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The Elgar Companion to ASEAN

ASEAN and conflict management

1. Introduction

Analyses of ASEAN's record in relation to conflict management vary considerably. While some scholars argue that the Association deserves significant credit for the 'long peace' in Southeast Asia, others have emphasised the stark limitations of its approach to conflict management. Indeed, compared with other regional organisations, ASEAN is often considered to have lagged far behind in collective conflict management. Interestingly, this difference in scholarly assessment has persisted, even as ASEAN has pursued, since 2003, the political project of establishing an ASEAN Community and, as part thereof, the ASEAN Political Security Community (APSC).

This chapter has two main aims: first, to provide an account of how the scholarly literature has understood ASEAN's role with respect to conflict management, and second, to examine to what extent ASEAN's recent collective practices and decisions allow for any qualification of the widespread view that ASEAN is unable to, or resists trying to, become involved in, let alone manage, either interstate disputes or intrastate armed conflict.¹

How we look at ASEAN's record and role in relation to conflict management matters, as some interstate relations among Southeast Asia states remain subject to territorial and jurisdictional disputes as well as domestic politics and currents of nationalism.² Some states within Southeast Asia are also still experiencing armed struggles for autonomy or even wider civil wars. In the context of growing great power competition in Southeast Asia and increasing challenges to the principle of ASEAN Centrality, there is also the question of whether, in relation to conflict management, ASEAN maintains cohesion or unity, as the possibility of great power intervention has not entirely disappeared. In addition, assessments of ASEAN's approach to conflict management are relevant and related to discussions of conceptual or theoretical import. For instance, there is a link between conflict management and debates on whether ASEAN

constitutes a security community. As Amitav Acharya (2021, p. 6) has argued, a pluralistic security community does not imply the absence of conflicts, but ‘requires the ability to resolve these disputes peacefully’. Similarly, how ASEAN approaches conflict management matters with regard to the studies of ASEAN’s diplomatic and security culture, and associated norms and practices (Haacke 2003; also see Glas, 2017; Nair, 2019).

Following conventional usage, I take conflict management to include conflict prevention, conflict mitigation, and conflict resolution. Moreover, as the terms are often used interchangeably, I distinguish here between disputes and conflict, with the latter also being understood as involving the use of force. In so doing, I embrace the notion that disputes are, in principle, negotiable, whereas conflicts highlight deeper disagreements that are normally considered by the parties concerned to be less amenable to a negotiated outcome. Despite making this distinction, I submit that both should be discussed in relation to conflict management.

Following a non-exhaustive overview of the literature on ASEAN and its pursuit of conflict management, this chapter will briefly re-examine the extent of the evolving consensus on conflict management expressed in key ASEAN documents before focusing on two important cases: the Preah Vihear conflict and ASEAN’s role vis-à-vis Myanmar after the February 2021 coup until October that year. This chapter shows that ASEAN’s broad normative framework relevant to conflict management still stands, but that ASEAN has, in recent years, become involved in conflict management with respect to interstate conflict and even intrastate conflict that have seen notable levels of force being used.

2. Development of the Topic and Literature Overview

The general literature on conflict management has established that there is considerable variation with respect to how regional organisations engage in conflict management, while noting an increase in the latter’s conflict management activities after the Cold War (Diehl, 2007). Such variation has been seen to depend on multiple factors. For instance, Diehl (2007) identifies five factors (threats, internal rivalries, mandate/authority and institutional arrangements, resources available, and competition for as well as effects of hegemony), while Williams and Haacke (2011, pp. 61–67) focus on four clusters of factors (influence of any

extra-regional and intra-regional hegemons; domestic political variables; regional security culture, and collective capacity). The general literature on conflict management has viewed ASEAN as far less engaged than other regional organisations, especially in Europe and Africa. Usually, this argument is made with reference to several of the aforementioned factors, not least absent authority. At the same time, scholars have also noted the roles that non-official actors have played in Southeast Asia as far as conflict management is concerned. Pamela Aall (2007), for instance, highlights the roles and contributions of the Geneva-based Henri Dunant Centre for Humanitarian Dialogue (CHD) and the Conflict Management Initiative headed by former Finnish president Martti Ahtisaari in bringing to an end the long-standing armed conflict in Aceh. Michael Vatikiotis (2017) has similarly discussed the role of the CHD with respect to the conflict in Southern Thailand.

The literature on ASEAN arguably loosely falls into three camps as far as the Association's record in relation to conflict management is concerned, with the first being almost unabashedly positive about ASEAN's contribution, the second to some extent qualifying our understanding of ASEAN as a vehicle for conflict management, and the third focusing on a critique of ASEAN's shortcomings. Those most positive about ASEAN's conflict management generally attribute an absence of serious armed conflict in Southeast Asia since the 1960s to the workings of the Association. For instance, Kishore Mahbubani and Jeffery Sng (2017, p. 7) hold that '...it cannot be denied that ASEAN is a miracle. It has brought durable peace to a region that experienced great conflicts. ... a Nobel Peace Prize for ASEAN is long overdue'. Marty Natalegawa (2018, p. 19) has similarly suggested that Southeast Asia has undergone a 'conversion of a culture of war to a culture of peace' (ibid, p. 15). Notably, he highlights ASEAN's corporate role in bringing about this transformation, stating that '[m]ore than simply a change in the dynamics of the sets of key bilateral relationships in the region, ASEAN has made possible the growth of conflict prevention, conflict management and conflict resolution norms' (ibid, p. 19).

