



Royal University of Phnom Penh



Cambodian Insights on Southeast Asia 

An Insight into the ASEAN Way: The Implementation of the ASEAN Consensus and Informality

Keo Sokkosol

IISPP
INSTITUTE FOR INTERNATIONAL
STUDIES AND PUBLIC POLICY

CENTER FOR SOUTHEAST ASIAN STUDIES

ISSUE
7
2025

An Insight into the ASEAN Way: The Implementation of the ASEAN Consensus and Informality

Keo Sokkosol

Executive Summary

- At the core of the ASEAN Way lie Indonesian diplomacy of *musjawarah* and *mufakat*, meaning consultation and consensus, respectively.
- The policy is to create a peaceful, harmonious, and stable regional order in which the resident states can interact with each other through an informal norm-based behavior rather than a strict rule-based behavior in a loose setting.
- The elements of the ASEAN Ways such as non-interference, ASEAN consensus, and informal diplomacy allow the ASEAN leaders to cooperate and negotiate with each other effectively and efficiently in flexible and informal manners based on norm-based behaviors, which is very much needed when there are many differences between the ten countries, rather than legalistic manners.
- Due to the diversity in political values and economic status, the ASEAN leaders find it challenging to reach a consensus. Therefore, to further understand the ASEAN Way usage in the region, two case studies will be used for this analysis: the 2021 Myanmar political turmoil and the South China Sea dispute.
- Moving forward, ASEAN must enhance its conflict resolution mechanisms and strengthen unity among its members, but the principle of informality and consensus should still be maintained, as it is a crucial foundation of ASEAN that keeps the countries together, and changing it and enforcing legalistic norms would likely change the organization structure entirely resulting in potential severe disunity in ASEAN that could lead to conflicts between the member states and violation in domestic affairs.

Introduction

The Association of Southeast Asian Nations (ASEAN) was established on August 8, 1967, in Bangkok, when the five founding nations, Indonesia, Malaysia, the Philippines, Singapore, and Thailand signed the ASEAN Declaration. ASEAN is a regional organization aimed at promoting economic growth, social progress, cultural development, regional peace, and stability through justice, respect for the rule of law, and adherence to the principles outlined in the United Nations Charter.¹ However, in its early stage of creation, this organization was initially focused on regional politics and security, especially to contain the communist expansion in the region or at least coexist with communist states peacefully.² In 1976, member states signed the Treaty of Amity and Cooperation in Southeast Asia (TAC), emphasizing the importance of mutual respect and non-interference in each country's domestic affairs. After the Cold War, as regional tensions eased and peace was restored in Cambodia, Southeast Asia shifted its focus from ideological divides to prioritizing economic cooperation and political stability. Non-ASEAN countries in Southeast Asia acknowledged the stability and prosperity achieved by the ASEAN members and sought to join the organization. ASEAN leaders then made joining the TAC a requirement for new membership, which laid the foundation for regional cooperation.³

Shortly afterward, the organization's membership began to expand from 5 to 10 in the following order: Brunei, Vietnam, Laos, Myanmar, and Cambodia. Along with the similarities that the ten countries share, there are numerous differences, such as in economic status, political values, and governmental structure, that, in hindsight, would suggest that the organization would not last long. However, it has been over 50 years since the birth of ASEAN. The organization is still going strong despite some challenges along the way, and one explanation for the reason why these countries can work with each other would be the "ASEAN Way." The ASEAN Way is an unwritten concept or norm-based behavior that scholars define differently, but the elements of ASEAN consensus always find themselves in those descriptions.

¹ Kimberly Lim "What is ASEAN and Why was it Formed?," *South China Morning Post*, September 13, 2024, https://www.scmp.com/week-asia/explained/article/2186774/explained-asean?module=perpetual_scroll_0&pgtype=article.

² ASEAN, "What We Do," ASEAN, accessed November 13, 2024, <https://asean.org/what-we-do/>.

³ Shafah F. Muhibat, *Chapter 2 ASEAN: Challenges and Opportunities to Remain Relevant* (National Institute for Defense Studies, 2019), 21, https://www.nids.mod.go.jp/english/publication/joint_research/series20/pdf/chapter02.pdf.

The ASEAN Way

As no clear written documentative form of the “ASEAN Way” exists, scholars and diplomats try to define the term in their own ways. The Treaty of Amity and Cooperation in Southeast Asia (TAC) is the closest written legal document representing the ASEAN Way, as it strongly emphasizes mutual respect and non-interference, two of the most associated with the ASEAN Way. A prominent scholar in politics and international relations in Southeast Asia, Professor Donald E. Weatherbee, described the ASEAN Way as a conflict-avoidance mechanism relying on informality rather than a problem-solving instrument.⁴ At the core of the ASEAN Way lie Indonesian diplomacy of *musjawarah* and *mufakat*, meaning consultation and consensus respectively.⁵ The policy is to create a peaceful, harmonious, and stable regional order in which the resident states can interact with each other through an informal norm-based behavior rather than a strict rule-based behavior in a loose setting.

Harsh Mahaseth and Aadya Narain stated that the ASEAN way is a unique regional diplomacy that emphasizes “Asian solutions to Asian problems” to prevent Western influence in intra-Asian conflicts based on four principles: non-interference, quiet diplomacy, non-use of force, and consultation and consensus-based decision-making.⁶ Another key point the authors mentioned was that the policy allows the ASEAN member states to avoid embarrassment from the public view by using backdoor or informal communication channels to solve bilateral issues.⁷ Hoang and Caballero-Anthony describe the ASEAN Way as a conflict management framework that focuses on self-restraint and accommodating differing interests through practices like consultation and consensus.⁸ It allows member states to agree to disagree and delay resolving their differences.

