Toward Responsible Sovereignty: The Case for Intervention

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The central questions that persistently nag at the Association of Southeast Asian Nations (ASEAN) involve its relevance. How relevant is the Association in dealing with contemporary problems in its region? Can ASEAN address the global trend toward democracy? Can its members cooperate to solve emerging transnational problems, ranging from environmental pollution to financial crises? Is the “ASEAN Way” conducive to specific policies that significantly improve the lives of Southeast Asians? These questions—articulated at conferences, in policy papers, and in the popular media—continue to swirl around ASEAN.

At one level the question of relevance is unfair. Since its founding in 1967, ASEAN has proven its value by creating a stable and peaceful region. Since 1967, no two member states have waged war against each other. This is not a feat to be scoffed at. In the late 1960s, ethnic, Communist, and interstate tensions abounded in Southeast Asia, as they did in other parts of the developing world, such as the Middle East and Africa. ASEAN has made huge strides in establishing a zone of peace—or a security community—in its region.

At another level, the question of relevance will simply not go away. There are too many issues that ASEAN has simply failed to address. These include transnational problems and questions of human rights and democracy. Most vexing of all is the dilemma over what, if anything, to do about the dictatorship in Myanmar (or Burma), an ASEAN member. The Association has been unable to respond adequately to this issue, swaying back and forth between upholding the principle of noninterference and intermittently seeking some form of change through private dialogue. Until this problem is solved, ASEAN will be unable to shed the perception that it is an ineffective organization.

Two related norms that define ASEAN hold the Association back in dealing productively with contemporary Southeast Asian problems: first, the principle of sovereignty and noninterference, and second, the ASEAN Way of group consensus, discreet dialogue, and informal procedure. The principle of sovereignty, including its corollary norm, noninterference, prevents ASEAN from criticizing despotic behavior by one of its members. Although this principle, by proscribing violence across borders, undergirded the formation...
of a security community, ASEAN’s resulting deference to member sovereignty has stunted its ability to advance democratic values. ASEAN’s member states have defended noninterference precisely because most of them are illiberal regimes.

The ASEAN Way has been instrumental in fostering a community by defining distinct norms of interaction. These norms of interaction are based on the cultural values of Southeast Asian societies, thereby strengthening a sense of “we”-ness. This in turn has solidified the region’s sense of security. But the ASEAN Way reduces ASEAN policy to its least common denominator. Instead of being proactive, ASEAN defers to a consensual view, ensuring that no member is unhappy with its decision. The ASEAN Way therefore makes regional cooperation and policy implementation a singularly slow affair.

Noninterference and the ASEAN Way are linked in reinforcing ASEAN’s tendency to act slowly or not at all. The norm of noninterference prevents ASEAN from tackling its members’ internal problems, while the ASEAN Way dilutes policy through informal procedures and consensual decision-making. In this light, it is not surprising that ASEAN is often seen as an organization devoid of dynamism.

If ASEAN is to shed its image as an obsolescent entity, it must radically shift gears. I will argue in this chapter that the real test for ASEAN lies in its ability to rethink its cardinal principle of sovereignty and noninterference. I will focus mainly on noninterference, rather than on the ASEAN Way, because the norm of noninterference represents the more serious obstacle to ASEAN’s ability to address contemporary problems. Decisiveness is crucial, and for that the ASEAN Way must be reconceived. But ultimately the real issue is less a matter of internal procedure than whether the Association will or will not actually intervene to address a problem, whether it has to do with democracy or something else.

Even Ali Alatas, formerly a foreign minister of Indonesia and a strong proponent of sovereignty, has commented that noninterference has to be relaxed if ASEAN is to remain relevant: “Respect for sovereignty will remain a basic principle for ASEAN, but increasingly we realize that we have to be flexible, that we have to be non-doctrinaire in some of these things. We realize that we have to reinvent ourselves in order to remain relevant, in order to remain effective.”

This chapter begins by reviewing the origins of ASEAN and the importance of the norm of noninterference in shaping the Association. The second and third sections focus on the debate over noninterference in the case of Myanmar, including the saga of its accession to ASEAN and the Association’s failure to effect political reform in its new member. In a broader context, the chapter then examines how the relationship between sovereignty and interference has been reconceptualized in global politics. This fourth section shows that the balance in the post-Cold War period has gradually shifted toward a more qualified form of sovereignty, in which there is greater room for some degree of interference. In the conclusion, I make the case for finally dropping the principle of noninterference from ASEAN’s modus operandi.

The Origins of ASEAN

Sovereignty acted as the center of gravity in postcolonial Southeast Asia because the region had just emerged from centuries of foreign domination. Its states were still trying to establish their legitimacy in the international arena. One of their fundamental concerns was the need to secure their borders among unfriendly neighbors. Given this, sovereignty must clearly guide these states’ behavior, especially in international relations; without sovereignty, development would have been in constant jeopardy. As Nikolas Busse has written, “The normative ideal of sovereignty became the standard prescription for almost every political disease in the region and the cornerstone of ASEAN’s attempts at creating a regional order.”

Since the 1967 Bangkok Declaration that launched the Association, ASEAN’s key treaties have all emphasized the importance of sovereignty and noninterference. The Bangkok Declaration affirmed that “the countries of Southeast Asia ... are determined to ensure their stability and security from external interference in any form or manifestation.” The 1971 Zone of Peace, Freedom and Neutrality (ZOPFAN) Declaration acknowledged the right of every country “to lead its national existence free from outside interference in its internal affairs as this interference will adversely affect its freedom, independence, and integrity.” The first three clauses of Article 2 of the Treaty of Amity and Cooperation (1976) are all concerned with sovereignty and noninterference. In theory and in practice, ASEAN has relentlessly underscored the belief that stability and progress in the region can be built only upon the legitimacy of state boundaries.