Most scholars and some practitioners agree with the point that ASEAN should itself be understood as a vehicle of conflict management. In this vein, Ramses Amer (1998) argued that ASEAN was, from the outset, an association for conflict management that prevented bilateral disputes from turning into militarised interstate conflicts. Former ASEAN secretary-general Rodolfo Severino (2006, p. 164) in the mid-2000s similarly stated, 'Then, as now, ASEAN's core objectives were to provide a regional framework for the member-states to manage their

disputes peacefully and prevent them from erupting into conflict...’. Also, Amitav Acharya (2014, p. 58) posited that the ‘establishment of ASEAN was the product of a desire by its five original members to create a mechanism for war prevention and conflict management’.

However, some scholars sought to clarify ASEAN’s focus as being more about conflict prevention than conflict resolution as far as bilateral ties among members were concerned. Michael Leifer (1999, p. 32), for instance, held that ‘...a peace dividend of a kind may be deemed to follow [ASEAN’s establishment] to the extent that member governments have developed a stake in the sustained viability of the association as a vehicle for conflict avoidance and management’. More clearly than most scholars, Leifer also pointed out, however, that while ASEAN may have helped members to manage tensions and sensitivities based on informal processes of confidence-building and trust creation, the Association did not engage in dispute-specific preventive diplomacy let alone formal dispute settlement. In Leifer’s words, there was ‘no ASEAN peace process’ in a substantive sense. As he explained, ‘The fact of the matter is that beyond ad hoc initiatives during 1968/69, which served to defuse tensions between Malaysia and the Philippines over the latter’s claim to Sabah, preventive diplomacy has been conspicuous by its absence in ASEAN’s institutional experience, while formal dispute settlement has been beyond it’ (p. 26). Indeed, Leifer much preferred to view ASEAN in terms of ‘...a process of intergovernmental dialogue whose continual flow has been regarded as a prophylactic in itself against any incidence of conflict’(p.26).

Scholars writing on ASEAN conflict management have all duly noted the existence of dispute settlement provisions contained in the Treaty of Amity and Cooperation. These provisions allow for the constitution of a High Council that would ‘take cognizance of the existence of disputes or situations likely to disturb regional peace and harmony’ and in the event of no solution being available through direct negotiations at least recommend to the parties concerned ‘appropriate means of settlement’. However, as Leifer (1999, p. 29) noted, ‘The strong reluctance to invoke that provision [on the High Council] has been indicative of the recognition that engaging in formal intra-mural dispute settlement could well be highly contentious and divisive and therefore self-defeating to the limited security purpose of the association which is, above all, about conflict avoidance and management’. Indeed, even when some ASEAN countries agreed that the time was right to settle bilateral territorial disputes, they opted, in practice, for adjudication by the International Court of Justice (ICJ). Indeed, the practice whereby bilateral disputes are managed bilaterally (or settled through recourse to non-

ASEAN modes of conflict settlement) has been viewed as an important facet of the ‘ASEAN way’ (Haacke, 2003).

Other scholars have offered at times stringent criticisms relating to ASEAN’s record of conflict management. These more critical assessments include the writings by Jones and Smith (2006), who accused not least constructivist scholars of being ‘delusional’ and bemoaned the ‘all-consuming enthusiasm for ASEAN’s conflict management technique’, dialogue which, to them, explains ‘why international relations analysts ignored the underlying ethnic and religious tensions that made a mockery of regional harmony and consensus after 1997’ (ibid, p. 40). Notably, this criticism could be viewed as also being directed towards ASEAN’s collective practice of non-interference vis-à-vis individual member states, in so far as the latter is seen as preventing ASEAN from conflict management in relation to intrastate conflict. Although ASEAN has reinterpreted aspects of its practice of non-interference in the last two decades, many scholars continue to view the importance attributed to this principle as deeply unhelpful, given that it is seen as preventing ASEAN from becoming involved in intrastate conflicts across Southeast Asia, some of which have had significant human costs.³

3. Evolving Consensus and Practices?

As many of the arguments in the literature on ASEAN’s role in relation to dispute settlement and conflict management still build on insights focused on the formative years of the grouping’s experience until the mid-2000s, it is useful to ask whether with ASEAN’s agreement on the APSC and then the ASEAN Charter, the shared understandings and practices with respect to the grouping’s corporate approach to conflict management have changed. After all, the development of the APSC and the debate about the ASEAN Charter provided such an opportunity. Also, other shared understandings – especially regarding the extent of ASEAN’s legitimate involvement in domestic affairs of members in certain circumstances despite a continued commitment to non-interference– have clearly evolved. To examine whether ASEAN’s collective understandings and practices on how to manage disputes and conflicts have also shifted, this section will first briefly compare key ASEAN documents agreed before and after 2003 and then zoom in on ASEAN’s respective response to two recent cases of armed conflict, one interstate and the other intrastate, namely the border dispute between Thailand and Cambodia over the Preah Vihear Temple and the violent contestation that has followed the military ‘takeover’ in Myanmar, respectively.

<p:b_no_indent>*ASEAN's stated consensus*

What is ASEAN's consensus on corporate conflict management? The 1976 Treaty of Amity and Cooperation (TAC) sets out clearly the expectation that members are supposed to settle disputes among themselves through friendly negotiations, especially disputes 'likely to disturb regional peace and harmony' (Art.13). Notably, however, the TAC also contains provisions for the constitution of a regional dispute settlement mechanism: the ASEAN High Council. In the event that members cannot settle a dispute through direct negotiations, Article 15 stipulates that the High Council 'shall take cognizance of the dispute or the situation [likely to disturb regional peace and harmony]' and 'recommend to the parties in dispute appropriate means of settlement such as good offices, mediation, inquiry or conciliation'. Depending on agreement of the parties in dispute, the High Council may also 'constitute itself into a committee of mediation, inquiry or conciliation' (Art.15). This consent requirement and the political nature of the High Council explain why the latter has never been formally activated.