Amitav Acharya conceptualizes the ASEAN Way in a socio-constructivist method as a set of norms and processes of identity-building.⁹ Acharya further elaborates that the principles of non-intervention and use of force are legal-based norms and not unique to ASEAN, but the

⁴ Donald E. Weatherbee, *International Relations in Southeast Asia: the Struggle for Autonomy*, 2. (The United States of America: Rowman & Littlefield Publishers, Inc., 2009), 92

⁵ Ibid.

⁶ Harsh. M, “The Use of The ASEAN Way In Resolving Disputes,” *Modern Diplomacy*, June 22, 2022, <https://moderndiplomacy.eu/2022/06/22/the-use-of-the-asean-way-in-resolving-disputes/>.

⁷ Ibid.

⁸ Caballero-Anthony. M, “The ASEAN way and the changing security environment: navigating challenges to informality and centrality”, *International Politics* (2022), <https://doi.org/10.1057/s41311-022-00400-0>

⁹ Ibid.

socio-cultural adoptions of non-confrontational, consensus, and informality in the decision-making and negotiating process of ASEAN define the organization and the ASEAN Way.¹⁰ Similar to Weatherbee, Acharya highlights the importance of the ASEAN consensus principle and how consensus always involves informality and consultation.¹¹ In Southeast Asia, governments tend to prefer personal connectedness over rules and formal procedures in negotiating or solving bilateral issues. The informality of backchannel or closed-door diplomacy offers the flexibility that allows ASEAN leaders to consult with each other to reach a consensus more easily and smoothly.

Despite different interpretations of the ASEAN Way, scholars tend to have a similar emphasis on the importance of the ASEAN consensus achieved through consultation and informality. This key feature of the ASEAN Way, which allows the diverse member states to work together as a regional organization, emphasizes the equality of members and the importance of cooperation, even if reaching an agreement takes a long time. This approach encourages mutual respect and peaceful conflict resolution, promoting unity and collaboration despite its members' diverse political, economic, and cultural backgrounds. Moreover, ASEAN often relies on informal or quiet diplomacy to manage complex bilateral issues among its member states. Southeast Asia showcases numerous examples of complex bilateral issues effectively managed through informal and personal diplomacy. This method encourages open discussions and trust-building, which proved beneficial in Indonesia's relations with Singapore and Malaysia, which share a conflicted history of *Konfrontasi*. Therefore, Indonesia invested in strengthening diplomatic ties. Embodying the value of peaceful dispute resolution, ASEAN also showed its capacity for third-party mediation in 2011 as well when Indonesia facilitated negotiation to prevent armed conflict between Thailand and Cambodia over a border dispute.¹²

ASEAN Consensus

The consensus-based decision-making of ASEAN has both strengths and weaknesses. As a fundamental aspect of the ASEAN Way, consensus ensures that all member states, regardless of size—are equal in ASEAN's decision-making. Hence, consultation and consensus are crucial

¹⁰ Ibid.

¹¹ Acharya. Amitav, "Ideas, identity, and institution-building: From the 'ASEAN way' to the 'AsiaPacific way'?", *The Pacific Review* (1997), <http://dx.doi.org/10.1080/09512749708719226>

¹² Marty Natalegawa, "ASEAN: Dialogue and Diplomacy," RSIS, January 12, 2023, <https://www.rsis.edu.sg/rsis-publication/rsis/asean-dialogue-and-diplomacy/>.

for all ASEAN decisions and agreements.¹³ Many ASEAN countries are cautious about external interference in their internal matters, and the consensus approach allows them to cooperate regionally without compromising their domestic political concerns.¹⁴ The Indonesian government has supported the consensus-building decision-making process within ASEAN, arguing that it leads to high-quality decisions. This process helped transform ASEAN from a loose association into a community and establish the ASEAN Human Rights Body. It was also crucial in promoting democracy, the rule of law, human rights, and good governance within the ASEAN Political-Security Community.¹⁵ While this principle helps ASEAN maintain unity and reassure member states about their involvement, it also limits the organizations' ability to respond decisively on security issues. The ASEAN Way is frequently criticized for its ineffectiveness and the lack of clear outcomes. ASEAN consensus-based decision-making has constrained its ability to address regional environmental challenges like transboundary haze pollution. While the issue affects multiple countries, ASEAN initiatives to solve it collectively have often failed, as member countries prioritize national interests over regional solutions, leading ASEAN to support Indonesia's efforts to control fires rather than holding it accountable.¹⁶

This insight examines ASEAN's foundational principles and approach—known as the “ASEAN Way,” which prioritizes non-interference, consensus, and regional autonomy as a key framework in managing regional challenges. By analyzing case studies such as ASEAN's handling of environmental issues, this discussion emphasizes ASEAN's achievement in enhancing regional stability and diplomacy alongside its constraints in enforcing compliance and adapting to urgent crises. The analysis aims to assess ASEAN's capacity to address complex regional issues effectively, examining the balance between internal cohesion and external independence.

Case Studies of the ASEAN Way in Implementation

¹³ “ASEAN Focus”, ISEAS, no. 1/2017 (January 2017). 2, <https://www.iseas.edu.sg/wp-content/uploads/pdfs/JanFeb17ASEANFocus.pdf>.

¹⁴ Hong Hiep Le, “Can ASEAN Overcome the ‘Consensus Dilemma’ over the South China Sea?”, no. 58 (October 24, 2016): 2, https://www.iseas.edu.sg/wp-content/uploads/pdfs/ISEAS_Perspective_2016_58.pdf.

