

# **Beyond Non-Interference: The Improved ASEAN Humanitarian-assistance Mechanism to Respond to the Myanmar Crisis**

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## **Abstract**

Since the occurrence of the Myanmar military coup in February 2021, the non-interference principle of the ASEAN Way shows the institutional limitations in dealing with the Myanmar crisis effectively. Simultaneously, some ASEAN scholars suggest that ASEAN may need to improve the regional human-rights mechanism to resolve the crisis by practicing Responsibility to Protect (R2P). Nevertheless, the Myanmar crisis is being trapped in an anarchic political environment, different attitudes of ASEAN and Myanmar toward the crisis not only expanded the conflicts between non-interference and R2P, and resulted in the lack of a synergistic mechanism to cope with this crisis. To solve practical problems, meet the needs of the Myanmar people for humanitarian assistance and alleviate the ripple effects originating from the Myanmar crisis in neighboring countries, this article adopts constructivism of international relations (IR) and the theory of functional synergism to analyze the different attitudes to non-interference and R2P among the region, as well as proposes a strategy of constructing a new synergistic humanitarian-assistance mechanism that beyond the limitations of non-interference to dealing with the Myanmar crisis.

**Keywords:** Non-interference; Responsibility to Protect (R2P); Synergistic Humanitarian-Assistance Mechanisms; ASEAN; Myanmar

## **Introduction**

While the Myanmar military coup in February 2021 has fueled considerable debate on the non-interference principle of the ASEAN Way, the concept of non-interference is not a wholly new one. The limitation of the non-interference principle in dealing with ASEAN internal crisis incurred certain criticism. Furthermore, some scholars suggested that the regional human-rights mechanism of ASEAN should be improved by practicing the R2P. Although the non-interference possesses limitations to deal with the Myanmar crisis, Myanmar is a member

of ASEAN, and persisting in the non-interference has significance for both. Hence, inevitably conflicts exist between the R2P avocation and non-interference, and their supporters have carried out many intense discussions. However, based on the review of the existing research, the authors of this article found an interesting problem. There is scarcely any research discussing the approach of constructing a synergistic mechanism beyond the single non-interference in dealing with the Myanmar crisis. Therefore, the problematization of this research is *Why there is no synergistic mechanism beyond the non-interference principle for coping with the Myanmar crisis?*

## Literature review

### ***The history and current status of internal crisis in Myanmar***

The Association of Southeast Asian Nations (ASEAN) was officially established in August 1967. Myanmar became an ASEAN member in 1997. Myanmar is a diverse Southeast Asian country that recognizes over a hundred ethnic groups. Among all ethnicities, Burmans make up the majority of those in political and military positions. Unfortunately, owing to the problematic ethnic policies and complex domestic issues, Myanmar's political stability encounters systemic issues. Internal conflict within Myanmar has long hampered the country's development and regional peace. Myanmar's several crucial internal human rights crises in the modern era were summarized in the table below:

**Table1** The timeline of Myanmar internal crisis in the modern era

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### **The timeline of Myanmar internal crisis in the modern era**

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|------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1962 | Military General Ne Win stages a coup and starts to rule the country.                                                                                          |
| 1988 | Aung San Suu Kyi (daughter of independence activist Aung San) returned to Burma, and security forces began firing on pro-democracy protests in August.         |
| 2007 | Saffron Revolution, a series of economic and political protests caused by the national military government to remove subsidies on fuel and natural gas prices. |
| 2017 | Internal conflict in Rakhine has led to the Rohingya refugee issues, which has resulted in international criticism of Aung San Suu Kyi.                        |

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**Source:** Information collected by authors (The data from CGTN, irishexaminer)

As for the current status quo, Myanmar's problems are long-standing, and the crisis in Myanmar has resulted not only in internal conflict and division, but also in a human rights crisis and challenges to Myanmar's social sustainability. The primary concern of ASEAN on the Myanmar issue is to prevent the negative impact of the crisis from spreading further, which is based on domestic Myanmar stability. However, the conflicts between the Myanmar military

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and the main opposition have erupted recently, and the wars with various ethnic minority armed forces are tense. The instability of Myanmar has resulted in a continuous spillover of ripple effects, affecting neighboring countries and tarnishing ASEAN Centrality's reputation as a regional coordination center. Until now, a regional humanitarian crisis is looming. Hunger, financial turmoil, and a raging Covid-19 pandemic, of which have resulted in displaced people and refugees migrating to neighboring countries (UN, 2021).