Notwithstanding its non-invocation and the seeming overriding norm that bilateral disputes are to be addressed bilaterally by members in dispute, specific rules of procedure for the High Council were adopted by ASEAN foreign ministers in 2001 (ASEAN, 2001). Already in 2000, at a time Southeast Asia experienced both instability and insurgencies in some member states as well as tensions between some capitals, ASEAN states had also agreed on an ASEAN Troika mechanism '...to enable ASEAN to address in a timely manner urgent and important regional political and security issues and situations of common concern likely to disturb regional peace and harmony' (ASEAN, 2000). The ASEAN Troika was to comprise the foreign ministers of the present, past and future ASEAN chairs. However, the ASEAN Troika had its wings clipped from the outset: it was to be an ad hoc body constituted at the ministerial level, but not a decision-making body. Moreover, the ASEAN Troika was to refrain from addressing issues considered to constitute internal affairs.

The 2003 Bali Concord II, which mapped out the ASEAN Security Community (ASC) (later relabelled the ASEAN Political Security Community, APSC) as one of the pillars of the ASEAN Community, restated key principles relevant to conflict management. It affirmed that ASC members 'shall rely exclusively on peaceful processes in the settlement of intra-regional differences...' and also asserted that the High Council 'shall be the important component in the ASEAN Security Community since it reflects ASEAN's commitment to resolve all

differences, disputes and conflicts peacefully' (ASEAN, 2003). The 2004 ASEAN Security Community Plan of Action saw ASEAN norms setting activities adhere to principles of conflict resolution through non-violent means and the renunciation of the threat or the use of force. It also identified objectives of conflict prevention and committed to 'use the existing regional dispute settlement mechanism and processes in the political and security areas and work towards innovative modalities including arrangements to maintain regional peace and security' (ASEAN 2004). Possible measures and activities for conflict prevention and conflict resolution were outlined in an annex to the ASEAN Security Community Plan of Action. Notably, these documents did not amount to or produce a major shift in the consensus perspective on ASEAN's corporate role in relation to managing disputes and conflict.

Significantly, the existing consensus on what role ASEAN was to have in relation to disputes or conflict between members did not shift even with the adoption of the ASEAN Charter in 2007. According to the ASEAN Charter, disputes are to be resolved by members 'in a timely manner through dialogue, consultation and negotiation' and dispute settlement mechanisms are to operate across all fields of ASEAN cooperation (Art. 22). As Moon recounts (2009, pp. 71–72), '[t]here was some discussion among the High Level Task Force (HLTF) as to whether the Charter should empower the Chairman or Secretary-General to offer good offices, conciliation or mediation without being requested. In the end, it was decided that it would be better to let the parties make a request than have others attempt to get involved against the will of the disputants'. Article 23 of the ASEAN Charter, thus, reads that parties to a dispute may, at any time, agree to 'resort to good offices, conciliation or mediation' and, specifically, allows for parties to a dispute to request the chairman of ASEAN or the secretary-general of ASEAN to provide good offices, conciliation, or mediation. Significantly, the TAC remains the basis for dealing with disputes that 'do not concern the interpretation or application of any ASEAN instrument' (Art. 24). As far as unresolved disputes are concerned, these 'shall be referred to the ASEAN Summit, for its decision' (Art. 26).

With ASEAN subscribing to the principle of comprehensive security, the APSC Blueprint 2009 identifies confidence building measures and preventive diplomacy as 'important instruments of conflict prevention'. In terms of the settlement of differences or disputes the APSC Blueprint highlights the TAC (ASEAN, 2009), and while the former states an interest in enhancing regional mechanisms for the pacific settlement of disputes and in developing ASEAN modalities for good offices, conciliation and mediation, the main ideas put forward concerned

the establishment of an ASEAN Institute for Peace and Reconciliation and to identify best practices in relation to conflict management and conflict resolution. The most recent APSC Blueprint 2025, released in 2016, highlights a call of support for the ASEAN Chair in ensuring an effective and timely response to urgent issues or crisis situations affecting ASEAN, including by providing its good offices (ASEAN 2016, p. 15). In addition, the Blueprint also mentions the possible convening of special meetings at all levels in the event of crisis situations affecting ASEAN and the activation of the ASEAN Troika. As we shall see in subsequent sections, the ideas contained in the aforementioned blueprints, which still remain tied to the long-standing regional consensus on any corporate approach to dispute management, have both reflected and informed evolving ASEAN practices.