¹⁵ “ASEAN Focus”, ISEAS, no. 1/2017 (January 2017). 2, <https://www.iseas.edu.sg/wp-content/uploads/pdfs/JanFeb17ASEANFocus.pdf>

¹⁶ Merriden Varrall, “ASEAN's Way to Sustainable Development” *Disruptive Asia*, n.d., <https://disruptiveasia.asiasociety.org/aseans-way-to-sustainable-development>.

The main principles of the ASEAN Way of non-interference, informality, consultation, and consensus are to promote a loose setting and norm-based behavior to maintain peace and harmony in this politically, economically, and socially diverse region. Even if there are disagreements and conflicts of interest, ASEAN leaders would pursue talks over fists, negotiations over confrontations, as a means to save face and reach a win-win situation. This has allowed the region to be relatively stable and peaceful, with no intrastate conflicts amongst themselves. Each country manages its own affairs with its own sovereignty. However, when it comes to regional and collective issues, the ASEAN Way poses more challenges than in bilateral or domestic conflicts. Due to the diversity in political values and economic status, the ASEAN leaders find it challenging to reach a consensus. Therefore, to further understand the ASEAN Way usage in the region, two case studies will be used for this analysis: the 2021 Myanmar political turmoil and the South China Sea dispute.

First Case Study: The 2021 Myanmar Political Turmoil

On the morning of February 1, 2021, in Myanmar, the Tatmadaw, led by Senior General Min Aung Hlaing, overthrew the ruling democratic government of the National League for Democracy (NLD) and quickly declared martial law and put the entire nation in a state of emergency. In one fell swoop, the military junta gained full control of the country and regained full authority and top position in Myanmar. The state of emergency was supposed to last for only 6 months according to the constitution, but the State Administration Council (SAC) kept extending the martial law because the country was still unstable due to internal conflicts, leading to their inability to organize a proper, free, and fair national election. Since then, the Tatmadaw has been in-charge, and there have been many retaliations in different forms such as protests, demonstrations, and armed clashes by the democratic groups such as the National Unity Government (NUG) and People's Defense Force (PDF), ethnic armed organizations (EAOs), and the citizens.

The Myanmar political turmoil has posed one of the most significant challenges to ASEAN, particularly its solidarity, unity, frameworks, and principles, especially the effectiveness of the "ASEAN Way". ASEAN's management of this crisis allows for an examination of the achievements and weaknesses of ASEAN, especially from the framework of principles of non-interference, consensus decision-making, and regional autonomy. These principles aim to

maintain peace, stability, unanimity, cohesion, and harmonious relationships among member states while minimizing the influence of external actors.¹⁷

Achievements of ASEAN in Addressing the Myanmar Crisis

Being a Diplomatic Platform

ASEAN also has some achievements in addressing the Myanmar crisis. One of ASEAN's notable achievements has been its ability to provide an inclusive regional platform for dialogue, bringing Myanmar's situation to the forefront in a diplomatic setting by having formal and informal communication with as many conflicted parties as possible including but not limited to the Tatmadaw, the National Unity Government (NUG), and Ethnic Armed Organizations (EAOs). Through the participation of member states, ASEAN has promoted a multilateral diplomacy platform that enables leaders of the region to address the crisis in an orderly manner. As a result, this has enabled ASEAN to somehow maintain a communication line with everyone, including Myanmar's military government, and has some form of unity in the region. For instance, the Five-Point Consensus (5PC), which was introduced in April 2021, is a crucial diplomatic breakthrough for ASEAN and is a good demonstration of the ASEAN Way being put in practice. On April 24, 2021, the ASEAN Leaders' Meeting was convened with the participation of all ASEAN Leaders, including H.E. Ming Aung Hlaing, to discuss many topics, but the elephant in the room was the discussion on Myanmar's political turmoil. One of the outcomes of the meeting was the Five-Point Consensus. The Five-Point Consensus is an informal suggestion by the ASEAN to the Tatmadaw and relevant stakeholders to follow in the hope of solving the issue. Instead of coercion or a stick, ASEAN leaders approached the topic with diplomacy and a carrot based on consultation and informality of the ASEAN Way. Instead of pressuring and isolating Myanmar, ASEAN chose to have constructive dialogue with the Tatmadaw. The nature of the political turmoil is purely a domestic affair, which is why it is challenging for international and regional actors such as ASEAN to be involved, but there are humanitarian issues involved, in which they can participate. It emphasizes the end of the fighting, the deployment of a special envoy, and the delivery of humanitarian aid.¹⁸ While the 5PC has not seemed to work much in practice because it is non-legalistic and solely voluntary, resulting in the conflicted parties, especially the State Administration Council (SAC), not

¹⁷ Harsh Mahaseth, "The Use of The Asean Way in Resolving Disputes", *Modern Diplomacy*, June 22, 2022, <https://moderndiplomacy.eu/2022/06/22/the-use-of-the-asean-way-in-resolving-disputes/>

¹⁸ Sampa Kundu, "ASEAN's Multifaceted Approach towards the Myanmar Challenge," *Asian Confluence*, June 10, 2024, <https://www.asianconfluence.org/publication-details-full/asean-s-multifaceted-approach-towards-the-myanmar-challenge>

following, it still demonstrates that ASEAN puts effort and commitment into finding a peaceful solution and provides a framework for doing so. This consensus illustrates that ASEAN is perhaps capable of coming up with a united stand on an issue as sensitive as the Myanmar issue, which could be further transformative of the region's approaches to subsequent conflict.