The dynamic development data is also quoted to indicate the Myanmar crisis concretely. According to the data from Asia Development Bank, 24.8 percent of Myanmar's population lives below the national poverty line in 2017 (ADB, nd). In April 2021, the UN agency estimated that the number of people in Myanmar facing hunger could more than double, and will increase to 6.2 million people in the next six months. By early 2022, the upheaval produced by Myanmar's military coup, combined with the impacts of COVID-19, up to 25 million people (almost half of the country's population) might be living in poverty (United Nations News, 2021). From another indicator perspective, Myanmar's Human Development Index (HDI) value in 2019 is 0.583, placing it 147th out of 189 countries and territories in terms of human development (United Nations Development Programme, 2020). The HDI situation may worsen as a result of the pandemic and internal political turmoil. Following the intensified armed conflict following the events of February 2021, violence against civilians and an intensified armed conflict drove thousands of refugees into neighboring countries and displaced over 200,000 people within Myanmar, adding to 370,000 existing internally displaced peoples in urgent need of humanitarian assistance (United Nations High Commissioner for Refugees, 2022). As a result, the UN High Commissioner for Human Rights official warns that immediate action is required to prevent the situation in Myanmar from devolving into a full-fledged conflict (OHCHR, 2021).

In general, Myanmar's internal crises are long-standing structural dilemmas, the social instability and growing human rights concerns in Myanmar as a result of internal conflict have fueled a growing debate among the ASEAN and international communities. The quantitative data derived from the international organizations clearly indicates the imperative demands of humanitarian assistance to Myanmar people.

### ***Myanmar crisis and ASEAN's responses***

Since Myanmar's domestic political situation changed in February 2021, ASEAN has adhered to the principles of the ASEAN Charter and has pursued a constructive dialogue with Myanmar. Without a doubt, ASEAN has a positive motivation for Myanmar to return to normalcy. However, ASEAN member states show different views on the coup. According to the IRRAWADDY report in February 2021, some other members of the ASEAN have issued individual responses to the coup. Countries like Singapore, Malaysia, and Indonesia raised concerns over the takeover and urged dialogue on all sides, especially between the military and the National League for Democracy (NLD). Thailand's Deputy Prime Minister General Prawit Wongswuwon said the military takeover was Myanmar's internal affair, and Cambodia and the Philippines agree with this view.

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On April 24th, 2021, ASEAN held a special summit in Jakarta and the summit produced ASEAN's Five Points of Consensus (FPC) on the Myanmar issue. FPC is to reach an agreement on five issues to promote the peaceful settlement of the current crisis in Myanmar (The ASEAN Secretariat, 2021). Later, on October 15, 2021, ASEAN announced that Min Aung Hlaing, the Commander-In-Chief of Myanmar's national defense force, would not be invited to the 38th and 39th ASEAN summits, as well as a series of East Asian Cooperation meetings, which would be held at the end of October (Ng & Gomez, 2021). Furthermore, ASEAN recently requested that prisoners detained for anti-junta protests be met, and eventually reached an agreement on Min Aung Hlaing's case at the ASEAN Summit in October 2021 (An, 2021). This should be viewed as a significant breakthrough in the traditional and sacredly inviolable principle of non-interference, as well as a shift in ASEAN's approach to dealing with regional internal affairs. According to the report of Reuters, ASEAN member states such as Malaysia, Singapore, and Thailand have all issued forceful statements denouncing the violence, with Indonesian President Joko Widodo calling for the release of political detainees in Myanmar; other countries, like Vietnam and Cambodia, have been more restrained (Wongcha-um & Johnson, 2021).