Preah Vihear

The conflict between Thailand and Cambodia over the Preah Vihear Temple makes for the only recent example of two ASEAN member states directing military force against one another. Indeed, as Glas (2017, p. 835) suggests, the 2011 Preah Vihear Temple conflict was ‘the most severe regional conflict in recent decades’ and ‘risked escalation into full-scale war between ASEAN member states’.⁴ How ASEAN dealt with this conflict is, hence, a particularly important question. The historical roots of the contestation surrounding the temple – constructed mainly during the reigns of Khmer kings Suryavarman I (1006–1050) and Suryavarman II (1113–1150) – are located in Thailand’s defeat at the hands of and subsequent border agreements with Cambodia’s former colonial ruler, French Indochina.⁵ Shane Strate (2013), in particular, emphasizes Preah Vihear’s importance within Thai national humiliation discourse. Thailand’s bid to regain ‘lost territories’ occurred when the French strategic position deteriorated in the early 1940s. With Japan’s defeat in 1945, however, Thailand was obliged to return the lost territories reacquired in 1941, including the Preah Vihear Temple. However, in February 1949, Thailand deployed keepers to the Preah Vihear Temple (Leifer, 1967, p.85), and refused to vacate the site even after Cambodia’s independence in 1953. The temple thus became a serious issue in ties between Bangkok and Phnom Penh amid significant bilateral mistrust and generally difficult post–World War II relations, expressed not least through personal hostility between leaderships and serious foreign policy differences (Leifer, 1967). Cambodians cast the Thai presence as a challenge to national sovereignty and formally raised the issue at the diplomatic level with Thailand in May 1957. With the controversy over Preah

Vihear prompting a deeper crisis in bilateral relations, Cambodia took the dispute to the ICJ in October 1959. Thailand was apparently shocked at the possibility of losing Preah Vihear (Strate, 2013, p. 55). The ICJ awarded the Temple and the vicinity of the territory on which the Temple stands to Cambodia but did not settle the border. Thailand grudgingly complied with the 1962 ruling and withdrew, leaving bilateral relations with Cambodia to fester in the maelstrom of Cold War politics. Although Thailand initially reserved the right to recover the Temple through legal processes, it did not appeal (Jenne, 2017, p. 327). As some argue nonetheless, ‘Thailand, with the backing of right-wing nationalists, had never fully accepted either the ICJ’s ruling or Cambodian sovereignty over the temple’ (Kasetsiri, Sothirak and Chachavalpongpun, 2013, p. 59).

Renewed tensions over Preah Vihear erupted in 2008 in the context of Thailand withdrawing its objections to the nomination of the Temple complex as an UNESCO World Heritage site. Aiming to remove then prime minister Samak Sundaravej, the extra-parliamentary opposition formed the People’s Alliance for Democracy (PAD), which whipped up nationalist emotions against Thailand’s official support for Cambodia’s application. With accusations that the government was selling out in relation to the outstanding boundary dispute surrounding the Temple, PAD leaders went as far as suggesting the use of force to settle the issue (Ibid, p. 60). Meanwhile, in Cambodia, the growing tensions played into the hands of Hun Sen in the context of imminent general elections.⁶ Initial bilateral talks failed (Jenne, 2017, pp. 331–332) as Thailand, having occupied disputed land adjacent to the Preah Vihear Temple as well as another temple complex on the border, engaged in minor cross-border skirmishes that resulted in some casualties (Osborne, 2010). Bilateral relations deteriorated further after Abhisit Vejjajiva became Thailand’s prime minister in December 2008 and spiked the following November after Thaksin Shinawatra’s appointment as Hun Sen’s adviser. Having reportedly already suggested involving the United Nations Security Council in July 2008 as troops quickly increased on the border in the early phase of the crisis, Hun Sen wrote to the UNSC in August 2010, after Abhisit indicated his preparedness to use force over the conflict (International Crisis Group (ICG), 2011, p. 14). In the absence of any progress to end the dispute, Thai road construction activity in the disputed area triggered renewed armed clashes in early February 2011, involving the use of heavy weapons (ICG, 2011, p. 17). At this point, Cambodia requested a meeting of the UNSC regarding ‘Thailand’s aggression’ against its sovereignty and territorial integrity. In response, the UNSC organised a private meeting on 14 February involving the foreign ministers of Cambodia, Thailand, and Indonesia, which was holding the

ASEAN Chairmanship at the time. Cambodia used the meeting to call for a UN peacekeeping force (Natalegawa 2018, p. 37). For their part, the UNSC members urged both parties to establish a permanent ceasefire and ASEAN to help resolve the situation through dialogue.

How should we assess ASEAN's response to the Preah Vihear border conflict? There was no ASEAN support for Cambodia taking the bilateral conflict to the UNSC in July 2008. According to former Indonesian foreign minister Marty Natalegawa (2018, p. 32), the Preah Vihear Temple issue was instead informally discussed by ASEAN foreign ministers. At the time, an offer of ASEAN facilitating talks was rejected by both Cambodia and Thailand (ibid, 2018, p. 32). George Yeo, then the ASEAN Chair, captured the situation in these words: '[t]here was a proposal for an ASEAN Contact Group to help support the efforts of Thailand and Cambodia to find a peaceful resolution to the issue. The proposal found favour with a number of Foreign Ministers, but there was also a general view that the bilateral process should be allowed to continue, and there is still no consensus for the formation of such a group' (ASEAN, 2008). This seemed to confirm the long-standing default position of member states to manage bilateral problems bilaterally and outside of ASEAN's processes in the first instance. Here, particular hope seems to have been placed in the bilateral Thai–Cambodian General Border Commission (GBC). Despite then ASEAN secretary-general Surin Pitsuwan apparently trying to sway both the governments concerned to work towards a peaceful resolution of the border conflict, no progress was achieved on a bilateral basis. Indeed, in August 2010, when Cambodia formally sought ASEAN mediation (Natalegawa, 2018, p. 33), Thailand still rejected a role for ASEAN in terms of dispute settlement (ICG, 2011, p.15). For some analysts, Vietnam as the ASEAN Chair invited considerable criticism over standing on the sidelines, with Wagener (2010) concluding that ASEAN suffered from 'institutional autism', a concept meant to convey ASEAN's escape into its own fantasy world (Wagener, 2010, p. 187).