Humanitarian Assistance Inflow Amidst the Crisis

Moreover, ASEAN has also improved its humanitarian assistance to the people of Myanmar in various ways. The organization has supported humanitarian assistance to society by providing or coordinating aid in collaboration with the AHA Centre for the Management of Disasters in the ASEAN region.¹⁹ For example, in response to the disastrous Tropical Cyclone MOCHA, ASEAN delivered their first batch of Disaster Emergency Logistics System for ASEAN (DELSA) relief items, which worth of 100,000 USD in value, to affected communities in Myanmar such as Chin State, Rakhine State, Bago, Sagaing, Ayeyarwady, and Magway regions.²⁰ While the situation in Myanmar has limited these efforts, the willingness to work with humanitarian agencies and the population of Myanmar is evidence of ASEAN's support for Myanmar's situation. In focusing on aid and relief, ASEAN has also stressed its humanitarian function, going beyond diplomatic and foreign service, showing that it cares for the well-being of the region's people. A crucial point that most tend to overlook is that the ASEAN and other humanitarian missions could enter Myanmar, and providing much-needed assistance to the vulnerable is only possible if the State Administration Council permits them to do so. To receive that permission, ASEAN must maintain a good diplomatic relationship with the SAC, and most ASEAN leaders, especially the Special Envoy, have managed to do so through the element of informality and personal connection with the SAC. For example, during the 2022 Cambodian Chairmanship, then Prime Minister Hun Sen and H.E. Prak Sokhonn and his envoy team had numerous meetings and visits with their Burmese counterparts, including informal discussions through phone calls.²¹

Maintaining ASEAN Centrality and Unity

¹⁹ "ASEAN Humanitarian Assistance to the People of Myanmar in Response to the Impact of Tropical Cyclone MOCHA", *ASEAN*, last modified May 22, 2023, <https://asean.org/asean-humanitarian-assistance-to-the-people-of-myanmar-in-response-to-the-impact-of-tropical-cyclone-mocha/>

²⁰ *Ibid.*

²¹ "Special Envoy of the ASEAN Chair on Myanmar 2022 Handover" Press OCM, February 2023, https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwiQ5-CI3d7_AhXytlYBHYUJA54QFnoECDMQAQ&url=https%3A%2F%2Fpressocm.gov.kh%2Fwp-content%2Fuploads%2F2023%2F02%2FFinal-Handover-Note-of-SE-on-MM-2022.pdf&usq=AOvVaw0xUZ5se2ZVRGxmehJORAcF&opi=89978449

In its effort to address the Myanmar crisis, ASEAN has achieved success in partly managing the process on its own without much reliance on external actors such as the European Union or the US. ASEAN's approach has enabled the organization to ensure that it does not come under much pressure from other external entities that might retain its regional character. Regarding the Myanmar crisis, ASEAN has refused to be pressured by European countries to act more resolutely, which could be counterproductive; instead, it is trying to manage the situation on its own. This independence is essential to enhance ASEAN's ability to represent ASEAN's interests in a world that may well become even more multipolar over the coming years and decades, without the region being merely used as an instrument for furthering someone else's agenda. The main drawback is that due to ASEAN's tendency to engage more modestly with international actors, it lacks means and choices. For example, the EU or the United Nations could apply more diplomatic pressure or sanctions that could make Myanmar's military change its actions.²²

Essentially, the ASEAN Way has allowed the region to remain peaceful and unified despite the intense ongoing Myanmar's political turmoil in Myanmar that has been causing uneasiness in the region. The diplomatic engagement of ASEAN has not only made it possible to avoid direct aggression with any parties but also kept Myanmar in the regional sphere and maintained minimal influence in the conflict, just enough to make subtle changes that pave the way for long-term solutions in the country without severing any ties. As a matter of fact, the ASEAN has been able to maintain a diplomatic platform with the conflicting parties, allowing them to have formal and informal discussions to alleviate the situation; these talks allow ASEAN to help the affected and vulnerable in Myanmar with humanitarian assistance, and by not isolating Myanmar and work it out among themselves, ASEAN leaders has been able to approach the issue ASEAN centric and maintain ASEAN unity despite some disagreements. Thus, ASEAN's non-interference, informal, and norm-based approach has not led to military or blatant political involvement, minimizing the impact on other regional actors. It can be seen that ASEAN has always avoided actions that are punitive; this policy means that the Myanmar

²² "Myanmar/Burma: EU imposes sixth round of sanctions against 9 individuals and 7 entities", Council of the European Union, February 20, 2023, <https://www.consilium.europa.eu/en/press/press-releases/2023/02/20/myanmar-burma-eu-imposes-sixth-round-of-sanctions-against-9-individuals-and-7-entities/>

situation has not provoked crises in other states, thereby reducing the possibility of the spread of crises in the region.

The limitation of ASEAN's approach in addressing the Myanmar Crisis

However, the most considerable weakness of the ASEAN approach has been the failure to ensure compliance and implementation of Myanmar's military junta (the Tatmadaw) with the agreed Five-Point Consensus due to the nature of informality and lack of legality of the ASEAN Way. While the 5PC provided a guiding principle framework for addressing the crisis, the junta has ignored most provisions. It continues with force and denial of free and unobstructed access to humanitarian assistance.²³ Tatmadaw's non-compliance is evidence of ASEAN's weakness in asserting its influence over its members, especially in issues of their sovereignty. ASEAN's policy of non-interference, an essential part of what is now referred to as the "ASEAN Way," has only limited ASEAN's capacity to engage in strong measures against the junta.²⁴ Evidently speaking, the Five-Point Consensus, an unbinding tool, aiming to alleviate and put an end to the issue, has proven to be quite ineffective. One major flaw to the 5PC was the fact that there is no deadline mentioned as to when the 5PC must be implemented. This has resulted in the conflicting parties using the missing deadline to further extend their operation. As a result, the Five-Point Consensus went through reviews to adapt to the issue, starting with Cambodia's Chairmanship first in 2022; yet, there has been little to no progress. For example, one important point of the consensus is to have all parties in the conflicts to have a constructive roundtable discussion with the ASEAN Special Envoy as a facilitator, but it has never materialized. The limitations of diplomatic power hinder ASEAN's leverage, as does the lack of enforcement mechanisms compared to organizations such as the European Union, whose primary option is sanctions and has a mechanism to demand reforms. Consequently, ASEAN's involvement in Myanmar has been more or less an authoritative figure with little actual authority.