The literature mentioned above showed the tensions between ASEAN and Myanmar do not appear to be easing. ASEAN didn't condemn the coup and called on Min Aung Hlaing to immediately return power to the elected government, it also failed to specifically condemn previous attacks on civilians and avoided holding Min Aung Hlaing accountable for these attacks. At this point, ASEAN's answers are mostly based on ASEAN Way traditions, which respect national sovereignty and promote non-interference in other countries' domestic affairs. Concerning the criticisms, Sullivan (2021) stated that the follow-up progress demonstrated that ASEAN is unable to fulfill the FPC commitments. Until now, ASEAN has not criticized the coup, nor has it called on Myanmar's junta to hand over control to the democratic government. Chong and Thongyoojaroen (2021) saw ASEAN Way (e.g. non-interference) as a well-intentioned but ineffective human-rights mechanism in dealing with Myanmar's coup, as their point of view ASEAN has long failed to realize its desire to support the rule of law and human rights, instead of focusing on the principle of non-interference in its members' internal affairs, despite these internal affairs involving crimes of systematic atrocities. Recently, this ambivalence has been manifested in the lack of concrete action against the coup in Myanmar. This ineffectual approach emphasizes the already obvious truth that ASEAN needs to rethink how it handles member nations' internal affairs and promotes regional stability. In addition, the Chinese scholar Wang Zichang (2021) commented that ASEAN rejected Myanmar's leader on the grounds of "failure to abide by the regional peace agreement," which never happened before. In other words, ASEAN's refusal to invite Myanmar to the meeting under the guise of dissatisfaction with Myanmar's domestic politics violated the organization's non-interference principle.

The scholars have realized that the crisis in Myanmar has not been fully resolved and it even has a tendency to get worse, ASEAN may need to take more constructive steps on the Myanmar issues, in order to protect ASEAN's reputation as a whole. However, they have not

constructed an appropriate strategy to provide a resolving mechanism yet. It's worth noting that the ASEAN Foreign Ministers' Retreat was convened in February 2022 in Phnom Penh, Cambodia, the Press Statement by the Chairman of the ASEAN Foreign Ministers' Retreat (AMM Retreat), was organized as a reference for the potential resolving channels or tendencies. This statement expresses that ASEAN is diluting the "divinity" of non-interference, and would conduct a constructive intervention in Myanmar by clement measures. ASEAN will support Myanmar in accordance with the will of Myanmar's people, based on the FPC and the ASEAN Charter, which includes humanitarian aid to Myanmar to ease internal conflicts. It also reaffirmed the centrality of ASEAN in dealing with the region's affairs, and humanitarian assistance is one of the most important demands of people in Myanmar.

### ***Myanmar crisis, ASEAN human rights mechanism and R2P***

Under the principles of the Charter of ASEAN, ASEAN's key human rights institutions, such as the ASEAN Intergovernmental Commission on Human Rights (AICHR) which is responsive to ASEAN people's rights and promotes regional cooperation in the promotion and protection of human rights, thereby contributing to the realization of the ASEAN Community Vision 2025 (The ASEAN Secretariat, 2015). On October 23, 2009, ASEAN established the AICHR to promote and protect human rights. According to the ASEAN Charter (2007), in particular, the Charter of AICHR mentioned that ASEAN members need to enhance good governance and the rule of law, strengthen the principle of democracy, and to respect, promote, and protect human rights and fundamental freedoms, with fully regards to the rights and responsibilities of the ASEAN member states (AICHR Article one). Based on Article two principle, 2 (e)

*"All the ASEAN member states have to follow the non-interference principle in the internal affairs of respect for the right of every member state to lead its national existence free from external interference, subversion and coercion."*

*"Encourages ASEAN Member States to enhance engagement with the UN and relevant human rights mechanisms to which ASEAN Member States are parties to achieve cooperation and coordination among ASEAN member states in UN peacekeeping and postconflict peacebuilding efforts, and encourage ASEAN members contribute to UN peacekeeping and post-conflict peacebuilding by provide humanitarian assistance."*

On the one hand, the AICHR operates under ASEAN and adheres to its fundamental principle of non-interference. Due to the rights limitations of ASEAN, it is challenging to carry out its mandate and take direct action by responding to a humanitarian crisis in Myanmar. Since ASEAN defines its region as a self-contained political, economic, social, and cultural regional organization. In practice, independence means that ASEAN governments want complete control over external factors that influence them.