The noninterference policy was also crucial to ASEAN from the beginning. Although the norm of noninterference was not fully adhered to, it set some broad guidelines for patterns of interaction within the organization. The norm has had three important goals: preventing criticism of the domestic politics of one’s neighbors, and the type of regime such politics might imply; denying support or sanctuary to opposition or rebel groups seeking to overthrow an incumbent

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4 Hence the adjective in ASEAN’s “illiberal peace.” Noninterference has ensured the peace, but also the persistence of illiberal rule. This idea is developed in Erik Martinez Kuhonta, “Walking a Tightrope: Democracy versus Sovereignty in ASEAN’s Illiberal Peace,” Pacific Review 19, no. 3 (2006), 337–58.

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7 These documents are available at <http://www.aseansec.org/145.htm>.
government; and providing support to member states in their struggles against destabilizing forces.\(^4\)

Southeast Asia in the early-to-mid 1960s was in dire need of an overarching mechanism that could stabilize the region. Tensions were high. Indonesia was in the midst of waging its *Konfrontasi* campaign against the formation of a Malaysia Federation incorporating Sabah and Sarawak on the north coast of the mainly Indonesian island of Borneo. The Philippines and Malaysia were in a long-running dispute over control of Sabah. Thailand and Malaysia had boundary problems related to ethnic and communist insurgencies, while Singapore had just been expelled from Malaysia and remained deeply insecure in a sea of Malay countries. All of these tensions could have led to war, and small-scale skirmishes did occur in the name of *Konfrontasi*.

Malaysian Foreign Minister Ghazali Shafie would later describe ASEAN as “a development out of the pains of *Konfrontasi*.”\(^5\) ASEAN’s immediate task was to solidify the reconciliation process between Malaysia and Indonesia. After the 1965 coup in Jakarta that brought Suharto to power, *Konfrontasi* was ended. In order to institutionalize the peace process, Suharto initiated confidence-building gestures by organizing joint controls and liaison teams for communications in Borneo. The Malaysian and Indonesian governments worked together to root out Communist networks and weaken indigenous groups that might seek to resist the Malaysian Federation. The Indonesian government then recognized the first local elections in Borneo, thereby confirming its acceptance of Malaysian sovereignty over Sabah and Sarawak. When Malaysia later faced the worst moment in its history—the riots of 13 May 1969—Indonesia refrained from any criticism of its neighboring government’s actions. Normal relations were fully restored not long after, when President Suharto visited Malaysia in March 1970.\(^6\)

The dispute between Malaysia and the Philippines over control of Sabah was another major irritant that led to significant conflict in the region. Under President Ferdinand Marcos, the Philippines continued to bring up the country’s right of sovereignty over Sabah. Tensions between the two countries rose to a fever pitch when news spread in March 1968 that the Philippines was training military contingents on Corregidor Island for an assault on Sabah.

Although the first mechanism for resolving the Corregidor affair arose through the United Nations, eventually a cooling-off period was initiated in August 1968 at the 2nd ASEAN Ministerial Meeting (AMM), in Jakarta—the annual gathering of ASEAN foreign ministers. Despite persisting tensions, eventually the two countries were able to moderate their relations. President Marcos was never willing to fully renounce his country’s claim to Sabah, but by joining ASEAN and accepting its norms of sovereignty and noninterference, Malaysia and the Philippines had become part of a structure that could indirectly address, if not solve, the claim over Sabah.

Thailand and Malaysia had similarly tense relations. The Malayan Communist Party sought refuge in southern Thailand, while the Thai government had to deal with an ethnic insurgency that threatened its control over the same area. Each side needed the other’s cooperation to address their respective problems. Although accusations were rife—the two countries accused each other of supporting the other’s nemesis, or not doing enough to weaken the insurgents—Malaysia and Thailand agreed to joint border patrols and intelligence-sharing.

Singapore’s expulsion from Malaysia in 1965 was a traumatic experience that underscored the mainly ethnic-Chinese city-state’s isolation deep in the heart of the Malay archipelago. Tensions flared in March 1968 when Singapore sought to assert its sovereignty by announcing that it would repatriate 45,000 Malaysian workers who had been left unemployed due to the closure of British military bases. Malaysian authorities responded by threatening to expel 60,000 Singaporeans from Malaysia. A few months later, in October, Singapore enraged Jakarta by executing Indonesian marines who had been captured during *Konfrontasi*. Each of these incidents could have spiraled into interstate violence. Instead, ultimately, each side restrained itself.

In 1986, a visit to Singapore by Israeli President Chaim Herzog once again sparked hostility between the city-state and majority-Muslim Malaysia. Significantly, however, on this occasion Malaysia’s then-prime minister Mahathir bin Mohamad did not publicly challenge Singapore, and went so far as to restrain public protest after three thousand people joined an anti-Singapore rally in Johor Bahru, a Malaysian city adjacent to Singapore. Clearly, since the 1960s, ASEAN had matured and learned how to deal with heated intramental disputes.

“The lesson learned was that Singapore must compromise its sovereignty to placate Muslim sensitivities,” wrote one analyst, “but that Singapore, for its own well-being, must not ignore the effects of its policies on neighboring societies.”\(^7\)

The central point to infer from these conflicts is that ASEAN has made significant progress in dealing with interstate relations. How has this occurred?