Holding the ASEAN Chairmanship after Vietnam, Indonesia adopted a more proactive approach to the bilateral border conflict. As Natalegawa (2018) recounts, he perceived a special responsibility for the ASEAN Chair in addressing the border conflict. Explaining his 'shuttle diplomacy' to Phnom Penh and Bangkok on 7–8 February 2011, Natalegawa (2018, p.34) wrote, 'As chair of ASEAN, I interpreted it as part of the intrinsic mandate of the chair to proactively and without delay manage emerging conflict situations among ASEAN member states'. Natalegawa also attended the private meeting on the border dispute organised by the

UNSC. With Indonesia keen to avoid a more substantial UNSC role and to present ASEAN as a net contributor to international peace and security, the UNSC members rejected Cambodia's call for military observers and entrusted ASEAN with facilitating a dialogue to resolve the crisis. ASEAN convened an informal foreign ministers' meeting on 22 February. In the event, Natalegawa won approval from Phnom Penh and Bangkok for the deployment of Indonesian observers on the border to oversee a ceasefire in the disputed territory surrounding Preah Vihear (Della-Giacoma 2012). While the relevant statement released by the foreign ministers at times used the formulation of 'Indonesia, Chair of ASEAN', it also invoked the language of 'Indonesia, current Chair of ASEAN' in relation to making available observers to avoid further armed clashes and supporting bilateral negotiations (ASEAN, 2011). This pointed to Indonesia potentially maintaining a role beyond its chairmanship. In Natalegawa's (2018, p. 34) assessment, his role '...required a judicious balance between presenting [his] efforts as being strictly national [read: Indonesian] in nature, and at others emphasising Indonesia's role as chair of ASEAN...', without formally being seen as invoking TAC provisions. Significantly, Natalegawa nevertheless suggests that the Special Informal ASEAN Foreign Ministers' Meeting convened on 22 February 2011 'was for all practical purposes the foreseen TAC Council' (Ibid., ibid, pp. 40; 43). Notably, only five member states were reportedly represented at the foreign minister level at 'ASEAN's seminal conflict resolution moment' (ICG, 2011, p.21).

Natalegawa (2018, p. 43) emphasises that both sides agreed on the terms of reference for the Indonesian observers to be deployed on either side of the border, with an area of operations centred on the Preah Vihear Temple and the surrounding area, but found that 'the actual deployment of the said observer team proved unnecessary'. Others have highlighted how the objections by the Thai military and upcoming general elections prevented the agreement's actualisation (ICG, 2011). Natalegawa also sought to facilitate the convening in Bogor of bilateral military-led GBC talks between the conflicting parties, albeit unsuccessfully (Natalegawa 2018, p. 43). However, it would appear he did manage to kick-start talks at the level of the Joint Border Commission. Significantly, Indonesia's 'appropriate engagement' with Cambodia and Thailand, supported by ASEAN members (ASEAN, 2011), failed to avert further serious border clashes in April and May 2011 that caused numerous casualties and the temporary displacement of civilians. Cambodia asked the ICJ in late April to reinterpret the original 1962 judgement and to indicate provisional measures. The ICJ's July 2011 order did

indicate provisional measures, requiring both Thailand and Cambodia to withdraw troops from a defined provisional demilitarised zone, to continue cooperation within ASEAN, and to allow the appointed observers access to the provisional demilitarised zone. As noted, however, the Indonesian observer team never materialised. Indeed, by early 2012, some analysts (Prentice, 2012) located an empty ‘ASEAN Mission for Cease-Fire Observation headquarters’, while Thai and Cambodian forces continued to square off along other parts of the border (at Ta Moan and Ta Krabei). Ultimately, Thai–Cambodia relations did improve, but only after Yingluck Shinawatra became Thailand’s new prime minister and a joint GBC meeting was finally arranged in December 2011. ASEAN’s contribution to this turn of events seems auxiliary at best. As Glas (2017, p. 851) writes, ‘While ASEAN habits may have restrained the conflict, they did little to end it. Rather, ASEAN habits generated a practical tolerance of continued violence throughout the conflict’. Nonetheless, Natalegawa’s dynamic diplomacy to realise a plan for an observer team during Indonesia’s ASEAN Chairmanship did set a precedent.

Myanmar

How ASEAN has, over the last two decades, dealt with intrastate political and armed conflict that has wider regional and international resonance and implications can be seen with regard to Myanmar. Myanmar was admitted as a member state to ASEAN in 1997, despite international concerns about military rule opposed domestically not least by the National League for Democracy (NLD), which was seeking a transfer of power based on the results of the 1990 election. In the event, ASEAN governments generally suggested that their engagement with Myanmar was more likely to lead that country’s military leaders to consider political reform than the sanctions and efforts to ostracise the regime as pursued by Western countries. That said, partly because of developments in Myanmar, the Association nevertheless collectively embraced, after 1997, a more flexible practice of non-interference on the basis that it was legitimate for ASEAN to discuss domestic political situations of members if these had implications for the Association as a whole (Haacke, 2003). Notably, ASEAN states also supported, for years, the good offices role in relation to Myanmar performed by the UN secretary-general and his special envoys. In addition, ASEAN states both individually and collectively sought to influence Myanmar’s decision-making in relation to major political developments. For instance, when Aung San Suu Kyi was placed under house arrest for a third time following the internationally condemned 2003 Depayin incident, Indonesia sought to obtain Aung San Suu Kyi’s release before Jakarta would host the 2003 ASEAN Summit, while