On the other hand, several scholars have proposed that R2P should be practiced in coping with the Myanmar crisis. However, what is R2P? and how does it work? The International Commission on Intervention and State Sovereignty (ICISS) first discussed the

notion of R2P in a study published in 2001. The concept is mainly inspired by the atrocities committed in the Balkans and Rwanda in the 1990s, which the international community failed to prevent at the time. The concept of R2P was later adopted by the United Nations General Assembly in the 2005 World Summit Outcome Document as a norm for protecting human rights and preventing mass atrocities and violations of human rights. Populations are at risk of genocide, war crimes, ethnic cleansing, and crimes against humanity (UN, 2005). Former UN Secretary-General Ban Ki-moon (2009) has provided a three-pronged strategy in the implementation of R2P, the first pillar is the protection responsibilities of the state, the second pillar is international assistance and capacity building, and the third pillar is the timely and decisive response. By applying those three pillars, international communities can develop policy tools to achieve several purposes.

Even though the United Nations General Assembly has approved the concept of R2P. However, there is still debate about the potential for R2P to be abused by outsiders in the interest of forcing regime change. A research paper written by Sukma (2012) has mentioned there is some Third-World countries' dissatisfaction with the great powers' proclivity to act unilaterally in pursuit of their foreign policy objectives. As mentioned in the preceding section of this article, certain normative prerequisites must be met before invoking R2P. These requirements stem from what the ICISS refers to as 'precautionary principles.' As a result, the purpose of protecting civilians is at the heart of the R2P-style military intervention. In practice, R2P mostly refers to military involvement, whether it's a peacekeeping mission or a state or alliance's forces. Recent UN-sanctioned interventions, however, have been chastised for shifting their objectives from civilian protection to regime change. Southeast Asia governments are concerned that R2P may be another sort of humanitarian intervention established by some Western states to promote their political interests in the context of ASEAN (Haacke, 2009).

In summary, the authors analyzed in induction that the Myanmar crisis reflects three types of conflicts between non-interference and existing human rights protection mechanisms:

- 1) The conflicts between the crisis of the actual situation and the limitations of non-interference.
- 2) The institutional conflict between the insistence of non-interference in the ASEAN Charter and the UN human rights protection mechanism coordination.
- 3) The conflict is formed by the restriction of the non-interference act on the actor's purpose of ASEAN's existing human rights protection mechanism.

However, based on the literature review, there has been no serious attempt to examine how or whether the R2P should be implemented in the area, and the matter remains a minor concern for ASEAN (Sukma, 2012) until Myanmar is in crisis again. Meanwhile, the author realized an important but easily-neglected problem is that few scholars discuss the possibility of coordinating and integrating non-interference and R2P. It is noteworthy that both the AICHR and three-pronged strategy in the implementation of R2P simultaneously refer to how humanitarian assistance supposedly enhances and protects human rights. Theoretically, the non-military involvement in humanitarian assistance to Myanmar is a breakthrough in

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integrating the AICHR and R2P, and partially internalizing R2P into the non-interference principle of ASEAN.

### **Research questions**

Based on the literature review, it can be identified that ASEAN countries and Myanmar's internal political groups' different attitudes toward Myanmar's crisis in this region caused divergences of behavior effects on the Myanmar issue, thereby giving rise to the lack of a synergistic mechanism dealing with the Myanmar crisis. This article is based on the qualitative methodology of international relations constructivism to answer the research questions as follows:

- 1) What are the limitations and significance of the non-interference principle in coping with the Myanmar crisis?
- 2) What are the conflicts between R2P and the non-interference principle?
- 3) What are the ASEAN's and Myanmar's attitudes to non-interference and R2P?
- 4) How to construct a synergistic mechanism beyond the simple non-interference principle?