In Southeast Asia, prior to ASEAN’s establishment, there were neither guiding principles nor means of solving such disputes. ASEAN provided the framework for easing tensions through its style of diplomacy—informal, discreet, and nonconfrontational. This approach is firmly grounded in respect for each member’s sovereignty. Sukarno showed no respect for Malaysia’s borders during *Konfrontasi*. Marcos also challenged Malaysia’s territorial integrity, but in both instances—the most severe of their kind in ASEAN’s history—the likely aggressors eventually moderated their position and accepted their neighbor’s

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7 Antolik, *ASEAN and the Diplomacy of Accommodation*, 43.
sovereign rights. Years later a foreign minister of Singapore looked back on that period and concluded that “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.”

As I have noted, since Konfrontasi no war has been waged among members of the Association. This is a remarkable achievement given the region’s turbulent history. War is no longer seen as a means of solving disputes in the region, to the point that some analysts have conceptualized ASEAN as a “nascent security community.” Yet despite such progress, a question still bedevils ASEAN: Beyond resolving interstate conflicts in a peaceful manner, what else has it accomplished? Has its past success in solving regional disputes through the norms of sovereignty and noninterference prevented it from making progress in other areas? Will the fostering of peace in Southeast Asia remain its sole achievement?

Between Democracy and Sovereignty: The Case of Myanmar

Some thirty years after ASEAN was founded, the region was mired in a number of crises that called the organization’s continuing relevance into question. Myanmar posed the most profound problem. At the 30th AMM, in Kuala Lumpur in July 1997, ASEAN welcomed Myanmar as a member despite a flurry of criticism from human rights voices and international actors. ASEAN argued that its policy of constructive engagement stood a better chance of inducing political reform inside Myanmar than could be expected from publicly haranguing the junta.

Myanmar’s entry into ASEAN thus became a real test of the Association’s noninterference rule. At a time when democracy had swept through the globe, could ASEAN prove to a skeptical international public that its own normative order could stimulate political change? And if it could not, would it cease to be relevant in the eyes of the world?

The process leading up to Myanmar’s accession to ASEAN was fraught with intense diplomatic sparring. The United States and the European Union (EU) were adamant that Myanmar should not be granted any form of international legitimacy after its violent annulment of the 1990 elections. At the 9th ASEAN-EU Ministerial Meeting, in Luxembourg in 1991, the EU for the first time strongly criticized ASEAN’s policy toward Myanmar. Since then, the EU has firmly opposed any form of ASEAN rapprochement with the junta.

At the time of Myanmar’s accession, Prime Minister Mahathir in particular was adamant that ASEAN should ignore outside pressure and bring Myanmar into the fold. Only with the country inside the organization could one envisage internal reform. Constructive engagement—collegially, behind closed doors, urging the junta to change its ways—remained ASEAN’s policy for years following Myanmar’s affiliation.

Civil society groups in the region, however, vocally objected to Myanmar’s admission. A number of policy analysts in the ASEAN Institutes of Strategic and International Studies (ASEAN-ISIS), a network of think tanks, dissented from the positions taken by their governments and argued that conditions in Myanmar were egregious enough to warrant breaching the norm of noninterference. Jusuf Wanandi, chair of the Center for Strategic and International Studies in Jakarta, argued that ASEAN should look beyond its noninterference policy and refuse to admit Myanmar.

In July 1998, at its 31st AMM in Manila, ASEAN conceded that no progress had been made in Myanmar on democracy or human rights. Criticism of ASEAN’s policy of constructive engagement was fierce. Debbie Stothard, coordinator for the Alternative ASEAN Network on Myanmar, cited increased assaults on the democratic movement, attacks on ethnic minorities, repression of civil freedoms, continued closures of universities, and increased drug production. Philippine Senator Aquilino Pimentel raised the possibility of expelling Myanmar from ASEAN: “Perhaps it is now time,” he suggested, “to seek a review and revision of our country’s support of Myanmar into ASEAN and probably even move for the expulsion of Myanmar from ASEAN.”

16 Kavi Chongkhitvong, personal communication, 5 April 2005.
17 Prior to the decade inside Myanmar in September 2007 (mentioned in the ensuing sections of this chapter and also discussed in the chapter on Myanmar in this book), the EU was involved in a debate over its antagonistic position toward Myanmar. For example, Robert Taylor and Morton Pedersen (“Supporting Myanmar/Myanmar’s National Reconciliation Process: Challenges and Opportunities,” January 2005, <http://www.ibiblio.org/obl/docs3/Independent_Report-Burma_Day.htm>) prepared a report for the European Commission that called for closer relations between the EU and the Myanmar government. These would have included making regular high-level visits to the country, revising the use of sanctions, and lifting political constraints on aid.
18 See Acharya, Constructing a Security Community in Southeast Asia, 109–10, on the origins of constructive engagement.

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13 Acharya, Constructing a Security Community in Southeast Asia.

14 The discussion of Myanmar in this section draws on Kuhonta, “Walking a Tightrope.”

At the 1998 AMM, in Manila, Thailand’s Foreign Minister Surin Pitsuwan took a bold step. In an effort to move beyond ASEAN’s principle of noninterference, he circulated a policy paper advocating “flexible engagement” as a new policy framework through which the Association’s members could relate to one another. This idea, in effect, would have ended the noninterference policy. But only Domingo Siazon, then foreign minister of the Philippines, supported the Thai proposal. ASEAN as a whole accepted a more minimally interventionist stance on issues of economics and the environment, but drew a sharp line between that and being proactive on democracy or human rights.21 Indonesian Foreign Minister Ali Alatas offered the term “enhanced interaction” as a compromise to Surin’s proposal and the status quo. Alatas made clear how far ASEAN was willing to go: “If the proposition is [that], within ASEAN, we should be more frank in discussing views that may originate in one country but have an impact on the other ASEAN countries, then let’s do it … [But] using fancy names like flexible engagement and constructive intervention—that we cannot accept.”22