Thailand proposed a roadmap to democracy and the convening of a new diplomatic forum to discuss Myanmar's situation (Haacke, 2006, pp. 51–54). Such proposals were not completely dismissed: the military regime did, in August 2003, unveil its seven-step roadmap to a 'discipline-flourishing democracy' without, however, committing to Aung San Suu Kyi's release or clarifying the timetable of its roadmap. The regime also agreed to participate in late 2003 in the "Bangkok process" or Forum on International Support for National Reconciliation in Myanmar (Katanyuu, 2006), which soon thereafter faltered however. Increasingly frustrated with Myanmar's military leadership, given its refusal to release Aung San Suu Kyi and expedite political reforms, key ASEAN members in April 2005 also talked Myanmar's military into relinquishing its ASEAN Chairmanship in 2006-7, in the interest of ASEAN (Haacke, 2006, pp. 55–56). This decoupling of Myanmar's domestic politics and the ASEAN Chairmanship was ostensibly designed to allow the State Peace and Development Council to concentrate on its national reconciliation and democratisation process given the questionable progress in relation to the reconstituted National Convention in the wake of Prime Minister Khin Nyunt's fall in 2004. Significantly, the Association also signalled that it might no longer be able to provide Myanmar with the same diplomatic backing as before (Jones, 2008).

In September 2007, ASEAN foreign ministers formulated a strongly worded criticism in response to the military government's eventual suppression of the so-called Saffron Revolution (Mahbubani and Sng, 2017, pp. 213–214). Singapore, as the then ASEAN Chair, sought to support the good offices role of the UNSC special envoy – albeit without much success as the 2007 East Asia Summit showed (Haacke, 2008, pp. 144–154). Less than a year later, facing intense international pressure, ASEAN foreign ministers compelled their Myanmar counterpart to persuade military leaders to allow for an ASEAN role in the management of the humanitarian crisis induced by Cyclone Nargis (Haacke, 2009). These collective comments and interventions, understood by some as 'peer-group pressure' (Tan, 2013), expressed the grouping's preparedness to carve out new parameters for legitimate involvement and hence a more flexible practice of non-interference. Significantly, these actions did not yet amount to any direct foray into collective conflict management in relation to Myanmar.

The Association also did not seek to develop a corporate conflict management role in relation to Rakhine State, notwithstanding serious concerns in some Southeast Asian capitals about the violence perpetrated against the Muslim Rohingyas soon after Myanmar's political reform

period started in 2011-12. Indeed, both ASEAN's formal statements and corporate involvement in relation to developments in Rakhine State were very much circumscribed, reflecting the sensitivities on the part of the governments led, respectively, by Thein Sein (2011–2016) and Aung San Suu Kyi (2016–2021). Even agreed summit or ministerial statements released by the Association following the 2017 security operations that resulted in the displacement of several hundred thousand Rohingya to neighbouring Bangladesh took into account these sensitivities. For instance, they ignore, as could be expected, the work of the Independent Investigative Mechanism for Myanmar established by the Human Rights Council, or the case brought by The Gambia on the application of the Genocide Convention to the ICJ. Instead, ASEAN's statements relating to Rakhine State mentioned the processes initiated or endorsed by the Myanmar government (e.g. Advisory Commission on Rakhine State; Independent Commission of Enquiry). That said, ASEAN members have collectively and repeatedly expressed in recent years interest in 'a more visible and enhanced role' with regard to humanitarian assistance, the repatriation process of displaced Rohingya, sustainable development in Rakhine State, and a role in this regard not least for the ASEAN secretary-general and the ASEAN Coordinating Centre for Humanitarian Assistance (ASEAN, 2019). Offering their support to Myanmar, ASEAN states have also highlighted (ASEAN, 2019; 2020) the 'need to find a comprehensive and durable solution to address the root causes of the conflict...'. However, it is clear that not least from Naypyidaw's perspective such a solution was not to involve a corporate conflict management role for ASEAN.

Against this backdrop, it is perhaps at first surprising that ASEAN states did agree for the Association a collectively mandated conflict management role with respect to Myanmar in the aftermath of the military's takeover in February 2021 and the formation of the so-called State Administration Council. However, the consequences of what has widely been regarded as an unacceptable coup, which involved the detention of senior NLD civilian leadership and prompted a broad-based civil disobedience movement as well as the formation by elected parliamentarians of the Committee Representing Pyidaungsu Hluttaw (Union Parliament), were quickly recognised as the evident objective of the military leadership to return to the status quo ante in Myanmar politics, which is unwanted by Myanmar's majority and opposed internationally. As protests by outraged citizens were met with considerable violence by the security forces, the month of April also saw the formation of a parallel government (the National Unity Government, NUG) that since has battled for international recognition. On

account of divisions among its membership, ASEAN's corporate response to the military takeover was initially restrained even as the ASEAN Chair reminded Myanmar's military leadership of the ASEAN Charter's principles and encouraged 'the pursuance of dialogue, reconciliation and the return to normalcy' (ASEAN, 2021a).