### **Methodology**

In macroscopic terms, this research adopts the strategy of the qualitative methodology of constructivism of international relations. Take the theoretical analysis of Wendt's social theory of international politics as the analytic framework. According to the constructivist theory of IR, ASEAN should be regarded as an intergovernmental organization under anarchy. Moreover, from the lens of Myanmar, its turmoil and the disapproved junta collectively have let Myanmar's political environment become (semi-) anarchic. Hence, while discussing the reasons for no synergistic mechanism beyond the non-interference principle for coping with the Myanmar crisis, the background is in an anarchic international and domestic political environment. This signifies that there is no compulsory norm to implement any action in dealing with the Myanmar crisis, but non-interference is the dominant principle.

To answer the research problem appropriately, the authors optioned the literature analysis and case studies methods as assistance to discuss ASEAN's and Myanmar's behaviors and attitudes, which influence the development of the Myanmar crisis. For objectivity, the data and cases are collected from global media and academic databases, not only focused on the Myanmar domestic ones. Eventually, in terms of the method and approach of constructing the synergistic humanitarian-assistance mechanism beyond the principle of non-interference, the authors adopt the theory of functional synergism and ontological thinking. Furthermore, the ripple effects of the Myanmar crisis in the neighboring countries are non-negligible. Subsequently, the authors refine the institutional synergistic points among the non-interference principle of ASEAN way, ACIHR, R2P, and the Charter of the UN to reconcile the conflicts, thereby forming a synergistic mechanism beyond the non-interference.

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## **I. Limitations and Significance of Non-interference to Coping with Myanmar Crisis**

The non-interference principle established and implemented by ASEAN is crucial to regional development. Scholars widely believe that establishing common the idea of non-interference in member states' internal affairs lies at the heart of ASEAN action guidelines (Jones, 2010). Indeed, ASEAN's non-interference in inter-state relations has contributed significantly to regional stability and unity. The non-interference principle itself is aimed to prevent interference in domestic conflicts that is caused by foreign factors (Corthay, 2015). All member countries have agreed not to interfere in the internal affairs of other member states or to support political revolts in neighboring countries. In Myanmar, an Xinhua News interview report in May 2021 showed the Myanmar military government's view of the ASEAN Way, the spokesman for Myanmar and the State Administration Council (SAC), Zaw Min Tun, says that a solution to the Myanmar issue can be worked out in the ASEAN Way (Xinhua, 2021). In general, by implementing the ASEAN Way, ASEAN has been successful in maintaining regional peace and stability. One critical point is that the ASEAN Way conducts decision-making through a lengthy discussion and consultation process to achieve a shared understanding of the agenda. ASEAN scholars believe that the principle of non-interference contributes to the region's efforts to maintain peace. Countries retain their sovereignty under this principle and despite internal conflicts among member states. For example, human rights violations are considered domestic issues within a country and are not open to involvement from other states. Moreover, the ASEAN Way principle shields each member country from external involvement in its internal issues while encouraging collaboration and good ties among members.

However, some critical scholars see that the concept of non-interference has been identified as a fundamental hurdle to ASEAN institutional change, particularly in circumstances of human rights breaches and violence in member nations, such as Tan (2011) thinks the principle of non-interference has become a stumbling block in ASEAN's ability to respond to the region's internal and external crises, such as ongoing Myanmar crisis. A report by Reuters (2021) reported that given the deteriorating conditions in Myanmar, where civilians have been killed in a crackdown since the military coup, ASEAN should do some "soul-searching" on its non-interference policy, and ASEAN cannot use the principle of non-interference as a shield to avoid dealing with issues. Tekunan (2014) thinks the ASEAN Way decision-making process may benefit ASEAN, but without the appropriate cultural setting, the ASEAN Way will not deliver the intended benefit, but will instead cost the organization time and productive results. From the Myanmar crisis to the present, ASEAN has not substantively intervened and resolved the Myanmar issue yet, but rather called on stakeholders to promote internal peace through dialogue and coordination. Scholars Davies Mathew (2017) argue that ASEAN member states engage with each other on questions of human rights broadly, and not only through ASEAN, which illustrates the limits and resilience of the ASEAN Way as a set of procedural norms. For the United Nations side, Article 2 (7) of the Charter of the United Nations states that the United Nations has no authority to intervene in matters which are within