In 1999 at the 32nd AMM, in Singapore, the foreign ministers actually discussed human rights, governance, and civil society. Nevertheless, two full years after Myanmar had gained membership in ASEAN, reforming the junta was still a distant goal. One of Thailand’s major English-language newspapers editorialized that constructive engagement had “failed—totally and spectacularly.” Since Myanmar’s accession to ASEAN, the “only important changes in Burma” had been “for the worse.” Two years earlier, “Burma’s senior dictator,” Khin Nyunt, had at least been willing to talk with the country’s “only independent democratic force,” Aung San Suu Kyi’s National League for Democracy (NLD). “Today, the regime will not talk to any democrat.” In the junta’s pronouncements, earlier promises to investigate accusations of forced labor had been replaced by the fatuous claim that the Burmese people actually loved to “volunteer their labor for the glory of the Tatmadaw”—Myanmar’s army.23

By the end of 2000, however, there were indications that some changes were creeping in. In December, the EU finally held high-level talks with ASEAN that had been suspended since 1997 in protest over Myanmar’s presence. Held in the Laotian capital, Vientiane, the talks did yield a concrete result: The junta agreed to receive an EU “troika” mission in January 2001.24 More importantly, news began to filter out that Aung San Suu Kyi had been engaged in secret dialogues with the military junta since the previous October.

In April 2000, Kofi Annan appointed Razali Ismail as the UN Special Envoy to Myanmar. A retired career diplomat from Malaysia with close ties to Mahathir, Razali quickly emerged as a pivotal player in reaching out to both the junta and the NLD and gaining their confidence.25 After five visits to Myanmar, he was able to produce a fundamental breakthrough. On 6 May 2002, Aung San Suu Kyi was released unconditionally from house arrest as the international community hailed a “new dawn” in Myanmar.

The “new dawn” turned out to be a false start. Once Suu Kyi was released, she resumed her popular trips across Myanmar. The acclaim she received greatly perturbed the junta, especially its top leader, Senior General Than Shwe. As it had done before when she traveled the country, the military began to harass her convoy. The intimidation climaxed in a violent outburst in northern Myanmar on the night of 30 May 2003. Pro-junta thugs attacked her convoy with sharpened bamboo poles and killed an estimated seventy to eighty people, including both locals and members of the NLD. Survivors of the ambush reported that drug-emboldened goons charged at the convoy mercilessly and that Suu Kyi survived only because her followers piled on top of her to protect her. Following the attack, the authorities seized her and placed her in solitary confinement before transferring her back into house arrest in the capital, Yangon, at the end of September.

In the light of these developments, one must ask: Has the junta actually benefited from having joined ASEAN?

23 “In the Bunker,” Far Eastern Economic Review, 6 August 1998. Malaysia’s Foreign Minister Abdullah Badawi had this to say in response to arguments that ASEAN was too meek in criticizing its members:

We know that this cannot be further from the truth. We have not only commented and criticized, we have even expressed reservations when necessary. But we do all of this quietly, befitting a community of friends bonded in cooperation and ever mindful of the fact that frictional relations undermine the capacity of ASEAN to work together on issues critical to our collective being. We do it in this quiet way because criticizing loudly, posturing adversarially and grandstanding ... does more harm than good. (Robin Ramcharan, “ASEAN and Non-Interference: A Principle Maintained,” Contemporary Southeast Asia 22, no. 1 [2000], 80.)
Yes, it has, in two ways. First, Myanmar’s membership has helped to legitimate the junta by association with an important regional institution. Obviously its affiliation did not raise the junta’s standing among Western governments. But the Burmese generals did gain prestige from the interactions with other Southeast Asian leaders that membership enabled them to have. Taking part in the numerous meetings that ASEAN holds has conferred legitimacy on the regime and furnished it with extensive regional contacts for it to use in furthering its economic and political interests.

Second, participation in ASEAN has strengthened the military’s hold on power. Since Myanmar entered the Association in 1997, human rights abuses by the regime have increased, dialogue between the junta and the NLD has stalled, and the repression of Suu Kyi has reached an unprecedented level. As a full-fledged member of ASEAN, the junta has been able to protect itself by invoking the mantra of noninterference. The generals have little political incentive to reform their behavior now that they are inside ASEAN. As one veteran expert on the country wrote back in 1988, “There seems little question that in the near term, entry into ASEAN will strengthen Myanmar internationally and prompt little in the way of significant political or economic changes in the Myanmar system.”

To be sure, accession to ASEAN has not been the paramount factor helping the junta stay in power. Many factors have facilitated the consolidation of authoritarian military rule. It is worth emphasizing, however, that with ASEAN’s stamp of legitimacy, it became easier for the junta to brush aside criticism from the West and remain unfazed by threats of diplomatic and economic sanctions. Still more importantly, with ASEAN’s support, Myanmar enjoys access to regional markets that can be used to serve the junta’s interests.

If they have strengthened the junta, ASEAN’s actions may have been even more consequential in weakening and isolating the democratic opposition. ASEAN’s noninterference principle has always been intended to protect existing regimes, whether they be democratic or authoritarian. In any member country, those opposing the incumbent government naturally fall out of favor in ASEAN’s normative framework. In this context, as Amitav Acharya has pointed out, constructive engagement may actually imply “a particular kind of interference in support of the regime.”

The Shifting Sands of Noninterference

In the 1990s, leaders across the region grew less reticent about criticizing their neighbors for acts against domestic opposition. In 1998, for example, Indonesia and the Philippines were highly critical of Mahathir’s vindictive effort to impugn


—Acharya, Constructing a Security Community in Southeast Asia, 114. Italics added.

and ruin his political-heir-turned-rival, Anwar Ibrahim. Since then, the idea that states can command absolute sovereignty has been forcefully challenged. The emergence of democratic regimes in Southeast Asia has added heft to supporters of human rights and liberal values. Under such pressure, ASEAN’s strict adherence to the noninterference policy has begun to waver.

