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ASEAN and The Principle of Non-Intervention

By R. M. Michael Tene

SYNOPSIS

Some critics have attributed adherence to the principle of non-intervention as one of the main reasons for ASEAN's inability to address the situation in Myanmar. However, the fact is ASEAN Leaders – including the Myanmar leader Min Aung Hlaing – met at the ASEAN Secretariat in Jakarta on 24 April 2021 and issued the Five-Point Consensus to address the situation in Myanmar. This is a framework, signed on by all ten ASEAN Leaders, to end violence; begin dialogue among all parties for a peaceful solution; allow humanitarian assistance; appoint an ASEAN Special Envoy; and enable this Special Envoy to visit Myanmar and meet all parties. Min Aung Hlaing reneged on this Consensus and undermined the confidence and trust among ASEAN member states.

COMMENTARY

The ongoing situation in Myanmar has raised questions about its implications for the principle of non-intervention for ASEAN. Some observers attributed ASEAN's inability to persuade the military regime in Myanmar to comply with decisions by ASEAN Leaders, including the Five-Point Consensus (5PC), among others, to the organisation's adherence to the principle of non-intervention in domestic affairs. This principle is considered a limiting factor in ASEAN's ability to take stronger measures regarding the military regime's non-compliance with the 5PC. The 5PC was agreed by all ASEAN Leaders, including General Min Aung Hlaing from Myanmar, at the ASEAN Leaders' Meeting held in Jakarta on 24 April 2021.

The non-intervention principle is not unique to ASEAN. It is widely considered part of customary international law and reflected in Article 2 of the UN Charter. The UN General Assembly, in December 1965, adopted Resolution 2131(XX) on *Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the*

Protection of Their Independence and Sovereignty. It is also explicitly expressed in the Charters of various regional organisations, including ASEAN.

For many decades after its inception in 1967, the main objective of ASEAN has been to promote, establish, and preserve peace and stability in Southeast Asia. ASEAN's adherence to the non-intervention principle provides a strong basis for developing confidence and trust among its members to coexist peacefully and cooperate in promoting peace, stability, and prosperity among them.

In the case of Myanmar, doing away with the non-intervention principle may not be a sound policy. Circumventing the non-intervention principle, in this case, will most likely involve increasing Myanmar's isolation in ASEAN and/or applying sanctions. Isolation means expanding Myanmar's exclusion from participating in ASEAN's meetings beyond the ASEAN Summit. These policies of wider isolation and sanctions could allow ASEAN to put greater pressure on the Myanmar military regime to comply with the 5PC. Such policies are considered as "interventionist" as they may also be adopted without the consent of Myanmar and for their "forceful" nature. Since ASEAN's main objectives in addressing the situation in Myanmar consist of a cessation of violence and negotiations for a peaceful settlement of the conflict, then the main question will be whether isolation and sanctions can achieve those objectives.

Not Enough to Use Isolation and Sanctions

Sanctions and increased isolation of Myanmar within ASEAN are unlikely to end the ongoing armed conflict and promote negotiations or other avenues to peace. Even if ASEAN agrees to this course of action, which is not the case, it is unlikely that all ASEAN member states will apply sanctions unequivocally and severely limit their bilateral relations with Myanmar. Another important fact is Myanmar's extensive geography: it has a land area of more than 676,500 square km, a land border with several countries extending over 6,500 km, and a coastline of more than 2,200 km which will make it difficult to effectively enforce sanctions.

The neighbouring countries of Myanmar will also continue to preserve their respective relationships with Myanmar for various reasons, including the need to prevent transboundary issues from arising or worsening from the ongoing conflict inside Myanmar. Further isolation of Myanmar within ASEAN will also make it more difficult for ASEAN and its Special Envoy to engage and persuade the conflicting parties in Myanmar to renounce violence and enter peaceful negotiations.

Myanmar has faced considerable challenges even in peace time with non-traditional security threats, especially natural disasters and health pandemics. Recent climate-induced floodings have resulted in severe damage to the country's failed economy, limited public infrastructure, and rudimentary health care in urban centres. It is almost impossible to provide any humanitarian assistance to those in distress as humanitarian relief groups cannot move easily into affected areas. Any sanctions should take into consideration the possible worsening of the humanitarian situation in the country.

While sanctions and isolation may not be effective, this "interventionist" policy may also raise a more serious problem for ASEAN. Once ASEAN sets a precedent to

circumvent its non-intervention principle, it may adversely affect confidence and trust among ASEAN member states. It will deprive member states of the so-called “ironclad guarantee” that ASEAN members will not interfere in the domestic situation of another member. In the worst-case scenario, circumventing the non-intervention principle may fail to achieve ASEAN’s objectives as agreed in the 5PC while creating new problems in reduced confidence and trust.

Pressing On With Five-Point Consensus

To address the situation in Myanmar and implement the 5PC, ASEAN must enhance the effectiveness of its engagement with all the conflicting parties. ASEAN member states need to review the effective implementation of the 5PC, including the arrangement for the Special Envoy, who has a crucial role in promoting peaceful negotiations and ending violence among the parties in Myanmar. Enhanced engagement cannot be pursued with increased isolation and sanctions. The key is more political will on the part of Myanmar’s immediate neighbours to work purposefully with ASEAN in making the 5PC operational and sustainable.

The author is a senior Indonesian diplomat. The views expressed are his own.

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