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the domestic jurisdiction of any state. Given Myanmar's chaotic political environment, the military administration is unlikely to welcome international armed intervention because they would be targeted by armed forces. So there are institutional challenges to engaging Myanmar and solving internal affairs through the United Nations system because the Charter of the United Nations is also consistent with the fundamental principles of respecting the sovereignty and supporting non-interference.

In addition to non-interference, several ASEAN leaders have suggested other alternatives to compensate for the shortcomings of the ASEAN approach, such as the Deputy Prime Minister of Malaysia Anwar Ibrahim suggested ASEAN can play a role in the region's security problems solution by considering "constructive interventions" and "constructive involvement" approaches. The Foreign Minister of Thailand, Surin Pitsuwan has redefined the concept of "flexible engagement" which was officially presented when the ASEAN foreign ministers met in Manila. On the one hand, some ASEAN members have expressed reservations after Malaysia, Indonesia, Vietnam, Laos, and Myanmar think that the concept of non-interference should not be tampered with by member countries. On the other hand, Supachai Panitchpakdi who is the former director-general of the World Trade Organization and United Nations Conference on Trade and Development had given his comments about Surin's initiatives of "flexible engagement." Supachai thinks that flexible engagement is not meant to interfere, but it is more about engaging all ASEAN members to communicate with one another about regional issues that affect neighbors, or neighboring issues that affect ASEAN. However, member states have been wary of the initiative, or it may be an indirect intervention by some member countries as a strategy that would undermine national sovereignty. Even though human rights issues have become more prominent in Southeast Asia's politics, ASEAN leaders have maintained their historic respect for the concept of non-interference in the affairs of states. In light of human rights issues in Myanmar, local civil society has called for ASEAN's "constructive engagement," but these issues have yet to be addressed at the ASEAN level. One of the main reasons is that the ASEAN's principle of non-interference makes it difficult to express its collective attitude and position on the Myanmar issue. Second, the AICHR also operates under ASEAN and adheres to its fundamental principle of non-interference, ASEAN also encountered institutional challenges when delivering humanitarian assistance to Myanmar. In general, the non-interference principle had a profound impact on ASEAN's conduct of regional affairs both positively and negatively, because state autonomy and internal stability have generally been prioritized over effective Southeast Asian regional governance (Ruland, 2011).

To sum up, the principle of non-interference in the ASEAN Way has great significance to promote regional peace. However, the Myanmar issue also exposed the limitations of the ASEAN Way in dealing with the human rights crises of member states. Indonesia has been suggested to establish the "ASEAN Peacekeeping force" and has been rejected because it violated the non-interference principle (Borchers, 2014). At the same time, different stakeholders of ASEAN may have different attitudes towards the principle of non-interference, and this has caused the inefficiency of the existing mechanisms. This is also the main focus of

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this article, whether there are other alternative approaches to deal with the issues in Myanmar based on the principle of the ASEAN Way. In other words, humanitarian assistance is urgent for the Myanmar people, and this is necessary to consider how to maintain the contributive significance of non-interference in the peace and development of the region while reducing its limitations in dealing with the Myanmar crisis.

