is not merely a legal norm, but a strategic pact of mutual restraint, allowing each state to pursue its domestic political agenda free from external scrutiny or interference. The realist logic further explains ASEAN’s collective silence or muted responses in the face of events such as military coups (e.g., Thailand in 2006 and 2014; Myanmar in 2021), the suppression of opposition parties (e.g., the dissolution of Cambodia’s CNRP, not addressed in this paper due to space limitations), and ethnic or religious conflicts (e.g., the Rohingya crisis and the Patani insurgency). Intervening in such situations risks destabilising bilateral relations and could establish dangerous precedents that might eventually threaten the security of incumbent leaderships across member states. As a result, ASEAN leaders consistently prioritise short-term stability, regime preservation, and regional cohesion over normative commitments

104 See further: Cottiero and Haggard, *The Rise of Authoritarian Regional International Organizations*; Jones, *ASEAN, Sovereignty and Intervention in Southeast Asia*.

to democratisation, political liberalisation, or human rights protection. In this sense, ASEAN's non-intervention doctrine reflects a deeply embedded *realpolitik* consensus: the security of each national regime depends upon the collective respect for the inviolability of domestic political control among its peers. Non-intervention functions both as a defensive shield against external pressures and as a stabilising mechanism for preserving the political status quo and the existing regional order.

Constructivism introduces into international relations the idea that reality is socially constructed. It focuses on how state identities are formed, highlighting the role of constitutive norms, the influence of ideational factors, and the potential for transformation within international relations.¹⁰⁵ For constructivists, identity serves essential social functions, as the identity of a state emerges from historical processes: coherent sets of beliefs, principles, and norms that shape and define it. States are socialised through the prevailing norms of the international community. However, these norms tend to be weaker at the international level than within domestic societies, allowing states greater autonomy within the normative framework of the international system. This normative structure can be divided into two layers:¹⁰⁶ a deep structure, composed of the underlying norms themselves (such as the principle of non-intervention in internal affairs), and a surface structure, which consists of international organisations, in this case ASEAN. Unlike realists, constructivists view international politics as shaped primarily by human actors rather than by states alone. In this perspective, actors' interests and behaviours are influenced by their self-perceptions and how they view others. As a result, values and ideas play a crucial role in shaping political relationships and outcomes. From this theoretical standpoint, ASEAN's enduring commitment to non-intervention is seen as the product of a historically developed, shared understanding of norms and values within the region. ASEAN's identity, in this view, has been shaped by common historical experiences of colonial rule, struggles for sovereignty, and resistance to external interference. At the heart of ASEAN's regional identity lies the principle of non-intervention, which serves to consolidate trust among its politically diverse member states, reinforces the culture of consensus, and maintains regional stability by respecting internal political differences.

105 Czaputowicz, *Teorie stosunków międzynarodowych*, 235-236.

106 Ibid., 248-249.

Finally, is the adherence to the principle of non-intervention a manifestation of ideologically oriented regional international law? It appears that ASEAN's non-intervention doctrine represents a localised adaptation of international law – a distinctly regionalised form of general international law – shaped by several key factors: postcolonial sensitivities regarding sovereignty; shared concerns over potential external manipulation; a prioritisation of state survival over democratic governance; cultural norms emphasising consensus and harmony (the so-called ASEAN Way); and a historical aversion to foreign domination. One may even ask whether ASEAN's version of regional international law reflects a deeply internalised legal ideology, firmly rooted in Southeast Asia's unique historical, political, and cultural context.

In his 2016 lecture on “Cultural Element in International Law”, as part of the prestigious Melland Schill Lecture Series at the University of Manchester, Judge Xue Hanqin stated:

It is true that as one legal system, international law should apply in the same way to all States. That does not mean, however, States would take the same positions on all international law issues, or they would adopt the same attitude towards the legal order (...) States' positions on international law are affected by various factors that go deep into international relations, well beyond the body of law. For any State, its cultural tradition and environment that often provides the social context for its legal system, likewise, influences its decisions on international legal issues.¹⁰⁷

In regional legal traditions and values – especially in complex and diverse regions like Southeast Asia – deeply rooted cultural norms play a pivotal role in shaping how legal systems interpret and engage with foundational concepts such as sovereignty and non-intervention.

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¹⁰⁷ <https://www.library.manchester.ac.uk/media/services/library/usingthelibrary/servicesweprovide/digitisation/Judge-Xue-speaker-notes.pdf> Accessed 22 May 2025.

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