Furthermore, ASEAN's successful decision-making system, through reaching a consensus, strengthened solidarity when reaching a decision, yet it was also a drawback during the

²³ "Myanmar: ASEAN's Failed '5-Point Consensus' a Year On", *Human Rights Watch*, last modified, April 22, 2022, <https://www.hrw.org/news/2022/04/22/myanmar-aseans-failed-5-point-consensus-year>

²⁴ Joshua Kurlantzick, "ASEAN's Complete Failure On Myanmar: A Short Overview", *Council On Foreign Relations*, last modified August 29, 2022, <https://www.cfr.org/blog/aseans-complete-failure-myanmar-short-overview>

Myanmar crisis.²⁵ Ensuring everybody agrees on every action has made it very difficult to take strong measures or actions. Certain member states, mainly partners within the Myanmar sphere of influence, economically and politically, have been against decisive measures against the Myanmar junta. The main internal division of opinion has undermined ASEAN's common position and effectively precluded it from enforcing even the small measures provided for in the 5PC. Also, the lack of a collective and coherent response by ASEAN in the current status quo has worked in favor of Myanmar's military, enabling them to stall and avoid the responsibility. However, the result implies that the 'weak coherence' of ASEAN makes its response seem less coordinated, and they have sent out ambiguous signals regarding its stand to solve the Myanmar problem. Such contradiction has left ASEAN's diplomatic authority weakened and negates its capacity to demonstrate power as a regional community.

The Myanmar crisis has exposed another ASEAN's weakness: procedural and slow in its reaction mechanisms. As is known, the organization operates by the non-intervention principle and adheres strictly to consensus decision-making, and this has often stopped the decision-making process in an urgent situation like the situation in Myanmar. For instance, the special envoy whose implementation is part of the 5PC was only appointed after months, and hence weak in the early period of its intervention in the crisis. This delayed response has made ASEAN inconsequential as a crisis responder because it no longer exercises power over the situation.²⁶

In addition, ASEAN faces difficulties in addressing humanitarian crises like the Rohingya situation due to Myanmar's rejection of external intervention, including from the International Criminal Court and ASEAN itself, which has hindered ASEAN's capacity to take effective action. Despite many discussions, no substantial progress has been made in resolving the crisis. Myanmar's refusal to grant citizenship to the Rohingya complicates repatriation initiatives, increasing the risk of human rights violations. ASEAN's dependence on quiet or informal diplomacy and its principle of non-interference has not resulted in any concrete solutions,

²⁵ Sebastian Strangio, "ASEAN Again Urges End to Myanmar Conflict, but Struggles For Way Forward", *The Diplomat*, October 11, 2024, <https://thediplomat.com/2024/10/asean-again-urges-end-to-myanmar-conflict-but-struggles-for-way-forward/>

²⁶ Sharon Seah and Joanne Lin, "ASEAN Special Envoy in Myanmar: Too Little, Too Late?" *FULCRUM*, March 24, 2022, <https://fulcrum.sg/asean-special-envoy-in-myanmar-too-little-too-late/>

reflecting the limitation of its principles in addressing complex issues such as the Rohingya crisis.²⁷

Second Case Study: South China Sea Dispute (SCS)

The South China Sea (SCS) dispute has become a significant geopolitical issue involving several ASEAN claimant states, each adopting various strategies under the framework of the ASEAN Way. This principle involves consensus-building, non-interference, and peaceful diplomacy, shaping how ASEAN member states engage with China and each other in managing territorial disputes.²⁸ This case study will deeply analyze specific sub-cases, including the Philippines, Vietnam, Malaysia, and Brunei, concentrating on the successes and limitations of the ASEAN Way in addressing the complex and contentious SCS issues.

ASEAN Claimant States' Approaches Toward SCS

One of the most notable insights into the ASEAN Way's approach is the confrontation between China and the Philippines in the SCS dispute. In 2013, the Philippines initiated an arbitral complaint against China under UNCLOS where the Permanent Court of Arbitration (PCA) ruled in favor of the Philippines that invalidating China's illegitimate claims over the extension of its Exclusive Economic Zone (EEZ) based on its historical "nine-dash line" border measurement.²⁹ Nevertheless, ASEAN muted its response to this judicial ruling due to its strong commitment of the principle of non-interference, as the bloc encouraged bilateral negotiations instead of taking a definitive stance against China.³⁰ The Philippines themselves wanted to mute the issue, prioritizing their relationship with China for the sake of economic growth, and would rather discuss the topic in an informal or bilateral setting.³¹ While this approach avoided immediate conflict, it created limitations in dealing with the assertive powers of China, as China still insisted on rejecting the non-binding ruling and continued its

²⁷ Jessenia Destarini, "The ASEAN Way as Obstacle for Rohingya Crisis," Medium, December 19, 2020, <https://fpciugm.medium.com/the-asean-way-as-obstacle-for-rohingya-crisis-7aa47e85a5ca>.

²⁸ "The ASEAN Way." Chapter. In *The Asia-Pacific Security Lexicon (Updated 2nd Edition)*, pp.9–20. ISEAS–Yusof Ishak Institute, 2007.

²⁹ Permanent Court of Arbitration. "The South China Sea Arbitration Award." 2016. <https://pca-cpa.org/en/cases/7/>.