Concerned about the reported violence, ASEAN, in early March, '...called on all parties to refrain from instigating further violence, and for all sides to exercise utmost restraint as well as flexibility' (ASEAN, 2021b). Notably, an offer was also made to assist Myanmar 'in a positive, peaceful and constructive manner' (ASEAN, 2021b). Not least because of the violence against anti-coup protestors, Indonesia's president, Joko Widodo, called for a special ASEAN summit, drawing support from the Malaysian prime minister, Muhyiddin Yassin (*The Jakarta Post*, 2021a). In the event, it was not before April that ASEAN leaders (except those from Thailand, the Philippines, and Laos) agreed in-person with Min Aung Hlaing, Myanmar's senior general, an unprecedented Five-Point Consensus (ASEAN, 2021c) that called for, first, an immediate halt to the violence (and utmost restraint from all sides) and, second, a constructive dialogue among all parties to achieve a peaceful resolution. Notably, third, it advanced, not least at Indonesia's request (Bland, 2021), the appointment of a special envoy of the ASEAN Chair to facilitate the mediation of the said dialogue process, with the assistance of the ASEAN secretary-general. Fourth, ASEAN was to provide humanitarian assistance through the ASEAN Coordinating Centre for Humanitarian Assistance. Finally, the Five-Point Consensus (FPC) also directed the agreed special envoy and delegation to visit Myanmar to meet with all parties concerned. It did not, however, call to honour the results of the 2020 elections. Not surprisingly, the NUG offered a sceptical response to the Five-Point Consensus and showed no interest in any ASEAN mediating role. Nevertheless, agreement on the FPC marked the start of an unprecedented foray into conflict management by ASEAN vis-à-vis an existing member in response to a military takeover and the resistance this prompted. It transpired despite Myanmar's historical record of not even always admitting UN envoys during the time Aung San Suu Kyi peacefully struggled against the ruling military junta headed by Than Shwe. Notably, ASEAN member states did not decide to utilise the ASEAN Troika mechanism to address the situation in Myanmar.

Both Western countries and regional great powers supported ASEAN's FPC. For his part, Senior General Min Aung Hlaing seemed to require the return of stability as a prerequisite for implementing the Five-Point Consensus (*The Jakarta Post*, 2021b). However, such a return to

stability was not apparent, and killings by the security forces continued, albeit at a lower level than before the April Leaders' meeting. Indeed, both the military leadership headed by Min Aung Hlaing and the NUG were, by the spring of 2021, pursuing political strategies directed at least towards denying each other any legitimacy (Robinson, 2021). This raised major questions about how ASEAN would be able to implement the FPC. In the event, ASEAN found it difficult to even agree on the ASEAN chair's special envoy. By early August, just ahead of the annual ASEAN ministerial Meeting, making the appointment was all the more urgent, however, as Min Aung Hlaing declared the creation of a caretaker government, assumed the position of prime minister, and pledged elections by August 2023 (*The Irrawaddy*, 2021a). To move forward, ASEAN countries decided on the chairman of the ASEAN Foreign Ministers' Meeting, the Bruneian second foreign minister, Dato Erywan Yusof, as envoy of the ASEAN Chair. Alongside the ASEAN secretary-general, Lim Jock Hoi, Dato Erywan had already visited Myanmar in early June 2021, seeking to establish how ASEAN could assist with the FPC's effective and timely implementation. However, at the time both had failed to make any headway in their dialogue with Min Aung Hlaing.

Within weeks of the appointment the ASEAN Chair's special envoy encountered further significant issues preventing progress with respect to the FPC's implementation. In late August, Erywan Yusof apparently discussed with Myanmar's foreign minister, Wunna Maung Lwin, a four-month ceasefire by all sides, which was set to commence in early September to allow for the delivery of humanitarian supplies. When news emerged that the military had apparently accepted the idea, the regime claimed otherwise (*The Irrawaddy*, 2021b). Notably, Erywan's initiative also faced unambiguous criticisms from the NUG, which, in early September, had issued a call for a 'people's defensive war' (*The Irrawaddy*, 2021c).

In addition, the special envoy's plans for a visit to Myanmar between 11 and 14 October unravelled. Erywan submitted a programme to Naypyidaw that included a request to see the detained state counsellor – Aung San Suu Kyi. Despite the agreements underpinning the Five-Point Consensus, Myanmar's leadership found itself unable to accommodate this request. The Myanmar Ministry of Foreign Affairs (MFA) instead proposed for the special envoy to meet with former vice president Henry Van Thio and former Lower House speaker T. Khun Myat (*The Irrawaddy*, 2021d). Apparently, the military leadership also rejected the special envoy's intention to meet with representatives of organisations branded by the regime as illegal or unlawful, including the Committee Representing Pyidaungsu Hllutaw, the NUG, and the People's Defence Forces (PDF).

The SAC's pointed refusal to fully accommodate the special envoy led to an Emergency ASEAN Ministerial Meeting (EAMM) on 15 October 2021. At this meeting, several far-reaching positions were articulated. First, the importance of the special envoy being able to have access to all parties concerned was noted. Second, some members put forward objections to Senior General Min Aung Hlaing participating in the 38th and 39th ASEAN Summits and related summits. As the Bruneian statement (Brunei Ministry of Foreign Affairs, 2021) stated, '[T]here was no consensus reached for a political representative from Myanmar to attend the 38th and 39th ASEAN Summits and Related Summits in October 2021'. A decision to invite only a non-political representative was then taken (notwithstanding Myanmar's reservations). An Indonesian official explained this decision with respect to 'the competing claims of Myanmar's leadership and the principle of non-interference' (quoted in Jibiki, 2021).