The attack on Suu Kyi’s convoy in May 2003 brought forth the strongest condemnation of the Myanmar junta. At the foreign ministers’ meeting in Phnom Penh in June, ASEAN issued a statement calling for Suu Kyi’s release. Several foreign ministers denied that this was interference, since Myanmar accepted ASEAN’s statement at the meeting, but clearly ASEAN had broken from its habit of responding soporifically to political crises in the region.

In July, Mahathir warned that Myanmar could be expelled from ASEAN if it did not change its behavior. This was a stunning reversal for the man who had been the strongest advocate of Myanmar’s entry into ASEAN in 1997. In September 2003, Indonesia sent the former foreign minister Ali Alatas as a special envoy to Myanmar. The day after he left, Thai Foreign Minister Surakiart Sathirathai arrived to call on the junta. With the Bali Summit upcoming in October 2003, ASEAN had hoped to dim the spotlight on the crisis in Myanmar. All of these demonstrations led nowhere, however, as the junta refused to release Suu Kyi.

A few years later, ASEAN surprised the international community by openly challenging Myanmar’s right to chair the body in 2006. Parliamentarians from Malaysia, Singapore, Thailand, Indonesia, and the Philippines voiced severe displeasure at the prospect of Myanmar holding court for ASEAN. In Indonesia, the parliament’s Commission on Defense and Foreign Affairs called on the government to boycott ASEAN if Myanmar took the chairmanship. The Philippine Senate passed a motion calling on ASEAN to deny Myanmar the chairmanship, and in Thailand seventy-seven senators signed a petition urging their government to toughen their policy on Myanmar.

In Malaysia, a group of parliamentarians from the governing coalition filed a motion calling on their government to deny Myanmar the chairmanship of ASEAN if it did not release Suu Kyi and thousands of political prisoners. One of the sponsors of the bill, Nazri Abdul Aziz, a minister in the prime minister’s department and the leader of government business in the Malaysian parliament, commented, “There must be a time for constructive engagement[s].”


13 It is worth pointing out that Alatas had been one of the strongest opponents of Surin’s idea of “flexible engagement.”


it cannot go on and on forever.” The bill was eventually shelved, although the commotion over the bill allowed Malaysian parliamentarians to vent openly their dissatisfaction with the lack of political change in Myanmar. The vehemence of Malaysian rhetoric against the junta was noteworthy since the Malaysian government had earlier been the chief backer of the junta. And the fact that Nazri Abdul Aziz worked in the prime minister’s department was thought to indicate that the harder line he advocated had come from the prime minister himself.

At the AMM in Vientiane in July 2005, Myanmar decided to postpone its chairmanship of ASEAN. This came as a great relief to Southeast Asian leaders who feared that ASEAN would sustain serious damage by allowing itself to be led by such an odious regime. U.S. Secretary of State Condoleezza Rice’s decision not to attend the ASEAN Regional Forum (ARF) was seen as a taste of things to come, had Myanmar occupied the chair. When Myanmar declined to do so, ASEAN appeared to have weathered the storm and appeased Western critics, who had made very clear that they would not attend ASEAN’s meetings with Myanmar presiding.

In 1997 ASEAN had stressed that its policy of constructive engagement, rather than isolation and sanctions, was more likely to bring about political reform in Myanmar. But reform did not occur. The policy of constructive engagement appeared to have virtually no effect on the junta. The arrest and sentencing of the only general, Khin Nyunt, who had been willing at least to meet and talk with Suu Kyi, struck an especially ominous note in this context. He was purged in 2004, and since then the junta has stamped out any potential niches of dissent within the military.

ASEAN members may increasingly breach the doctrine of noninterference, but this does not mean that ASEAN is about to give priority to democracy and human rights. On both of the occasions when ASEAN decided to take a more critical stand toward Myanmar, significant pressure from the West was crucial. The real issue that troubles ASEAN is the fear of losing face and becoming irrelevant on the world stage. ASEAN Secretary General Ong Keng Yong put it this way in 2003: “There is a negative image and rather adverse kind of remarks passed about ASEAN [because of the situation in Myanmar] ... We want to minimize the adverse impact on our organization as a whole.”

As discussed in detail in Kyaw Yin Hlaing’s chapter on Myanmar in this book, that negative image and those critical remarks were dramatically intensified in September 2007 by the violent and dispiriting repression of the “saffron revolution” in Myanmar, and by ASEAN’s unwillingness to do more than applaud Singapore’s Foreign Minister George Yeo, as the ASEAN chair, to express “revulsion” over reports of the junta’s crackdown. But this was not the end of the story. Having expressed its disgust in the strongest language that ASEAN had ever addressed to its pariah member, the Association could hardly proceed to say and do nothing in the hope that the issue would go away. The Myanmar problem was not about to disappear. Changing global norms would not allow it to, as the next section will show. Nor would those norms permit the Association to stand idly by, ignoring the mounting damage to its reputation.

The Changing Nature of Sovereignty and Intervention

ASEAN’s disgust over the junta’s behavior in 2007, following the earlier, more gradual steps taken by the organization toward breaching the norm of noninterference, are part of a global trend that challenges the absolute value of sovereignty. It will be useful now to place the debate over noninterference in this broader perspective. What could be said of the controversy over sovereignty versus interference, as of 2007? Democracies had come to predominate in the post–Cold War world, and state failure had become a major international concern. Had these developments led to a reappraisal of the importance of sovereignty?