## **II. The Conflict Between R2P and Non-interference, and the Attitudes of ASEAN and Myanmar**

Depending on the theoretical support of Wendt's social theory of international politics, under anarchy, ASEAN is composed of sovereign states, and assumes Myanmar does not lose its sovereignty after the coup, nevertheless, the sovereign states' beliefs are different because of the different intersubjective contexts. From the positions of the Myanmar junta and ASEAN, the full internalization of R2P meaning will be constituted as 'interference, (Myanmar side)' in the other as "assistance, (ASEAN side)" (Wendt, 1999). Therefore, fully understanding the behavioral effects and attitudes of different stakeholders is the key to breaking through the limitations of the non-interference principle. Certainly, the different attitudes and behaviors will cause different beliefs and incentives, which will affect the role of an institution and norms internalization in anarchic status. This section will focus on the conflicts of behavioral effects between R2P and non-interference, and the attitudes of ASEAN and the direct stakeholders in Myanmar.

### ***Conflicts between non-interference and R2P***

According to (Aminuddin & Purnomo, 2017), who examined the Myanmar issue from February 2021 to the present, The ASEAN Way has been zealously maintained for its contribution to member states' peace and security, but it has also become the primary stumbling block to the collective's ability to effectively respond to threats to regional stability. They also strongly advocated that ASEAN commit to the R2P and follow through on respect for democracy, human rights, and the rule of law. Furthermore, other international experts, such as Filipino scholar Noel Morada, have suggested that R2P should be considered as an addition to the ASEAN Charter since it will strengthen democracy, the rule of law, and good governance. The Institute for Peace and Conflict Studies at Chulalongkorn University in Thailand is one of the most forward-thinking institutions introducing R2P (Kraisoraphong, 2012). ASEAN bureaucrats support R2P internalization as well. They serve as advocates for R2P internalization in ASEAN because they share a common understanding of the R2P definition.

R2P promotes the need for the international community to intervene in a country that has failed its citizens. Some supporters emphasized that R2P is frequently misinterpreted to mean that military force will be used. In actuality, the R2P provides a range of instruments that go beyond military action approved by the United Nations Security Council. At the 2005 United Nations World Summit, R2P was unanimously adopted. It is a policy framework that encompasses a variety of policy alternatives for preventing genocide, war crimes, ethnic

cleansing, and crimes against humanity among populations in danger (UN, 2005). Meanwhile, Alexandra (2012) stated in his paper that the international community has witnessed a shift in the R2P norm since the formulation of the UN Secretary General's report on the implementation of R2P in 2009, focusing more on "prevention" rather than "direct intervention," which is more flexible for ASEAN to internalize. In such circumstances, Some supporters argued that ASEAN should explore employing the whole spectrum of R2P tools, including economic penalties, arms embargoes, and criminal accountability (Smith & Williams, 2021).

In the actual implementation process, there are conflicts or tensions between the R2P and the principle of non-interference, which is at the heart of the conflict between R2P internalization and the ASEAN Way. According to ASEAN's historical development, ASEAN has traditionally emphasized harmony over a conflictual or competitive approach. The ASEAN Way is a critical guideline for establishing the ASEAN Community and ASEAN Identity, which is linked to ASEAN's inclusiveness in the development process. The ASEAN Community and ASEAN Identity constructions would be fragmented if R2P completely replaced the principles of non-interference and consensus. Furthermore, former ASEAN Secretary-General Rodolfo C. Severino explained that awareness influences ASEAN members' aspiration to uphold the non-interference principle that member countries are still struggling with domestic conflicts. Most ASEAN members are still embarking on their incomplete nation building, rooted in their inheritance of fragmented societies after colonization and the Cold War, such as Myanmar. The significance of the non-interference to balance ASEAN collective interests and each member state's ethnonationalism and secession sentiments has resulted from this incomplete nation-building (Severino, 2006).