Myanmar's MFA vehemently protested the ten minus one decision taken at the EAMM, making procedural and wider political points. For instance, Myanmar's MFA complained that Brunei had contravened the ASEAN Charter, in part by disregarding dispute settlement provisions, given that it was not the heads of government who took a decision on the issue at stake. Myanmar's MFA (*Global New Light of Myanmar*, 2021a, 2021b) also noted breaches of other principles enshrined in the ASEAN Charter, namely, non-interference and consensus, as well as other principles, such as sovereign equality and members having equal rights and obligations. As the Myanmar MFA formulated it, 'ASEAN member states should respect the unity and Centrality of ASEAN aiming for long term interest in accordance with the provisions of the ASEAN Charter' (*GNLM*, 2021a). However, Myanmar's MFA also suggested that Myanmar would continue to 'constructively cooperate with ASEAN, including the implementation of the five-point consensus' (*GNLM*, 2021c). For their part, other ASEAN leaders reaffirmed not only their 'adherence ... to the principles of democracy and constitutional government' but also 'the need to strike an appropriate balance to the application of ASEAN principles' (ASEAN, 2021d). At the time of writing, it remained unclear whether Myanmar and the other ASEAN states would be able to move forward in relation to the issue of full access and whether the special envoy of the ASEAN Chair would be able to assume any meaningful role in facilitating a dialogue let alone mediating between implacably opposed sides in the growing Myanmar civil war.

Conclusions

The Association in effect long subscribed to the norm of leaving bilateral disputes, both political and territorial, to be addressed through negotiations by the parties concerned or, as

relevant, through international but not ASEAN's dispute settlement procedures. The shared reluctance by members to allow ASEAN to engage in collective conflict management vis-à-vis members also extended to intrastate conflict even as ASEAN states became increasingly willing to allow for greater flexibility in their collective practice of non-interference. However, since the 2000s, ASEAN's approach to conflict management has evolved somewhat both in terms of ideas discussed some of which have found mention in ASEAN documents and in terms of ASEAN's practices.

ASEAN's key documents still preclude the Association simply imposing itself on an interstate dispute between members or in relation to domestic political struggles or armed conflict taking place in a member state. But some ASEAN documents and ASEAN's actual practices over the last two decades also illustrate that ASEAN has found it possible to allow a modicum of innovation in relation to conflict management in some cases, not least with respect to a potential role of the ASEAN Chair. As the Myanmar case shows, member states have also been prepared to insist on the implementation of agreements made in relation to intrastate conflict when the member state concerned has sought to frustrate such implementation.

Some conditions have been present in both cases discussed here: (1) external pressure (and the possibility of the greater involvement of non-regional actors or institutions considered undesirable), (2) a proactive stance adopted by one or more members with an interest in a corporate role for ASEAN in managing crises of perceived regional significance, and (3) a preparedness on the part of other ASEAN members to legitimise at minimum diplomatic efforts undertaken by the ASEAN Chair. This is reflected in the designation of Indonesia's diplomatic efforts as 'appropriate engagement' as well as the role of the special envoy of the ASEAN Chair in relation to the conflict situation in Myanmar.

Whereas the role played by Indonesia as the ASEAN Chair in 2011 was not without ambiguity in addressing the concerns of parties involved in the Thai–Cambodia border conflict, the recent Myanmar coup has seen ASEAN taking a bold, and unprecedented step into conflict management in the aftermath of a military takeover that has led to significant bloodshed in a country afflicted by long-running ethnic insurgencies. Indeed, as far as the crisis in Myanmar is concerned, ASEAN success is not guaranteed. As the initial efforts to implement the FPC demonstrate, there is division within ASEAN's ranks about ASEAN's corporate role in relation to Myanmar's domestic struggles, and not much support as yet for an ASEAN-facilitated,

inclusive dialogue from opposing sides in Myanmar. It is also unclear what the implications are for the implementation of the FPC that have arisen from ASEAN's non-consensual decision to exclude political representatives of the current military regime at summit and possibly other meetings and whether this approach is ultimately sustainable and effective in terms of facilitating a dialogue process bringing together all sides to the conflict.

Key takeaways

Even as key principles and norms relating to ASEAN conflict management remain in place, there have been subtle as well as more substantial developments in ASEAN's practices, at least in relation to the grouping's response to the 2011 Thai–Cambodia border conflict and the 2021 military coup in Myanmar and the subsequent descent into violence and civil war. In both cases, the ASEAN Chair assumed an important role in addressing the conflict at hand. Significantly, it seems important to recall that these developments have been associated with particular ASEAN Chairs and calls for ASEAN to act that emanated from certain ASEAN countries in particular. Indonesia deserves particular mention in this regard. Finally, while ASEAN was ultimately peripheral to ending the fighting on the border and restoring normal relations between Bangkok and Phnom Penh, the jury is also still out on whether ASEAN will be able to help end the violence and initiate an inclusive political dialogue in Myanmar.

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¹ The chapter does not focus on ASEAN's collective efforts to manage wider regional conflict involving non-ASEAN countries, for example, the South China Sea conflict.

² To this day, for instance, the Philippines has not unambiguously relinquished the claim to Sabah.

³ In some cases, ASEAN states have, of course, engaged each other on a non-corporate basis, offering facilitation and mediation in domestic conflict situations. Examples include Indonesia and Malaysia's roles in Mindanao (see Djalal 2002; Silva Franco 2013).

⁴ For different perspectives, see Wagener 2011, Jenne 2017, Acharya 2021.

⁵ From a Siamese/Thai understanding, Preah Vihear was located in Siamese territory based on what had been agreed with France (with the boundary determined by the Dangrek Mountains watershed), but relevant cartographical material prepared by the French in 1907 placed the Temple on the Cambodian side of the border.

⁶ For analysis of the role of Preah Vihear in Cambodia's politics, see Rattanasengchanh 2017 and Wagener 2011.