The tension between sovereignty and democracy / human rights can be traced in its contemporary form to the charter of the United Nations (UN). Article 1.3 of the charter states that the UN’s goal is to “encourage[e] respect for human rights and for fundamental freedoms for all.” According to article 2.1, however, the “organization is based on the principle of the sovereign equality of all its members,” while Article 2.7 says that “nothing contained in the present charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction.” Furthermore, the UN General Assembly’s Declaration on Intervention (1965) asserts that no state has a right to intervene, directly or indirectly, in the internal or external affairs of another

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state. Thus, from its very birth, the UN sought to uphold both the values of human rights and state sovereignty.42

In an important article in *World Politics*, Robert Jackson and Carl Rosberg clearly articulated the tension between sovereignty and democracy. They argued that international law had enshrined sovereignty as the central norm in the international system, thereby sustaining weak states and allowing them to rule as they wished within their boundaries.43 This form of sovereignty could be best understood as “negative sovereignty,” that is, freedom from outside interference.44 The long-term result of the consolidation of negative sovereignty was to create states that were juridical but not empirical—states that were recognized but that lacked actual capacity.

The consequences of this disjunctive between empirical and juridical statehood are profound. When it comes to political development, states are under no necessary pressure to improve their capacities to provide public goods. Whether they can rule effectively or not, their rule is guaranteed, at least externally. In terms of human rights, the consolidation of the norm of sovereignty in effect strengthens the position of elites vis-à-vis civil society. Sovereignty ratifies the rulership of elites irrespective of how they perform or how they treat their citizens. As long as the international system remains stable, violence and repression can persist within national boundaries.45 As Jackson put it, “The same institution [sovereignty] which provided international recognition, dignity, and independence to all colonized populations could be exploited to deny domestic civility, liberty, and welfare to some.”46

By the 1990s, however, the idea that sovereignty was absolute began to be rethought. This shift in thinking arose in a post–Cold War context as conflicts between states began to abate, while conflicts within states grew more prevalent. With intrastate conflicts becoming more salient and the problem of state failure or collapse more severe, it became difficult simply to stand by while societies were torn apart by violence. Although the post–Cold war period was marked by a rise in democratic states, the move to reconceptualize sovereignty was less a positive reflection of liberal gains than a response to civil wars and acts of violence, including genocide, that shocked the conscience of humankind.47

In 1991, UN Secretary-General Javier Perez de Cuellar commented: “We are clearly witnessing what is probably an irreversible shift in public attitudes towards the belief that the defense of the oppressed in the name of morality should prevail over frontiers and legal documents.” He went on to ask whether this shift in outlook called into question “one of the cardinal principles of international law,” a principle “diametrically opposed to” the defense of the oppressed, “namely, the obligation of non-interference in the internal affairs of states.”48 A year later, de Cuellar’s successor at the UN, Boutros Boutros-Ghali, answered his predecessor’s question: “Respect for a [state’s] fundamental sovereignty and integrity is crucial to any common international progress ... [but] the time of absolute and exclusive sovereignty ... has passed.”49

With Kofi Annan at the helm of the UN, the debate over sovereignty and interference gathered momentum. In an article in *The Economist*, Annan argued that two concepts of sovereignty stood side by side: one centered on the state and one centered on the individual.50 Sovereignty centered on the individual was a new and distinct concept. Individual-centered sovereignty referred to the fundamental freedom of every person. It underlined the notion that the purpose of sovereignty was to ensure individual freedom—as understood in its broadest sense—and not to allow states to hide behind inviolable borders. Such thinking was solidly in line with Annan’s vision of freedom and democracy as underpinning progress and development.51

The idea that sovereignty should be focused on individual well-being achieved its fullest fruition in 2001 in *The Responsibility to Protect*, a report by a high-powered International Commission on Intervention and State Sovereignty,

44 In contrast, “positive sovereignty” is a substantive rather than a formal condition. It, too, refers to the right of noninterference. More importantly, however, positive sovereignty denotes the ability of a state to provide public goods. See Robert Jackson, *Quasi-States: Sovereignty, International Relations and the Third World* (Cambridge: Cambridge University Press, 1990), 27–29.
45 Reversing Waltz’s famous thesis that anarchy characterizes the international system while relative order prevails within states, observing the principle of negative sovereignty ensures that order reigns externally while internally, inside states, violence and instability can reign. See Kenneth N. Waltz, *Theory of International Politics* (New York: McGraw-Hill, 1978).

47 As Jack Donnelly, an expert on human rights, has written: “The threshold of coercive intervention is likely to be crossed only when the case stops being seen as a human rights issue and becomes a conventional international conflict (Iraq) or involves the breakdown of the authority of the state (Somalia).” See Donnelly, “State Sovereignty and International Intervention: The Case of Human Rights,” in *Beyond Westphalia? State Sovereignty and International Intervention*, ed. Gene M. Lyons and Michael Mastanduno (Baltimore: Johns Hopkins University Press, 1995), 115–46.
51 See, for example, Annan’s May 2003 speech at the University of Pennsylvania Commencement, in *Almanac 51*, no. 33 (24 May 2005), 4.
which Annan convened.\textsuperscript{12} The Commission boldly asserted that sovereignty was ultimately about a state's responsibility to protect its citizens. While the report acknowledged that sovereignty still implied an external referent—namely, noninterference—it stressed the importance of state responsibility. Sovereignty, in other words, now had to be earned—precisely the notion that Jackson and Rosberg had argued was deeply missing in the international system.\textsuperscript{13}

The significance of sovereignty as responsibility is threefold. First, it places the burden on states to ensure the protection of their citizens. Second, it implies that elites are responsible, both internally to their citizens and externally to the international community. Third, it means that state elites will be held responsible for their actions.\textsuperscript{14}

The Commission underscored, above all, that intervention should be based not on the right to intervene but on the responsibility to protect. The spotlight of concern should not be on the actors who intervene but on those who need support. Responsibility for protection allows the international community to bridge sovereignty and intervention, since the failure to act responsibly provides the basis for intervention. The right to sovereignty comes at a price: responsibility toward citizens and the international community. Absent that responsibility, the international community can trump the sovereignty of an abusive state.