³⁰ Batongbacal, Jay. "Arbitration 101: Philippines v. China." *Asia Maritime Transparency Initiative*. 2015. <https://amti.csis.org/arbitration-101-philippines-v-china/>.

³¹ "The Philippines' Dilemma: How to Manage Tensions in the South China Sea" The International Crisis Group, December 02, 2021, <https://www.crisisgroup.org/asia/north-east-asia/china/316-philippines-dilemma-how-manage-tensions-south-china-sea>

assertiveness towards other claimant states in the region.³² This showed ASEAN's inability to enforce international rulings against powerful actors in accordance with the rule of law and deteriorated ASEAN institutional credibility. Thus, while ASEAN's way helped reduce tensions of the conflict temporarily, it did little to address the underlying territorial issues or China's long-term assertiveness in the SCS.

Another aspect of the ASEAN Way can be analyzed through Vietnam's confrontations with China. In 2014, when China deployed the Haiyang Shiyu 981 oil rig within Vietnam's claimed EEZ, there was an escalation of the conflict.³³ For instance, Vietnamese people have marched in a severe protest by burning down many Chinese factories and naval patrols, which contrasted with ASEAN's cautious diplomatic language that avoided direct condemnation of China.³⁴ ASEAN's stance in this incident showcases its commitment to preventing overt conflict and prioritizing regional stability. However, this restrained approach also revealed ASEAN's limitations in countering aggressive actions by major powers, as the lack of a collective effort allowed China to proceed with its wrongdoing acts such as artificial island-building and deployment of military bases without meaningful consequences.³⁵ Hence, the ASEAN Way's principle challenges ASEAN in balancing regional harmony with the need to protect the sovereignty and rights of its member states.

Moreover, Malaysia and Brunei, as other claimant states, have also responded to the issue of SCS through a strategy of "quiet diplomacy" which aligns with the principle of the ASEAN Way.³⁶ Instead of openly challenging China, Malaysia and Brunei have preferred to engage in behind-the-scenes negotiations, while maintaining good relations with China, and clearly asserting their maritime claims.³⁷ For instance, in 2009, Malaysia and Vietnam jointly submitted a partial claim to the United Nations Commission on the Limits of the Continental

³² Glaser, Bonnie S. "Conflict in the South China Sea." *Council on Foreign Relations*, 2016.

<https://www.cfr.org/report/conflict-south-china-sea>.

³³ Thao, Nguyen Hong. "Vietnam's Position on the Sovereignty over the Paracels & the Spratlys: Its Maritime Claims." *Journal of East Asia International Law* 7, no. 1 (2014): 165-191.

³⁴ Kurlantzick, Joshua. "Vietnam Protests: More Than Just Anti-China Sentiment." *Council on Foreign Relations*, 2014. <https://www.cfr.org/blog/vietnam-protests-more-just-anti-china-sentiment>.

³⁵ Hu, Le. 2021. "Examining ASEAN's Effectiveness in Managing South China Sea Disputes." *The Pacific Review* 36 (1): 119-47. <https://doi.org/10.1080/09512748.2021.1934519>.

³⁶ Putra, Bama Andika. "Comprehending Brunei Darussalam's vanishing claims in the South China Sea: China's exertion of economic power and the influence of elite perception." *Cogent Social Sciences* 7, no. 1 (2021): 1858563.

³⁷ Thomas Daniel, "Key Issues and Dilemmas for Brunei and Malaysia in the South China Sea Dispute." 2016. *ISIS*. December 6, 2016. <https://www.isis.org.my/2016/12/06/key-issues-and-dilemmas-for-brunei-and-malaysia-in-the-south-china-sea-dispute/>.

Shelf (CLCS) by asserting their interests without directly provoking China's aggressiveness and breach of international law.³⁸ This diplomatic preference reflects ASEAN's emphasis on non-confrontational engagement by demonstrating the ASEAN Way's flexibility in addressing disputes to reduce the likelihood of armed conflict occurring between China and ASEAN member states. However, this quiet diplomacy lacks transparency and fails to tackle the broader issues, as it is known to be a trade-off in the ASEAN Way where maintaining good relations can sometimes overshadow the need for an open resolution to contentious issues that can somehow affect the livelihood of coastal communities in the SCS.

Pursuant to the diverse approaches of ASEAN towards SCS, the member states had collectively adopted the DOC in 2002, which it established guidelines for managing disputes and promoting peaceful cooperation through reaffirming commitments of dispute parties to UNCLOS and respecting the freedom of navigation and peaceful dispute resolution.³⁹ However, the DoC's effectiveness has been limited by the lack of binding commitments and enforcement provisions.⁴⁰ For example, the incident of Scarborough Shoal standoff between China and the Philippines in 2012, despite ASEAN's calls for peaceful resolution, China still took control of the shoal since it would not be held accountable under the DOC's non-binding framework.⁴¹ This incident illustrates how ASEAN struggles in translating its principles into effective actions against assertive state behavior. Due to this ineffectiveness, ASEAN has attempted to negotiate for another COC, aiming at developing binding provisions and a consensus agreement among member states.⁴² Yet, this vision has been delayed as member states prioritize different national interests and the strategic importance of the SCS to both regional and global powers.⁴³

Key Successes of the ASEAN Way in SCS

³⁸ United Nations. "Malaysia and Viet Nam Joint Submission to the Commission on the Limits of the Continental Shelf." Accessed November 13, 2024.

https://www.un.org/Depts/los/clcs_new/submissions_files/submission_mysvnm_33_2009.htm.

³⁹ Li, Mingjiang. "Managing Security in the South China Sea: From DOC to COC." *Kyoto Review of Southeast Asia* 15 (2014). <https://kyotoreview.org/issue-15/managing-security-in-the-south-china-sea-from-doc-to-coc/>.

⁴⁰ Ha, Hoang Thi. "From declaration to code: continuity and change in China's engagement with ASEAN on the South China Sea. No. 5". *ISEAS-Yusof Ishak Institute*, 2019.

⁴¹ Andrea Cloe Wong. "The 2012 Scarborough Shoal Standoff: Analyzing China in Crisis with the Philippines." *NBR: National Bureau of Asian Research*. 2012. <https://www.nbr.org/publication/the-2012-scarborough-shoal-standoff-analyzing-china-in-crisis-with-the-philippines/>.

⁴² Thayer, Carlyle A. "ASEAN, China and the Code of Conduct in the South China Sea." *The SAIS Review of International Affairs* 33, no. 2 (2013): 75–84. <https://www.jstor.org/stable/2699540>.

⁴³ *Ibid*.

Despite these challenges, the ASEAN Way has played a significant role in preventing large-scale conflicts in the SCS. The consensus-based decision-making has fostered peaceful dialogue, which allowed ASEAN to engage China on regional matters despite tensions of the conflict. By promoting informal diplomacy, ASEAN has enabled Track II discussions, which allow for informal and unofficial discussions among experts, former officials, and academics from ASEAN member states and other stakeholders through peaceful dialogue, which helps build trust and mutual understanding without escalating into military confrontation.⁴⁴ This diplomatic mechanism has promoted inclusivity by preventing any unilateral actions of a single member from dominating ASEAN's agenda and preserving regional unity.⁴⁵ Thus, while ASEAN has not resolved territorial claims, it has managed to maintain a relatively peaceful environment, showcasing the ASEAN Way's effectiveness in conflict de-escalation.

Limitations of the ASEAN Way in the South China Sea Dispute

The effectiveness of the ASEAN Way remains questioned when it comes to a multifaceted issue that requires complete unity in ASEAN while maintaining national interests, such as the South China Sea dispute. Reaching a consensus in ASEAN would not have been such a problem if the leaders did not need to consider their national interests, the regional interests, and their long-term relations with China, which is a superpower in her own right on the globe and in Asia. These elements, along with the fact that there is a stance division on the topic in the regional grouping, have led ASEAN to be extra cautious when making statements revolving around the South China Sea dispute. This has more often than not resulted in statements that lack the force needed to address assertive actions by major powers like China.⁴⁶ This approach has led to "lowest common denominator" outcomes, where ASEAN's strong responses are diluted to avoid confrontation, weakening the bloc's ability to defend the sovereignty of its member states.⁴⁷ Another example of the different ideologies and stances in the matter among the members would be how Cambodia and Laos, whom many consider to have the closest ties with China among the ASEAN countries, would have frequently blocked any initiatives that

⁴⁴ Ernest Z. 2011. "The Quintessential Test for ASEAN Centrality: A Changing Paradigm in the South China Sea." *Center for Strategic and International Studies*. <https://www.csis.org/analysis/quintessential-test-asean-centrality-changing-paradigm-south-china-sea>.

⁴⁵ Emmers, Ralf. "ASEAN and the Securitization of Transnational Crime in Southeast Asia." *The Pacific Review* 30, no. 3 (2003): pp. 421-440.

⁴⁶ Cheeppensook, Kasira. "ASEAN in the South China Sea conflict, 2012–2018: A lesson in conflict transformation from normative power Europe." *International Economics and Economic Policy* 17, no. 3 (2020): pp. 747-764.

⁴⁷ Ramcharan, Robin. "ASEAN and non-interference: a principle maintained." *Contemporary Southeast Asia* (2000): pp. 60-88.

could successfully confront China's actions proposed by Vietnam and the Philippines, undermining the institutions' collective efforts and unified actions in addressing critical matters like the SCS dispute.⁴⁸ Another way to look at this action would be how Cambodia and Laos are "non-claimant" states and abide by the principle of non-interference. Such a situation once occurred during Cambodia's second ASEAN chairmanship in 2012, when the Chair could not facilitate the discussion and failed to deliver a joint communiqué for the first time in ASEAN history. This, however, is not the only time that ASEAN seems to be facing a "deadlock" or a dilemma when the South China Sea dispute is on the table. Even the Philippines, a claimant that won the South China Sea Arbitration Award against China's claim in 2016, is seen to be cautious and sometimes downplays that ruling in the hope of maintaining diplomatic and economic relations with China as well.⁴⁹

Does the ASEAN Way Need a Modification?

After more than 55 years since its creation, the effectiveness of the ASEAN Way still remains one of the most asked questions of the Association of Southeast Asian Nations. Should ASEAN continue to prioritize its principles of non-binding, non-interference, informality, consultation, and especially consensus in hopes of maintaining regional peace and stability? Or is it time for ASEAN to accelerate the institutionalization process that was impacted by the introduction of the ASEAN Charter in 2007? At the center of these questions would be: should the ASEAN Way be preserved, modified, or abandoned?

To address this, it is important to first look at ASEAN's inherent nature and its long-lasting existence. At the core of it all, ASEAN serves as a crucial symbol of unity and regionalism for Southeast Asian nations, with the addition of Timor-Leste in the near future, with elements of pragmatism scattered across its history. It could be argued that the ASEAN Way itself is a product of a diplomatic and pragmatic approach that the ASEAN leaders have been implementing since 1967, with many documents and agreements produced by the ASEAN being non-binding and suggestions rather than binding and legal enforcements. The primary objectives have always been to promote, maintain, and strengthen regional peace, security, and stability within the region, to prevent internal conflicts between states, and to collectively stand

⁴⁸ Pang, Edgar. "Same-Same But Different: Laos and Cambodia's Political Embrace of China." *ISEAS-Yusof Ishak Institute*. 2017.