Given this shift in thinking about sovereignty, there is now a greater basis for legitimating some form of intervention. But what does intervention mean? According to one useful definition, "the essence of intervention is the attempt to compel." Regardless of whether intervention employs physical or economic pressure, what matters is the compulsion or constraint to achieve some change in the actor upon whom pressure is being exerted.\textsuperscript{15} Another definition states that interventionist behavior occurs "whenever the form of the behavior constitutes a sharp break with then-existing forms and whenever it is directed at changing or preserving the structure of political authority in the target society."\textsuperscript{16} Interventions, by this definition, must be clearly differentiated from any foreign policy decisions. Interventions must be "convention-breaking" and "authority-oriented." Combining these two sound definitions, intervention or interference can be thought of as behavior that is convention-breaking, authority-oriented, and compelling in nature.

Defining intervention in this way gives us a conceptual handle on the term. But because the range of interventions can be very wide, it is important to identify in a given instance the extent of intervention being exerted. For this purpose it helps to disaggregate interference on a continuum from the highest degree of intervention, the use of military force, to the lowest degree, verging on noninterference, as shown in Figure 10.1.\textsuperscript{17}

At the high end of the scale lies military coercion, in which force is used to restore order and where a national border is trespassed. Humanitarian intervention, which may or may not be accompanied by military intervention, also involves the physical crossing of borders. Next in line is the application of sanctions to correct a regime's behavior or to bring a regime down. Next to sanctions, at the lower end of the spectrum, is suasion through diplomacy, whether public or private.

![Figure 10.1 Continuum of Degree of Unsolicited or Solicited Interference](image)

Each level of interference may correspond to a particular issue. State failure or acts of genocide may necessitate military intervention. A famine may spur humanitarian intervention. Violations of human rights, the annulment of elections, systematic repression against a democratic opposition, or institutionalized discrimination against a racial group may incur punishment through diplomatic rebuke or, more forcefully, punitive sanctions. Resolving or managing transnational problems—environmental pollution, drug trafficking, or an influx of refugees—may call for diplomatic dialogue.

Acknowledging gradations of interference is important. Doing so makes it easier to see how ASEAN, notwithstanding its frustration over Myanmar, could, through small steps, become less allergic to intervention. As the global climate has shifted, so could ASEAN incrementally revise its commitment to its member states' sovereignty.\textsuperscript{18}

\textsuperscript{12} International Commission on Intervention and State Sovereignty (ICISS), \textit{The Responsibility to Protect} (Ottawa: International Development Research Center, December 1991).


\textsuperscript{14} ICISS, \textit{The Responsibility to Protect}, 13.

\textsuperscript{15} Ann Van Wyen Thomas and A. J. Thomas, Jr., \textit{Non-Intervention: The Law and Its Import in the Americas} (Dallas, TX: Southern Methodist University Press, 1956), 72.


\textsuperscript{17} Lyons and Mastanduno offer a similar and simpler scale for conceptualizing intervention. See \textit{Beyond Westphalia}, 10. See also Donnelly's typology of four types of intervention: (1) authorized coercive interference, (2) prohibited coercive interference, (3) authorized noncoercive interference, and (4) unregulated noncoercive interference ("State Sovereignty and International Intervention," 119–20).
In Southeast Asia it is not necessary for sovereignty to be entirely trumped by international law and global norms—by what Jack Donnelly calls the internationalist model. Most of the cases of domestic irresponsibility by ASEAN’s member states are not so egregious that they invite outright military intervention. They require some weakening of sovereignty—especially in the case of Myanmar—but not its abandonment.

In the aftermath of the junta’s repression of September 2007, conditions in Myanmar would most likely require an intermediate degree of interference—something more than persuasion but less than invasion. Sanctions of some form exemplify this middle level of intervention. Sanctions against Myanmar would not sacrifice respect for its sovereignty, but they would, by their more coercive nature, emphatically convey ASEAN’s desire for significant reform inside its most errant member.

Conclusion

Where, then, does this discussion of sovereignty and interference leave us, both globally and concerning Myanmar?

Two circumstances should be stressed. First, global trends point to a conditional form of sovereignty in which states have to earn their right to govern without interference from the international community. Second, it should be clear that ASEAN’s default position, based on constructive engagement, has failed miserably. If that policy was meant to nudge the Myanmar junta toward some degree of reform, it may be fairly called a complete disaster. Recent moves toward some loosening of the noninterference norm by Singapore and Malaysia, including Singapore’s expression of ASEAN’s “revulsion” over the junta’s crackdown in September 2007, indicate that even some of ASEAN’s greatest stalwarts have begun to lose patience with the policy of constructive engagement.

Given the trend toward conditional sovereignty and the failure of constructive engagement, what should ASEAN do? The evidence I have presented in this chapter points to a different path that ASEAN should take if it is to be a catalyst for reform in Myanmar.

There are two ways to recommend a different path. One relies on a normative argument; the other emphasizes practical concerns. At a normative level, ASEAN could consider a more forceful push for human rights and democracy in Myanmar based on the idea of “moral interdependence”—the sense of satisfaction or revulsion that the people of one state derive from observing the internal behavior of another state. An initiative of this kind would match the global shift toward the idea of sovereignty as responsibility. If ASEAN wants to maintain its political relevance by following this global shift, it should move away from the policy of noninterference.