⁴⁹ Batongbacal Jay, "The Philippines and the South China Sea Arbitration Award: External Appeasement and Internal Dissension", *ISEAS Perspective*, No. 125 (2021)

on the same ground level with global powers by leveraging regional political and economic asserts, which is shown through ASEAN unity and centrality.⁵⁰ Moreover, the profound diversity of ASEAN is also another key argument in favor of maintaining the ASEAN Way as well. The wide disparities in economic status and differences in political values among the states have proven to be challenging for ASEAN to move forward at a consistent pace or frequency when it comes to regional economic growth or conflict resolution. Each nation has to consider its own national interests while avoiding isolation by neglecting regional interests. Therefore, the member states have to carefully maintain a good balance of satisfying their citizens and their fellow member states, especially when it comes to sensitive issues such as domestic affairs and regional disputes. The inherent flexibility of the ASEAN Way provides room for the states to navigate this complexity without being pressured or singled out by either domestic or regional actors that could potentially hinder domestic stability and regional cooperation.

One possible method for the modification to the ASEAN Way, while maintain an ASEAN-Oriented approach, would be the implementation of a “majority voting system” for any regional issues that could disrupt the regional peace and security and/or involve the collective interests of the majority of the member states, like the South China Sea dispute. This approach would ensure a proper and effective structure of the decision-making process in the region, especially breaking deadlocks in negotiation, which would strengthen the institution of ASEAN moving forward in the future.⁵¹ As for domestic issues, ASEAN consensus should still be maintained so as not to violate the domestic affairs or non-interference policy of ASEAN. However, this change in the decision-making process could undermine the ASEAN Way and potentially negatively affect the unity of ASEAN in the long term.⁵² However, this majority voting system modification, let alone the idea of abandoning the ASEAN Way, could hinder ASEAN unity due to the conflict of interests in the issues and potentially have a long-term negative impact on ASEAN centrality, opening gateways for external influences to enter the region, causing severe fractures between ASEAN states.

⁵⁰ Association of Southeast Asian Nations, Charter of the Association of Southeast Asian Nations (Jakarta: ASEAN Secretariat, 2008), <https://asean.org/wp-content/uploads/images/archive/publications/ASEAN-Charter.pdf>

⁵¹ Hiep Le Hong, “Can ASEAN Overcome the ‘Consensus Dilemma’ over the South China Sea?”, ISEAS, October 26, 2016, https://www.iseas.edu.sg/wp-content/uploads/pdfs/ISEAS_Perspective_2016_58.pdf

⁵² Ibid

Conclusion

In conclusion, the ASEAN Way has served as a crucial method that allows the diverse ASEAN member states to work together effectively while keeping the region in a relatively peaceful status despite having to manage domestic and regional issues such as the 2021 Myanmar political turmoil and the South China Sea dispute collectively. The elements of the ASEAN Ways such as non-interference, ASEAN consensus, and informal diplomacy allow the ASEAN leaders to cooperate and negotiate with each other effectively and efficiently in flexible and informal manners based on norm-based behaviors, which is very much needed when there are many differences between the ten countries, rather than legalistic manners. While these principles have helped maintain stability and avoid escalation, they have also shown limitations in effectively countering aggressive actions and achieving long-term resolutions. Moving forward, ASEAN must enhance its conflict resolution mechanisms and strengthen unity among its members, but the principle of informality and consensus should still be maintained, as it is a crucial foundation of ASEAN that keeps the countries together, and changing it and enforcing legalistic norms would likely change the organization structure entirely resulting in potential severe disunity in ASEAN that could lead to conflicts between the member states and violation in domestic affairs.

Keo Sokkosol is a Junior Researcher at the Center for Southeast Asian Studies (CSEAS) and a Lecturer at the Institute for International Studies and Public Policy (IISPP).

The opinions expressed are those of the author and do not represent the views of his affiliations.

Center for Southeast Asian Studies (CSEAS) of the Institute for International Studies and Public Policy (IISPP) aims to be a highly reliable and advanced hub of knowledge on Southeast Asian affairs to catalyze progress and advance prospects of positive integration, peace, and development. With its pool of high-caliber researchers, IISPP's CSEAS aims to be an alternative to ad-hoc research, training, and policy dialogue arrangements with limited or short-lived national and regional impacts

Acknowledgement

I would like to extend my highest gratitude to the Institute for International Studies and Public Policy (IISPP) and the Center for Southeast Asian Studies (CSEAS) for providing me with valuable opportunities and platforms to develop and extend my academic and research skills. I would especially like to express my warmest appreciation to the management teams of IISPP and CSEAS for their consistent instruction, insightful guidance, and resourceful support, without which my journey in constructing this Insight would not have been possible.

I would also like to specifically acknowledge the incredibly crucial contributions of three individuals whose early work significantly shaped this Insight: Koeng Kimhab, Lek Amra Christie, and Tann Marady. They are students of IISPP and interns at CSEAS. Their initial drafting of the paper was instrumental and allowed me to further polish it into its final version.

Finally, I extend my sincere gratitude to Ms. Ly Nory, a researcher at CSEAS and a lecturer at IISPP, for her invaluable assistance in the pre-writing stage, including insightful discussions and the provision of essential reading materials that greatly enriched the development of my ideas.



IISPP
INSTITUTE FOR INTERNATIONAL
STUDIES AND PUBLIC POLICY

CENTER FOR SOUTHEAST ASIAN STUDIES

មជ្ឈមណ្ឌលសិក្សាអាស៊ីអាគ្នេយ៍

Address: Russian Federation Blvd
(110), Phnom Penh

Telephone: (855) 23 885 419

Email: info.iispp@rupp.edu.kh

Website: www.rupp.edu.kh/iispp/cseas