Second, as a matter of practice, ASEAN must directly address the failure of constructive engagement. Some degree of more active interference is warranted, simply because of that failure. Simon Tay has noted correctly that while there has been some intervention in ASEAN, it has not “developed consistently and comprehensively into a full political dialogue.” Even more than a full political dialogue is required. In recent years, ASEAN leaders, including Mahathir, have articulated sharper criticisms of the Myanmar junta. But this, too, seems insufficient. Interference should now entail going beyond strong diplomatic language to fashion a more forceful institutional response. Returning to Figure 10.1, ASEAN may have to take action that reaches the mid-level of the interference continuum, perhaps by initiating punitive sanctions against the junta. Whether this will succeed in fostering reform is an open question, but what is patently clear is that constructive engagement has failed.

Zeroing in on the specific details of how one might move away from the noninterference norm, Carolina Hernandez has proposed four useful suggestions for a more productive debate over whether to intervene. Participants in the debate should (1) specify the conditions under which the relevant aspects of the ASEAN Way might be relaxed; (2) identify the particular sorts of problems where “flexible engagement” (Surin’s proposal) would make sense and might be allowed; (3) specify who would be authorized to get involved; and (4) indicate whether and to what extent the outcome of external involvement would be binding on the state being subjected to it.

Addressing the first two points, but especially the specific circumstances in which flexible engagement might be allowed, it is helpful to consider a number of behaviors that, according to ASEAN’s former secretary-general Rodolfo Severino, all member states might agree are unacceptable: genocide, the use of rape as a weapon of war, the worst forms of child labor, the deployment of child soldiers, trafficking in illicit drugs, and the curtailment of freedom to practice one’s religion. A few of these would clearly fall under “acts of conscience that shock humankind.” Given their severity, these issues could and should necessitate some relaxation of the noninterference norm. One might go further and argue that the annulment of elections and the systematic repression of a democratic opposition also merit some degree of interference.

Donnelly, “State Sovereignty and International Intervention.”

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95 See Rodolfo C. Severino, Southeast Asia in Search of an ASEAN Community: Insights from the Former ASEAN Secretary-General (Singapore: Institute of Southeast Asian Studies, 2006), 155. Note, however, that Severino is strongly against interference.
As to who could get involved, several ASEAN-ISIS analysts have called for a coalition of the willing as a means of initiating more proactive responses. Steps to form such a coalition would diverge from the ASEAN tendency to seek consensus and thereby delay or prevent collective action. Severino's guidelines offer a useful way of handling the question of noninterference. The details will require more thought. But the main point now is that ASEAN needs to thoroughly rethink its institutional behavior.

Two important counterguidelines can be offered against my thesis here. Some may argue that jettisoning the noninterference norm would open up a Pandora's box and lead to conflict across the region, now that sovereignty is no longer so highly prized. This argument assumes, however, that ASEAN's zone of peace is inherently ephemeral and that four decades of interaction and accommodation can easily dissipate. To advocate the maintenance of the noninterference norm out of concern that ASEAN may not hold together does not give adequate credit to a history in which political and economic interdependence have sustained a regional institution and cemented regional security.

The second objection involves sanctions. Would they succeed? Those who are skeptical of the internationalist model in general and the utility of sanctions in particular may argue that sanctions are not likely to work in Southeast Asia, especially if a key country such as China is not on board. Sanctioning an ASEAN state could hurt it less than other ASEAN states are hurt if, for example, the business the other members did before sanctions is simply redirected to economies outside the region, including China. More importantly, inside the targeted country, sanctions may weigh most heavily on ordinary citizens who will lose their jobs when investments are withdrawn. Such skeptics may be right. Unless regional actors and global powers coordinate punitive sanctions, such steps are unlikely to succeed in generating political reform.

Ultimately, however, the main reason why interference becomes necessary in light of the failure of constructive engagement brings us back to the question of relevance, with which this chapter began.

Can ASEAN expect to remain relevant if it does not address the deplorable conditions prevailing in Myanmar and the outrageous behavior of its rulers? The answer is a resounding no. This is so because expectations inside and outside Southeast Asia are that ASEAN, as the nearest and most appropriate institution, ought to do something to assuage these grievous conditions.

This is not just about defending or promoting democracy and human rights. It is about rescuing ASEAN's prestige. ASEAN is clearly at a loss when ASEAN-EU dialogues are canceled, or when the U.S. Secretary of State snubs an ARF meeting. Whether ASEAN likes it or not, its inability to adequately engage Myanmar will continue to haunt the Association's image and performance. To quote Hernandez again: "The imperative for ASEAN to re-engineer itself appears to be the logical path to take, if it wishes to remain relevant to its members and continue to enjoy the respect of its partners as a credible and dependable regional and global actor." If ASEAN's vision of its region as a truly "caring society" is to see anything but hypocritical, its leaders must venture beyond current practice and try more forcefully and creatively to moderate and reform the flagrantly offending state in their own back yard.

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\(^2\) See Tay et al., A New ASEAN in a New Millennium, and Hernandez, "Challenges for Society and Politics."

\(^3\) Pedersen estimates that 30,000 to 50,000 workers have been laid off in Myanmar following the U.S. imposition of sanctions in July 2003. See Morton B. Pedersen, "The Challenge of Transition in Myanmar," in Myanam: Beyond Politics to Social Imperatives, ed. Kyaw Yin Hlaing, Robert H. Taylor, and Tin Maung Maung Than (Singapore: Institute of Southeast Asian Studies, 2005).

\(^4\) On the merits of sanctions in Myanmar, see ICG, "Myanmar: Solutions, Engagement or Another Way Forward."

\(^5\) Hernandez, "Challenges for Society and Politics," 122.