As a result of the conflicts between the non-interference principle and R2P, ASEAN has been slow to fully implement R2P. The Statement by the Chairman of the ASEAN Foreign Ministers' Retreat (AMM Retreat) has expressed the possibility of ASEAN's will to dilute the "divinity" of non-interference. ASEAN is gradually coordinating the relationship between these two types of norms and gradually internalizing the R2P norm at the ASEAN level as the internal and external environments change. There are two cases involving R2P and other Myanmar issues before 2022, such as Cyclone Nargis in Myanmar in 2008 and the Rohingya crisis in Rakhine State Myanmar between 2017 and 2018. The case studies reflect ASEAN's attitude toward R2P internalization and the maintenance of non-interference, allowing the degree of R2P integration into ASEAN to be objectively confirmed. In the case of Cyclone Nargis in Myanmar, Cyclone Nargis struck the country in 2008. More than 50 townships in the Yangon and Ayeyarwady Divisions were affected by Nargis, including Yangon, the country's largest city. Nargis was Myanmar's deadliest natural disaster, claiming the lives of almost 140,000 people at the time (United Nations Environment Programme, 2009). Later, the ASEAN was reprimanded for its non-interference position in the past. Following Cyclone Nargis, ASEAN Secretary-General Surin Pitsuwan asked all member states to provide prompt support through the ASEAN Disaster Management and Emergency Response Agreement (AADMER). ASEAN embraced a leadership position, ASEAN took a risk in persuading

Myanmar's government to work with the international community. As a result, it has aided in the development of humanitarian aid channels to Myanmar. Based on the case of the Cyclone Nargis crisis in Myanmar, Bensaoud (2015) argued that ASEAN was successful in creating a new praxis that combines both UN and inter-ASEAN normative values. In other words, as this paper contends, ASEAN's participation in the Cyclone Nargis crisis internalized the R2P into non-interference through mediation, action, and hybridity. Based on the case of the Cyclone Nargis crisis, ASEAN partially adopted the concept of R2P to solve the disaster crisis of Myanmar and uphold the principle of non-interference (Creac'h & Fan, 2008). On the contrary, during the 2017 Rohingya crisis, ASEAN only coordinated limited humanitarian assistance and did little to condemn or actively persuade Myanmar's government to stop violence against Rohingya (Lee, 2018).

According to the case comparative analysis, ASEAN is still in the pilot phase of the internalizing degree of R2P implementation. Different attitudes of regional stakeholders caused the conflicts between non-interference and R2P. Simultaneously, ASEAN Way (non-interference) is an important guideline for building the ASEAN Community and ASEAN Identity, both of which are related to ASEAN's inclusiveness in the development process. For example, if the conflicts between R2P and the non-interference principle are not resolved correctly, building the ASEAN Political-Security Community (APSC) will be difficult. As a result, it can be concluded that ASEAN could not completely reject the non-interference principle at this time. ASEAN should find a way that works for it in the process of combining the non-interference and R2P. The sovereignty of other countries should be respected in the process of dealing with the Myanmar crisis for the sake of harmoniously building the ASEAN Community, but the non-interference principle can also be reinterpreted to realize the maximum interests of member states if necessary. According to (Herman, 2012), ASEAN member states may gradually adopt R2P, albeit more slowly than expected. To be accepted, the R2P concept must also be contextualized and some ASEAN Way principles reinterpreted in special affairs.

#### ***ASEAN's and Myanmar's attitudes to R2P***

Among ASEAN members, Vietnam continues to oppose foreign intervention in the domestic affairs of the state. This is also the position of Cambodia, Laos, and even older ASEAN members such as Malaysia and Brunei who do not explicitly support R2P (UN, 2009). However, nowadays, the implementation of R2P is causing concern in Indonesia and Malaysia. While Indonesia expressed interest in developing preventive measures to fulfill the ASEAN Way principles, the country expressed concerns about foreign powers interfering in domestic affairs and the transparency of the decision-making process. As a result, Indonesia proposed that information sources and dissemination in the assessment process be done in a transparent and fair manner, and Malaysian leaders are concerned that building R2P in ASEAN will be redirected to strengthen civil society while undermining state authority (Bellamy & Drummond, 2011). Furthermore, Brunei, Singapore, and the Philippines support R2P but are concerned about the military intervention that could be used to invoke R2P (Asia-Pacific

Centre for Responsibility to Project, 2009). David Rieff (2011) also warns against transforming R2P into a tool for regime change, especially in a region like Southeast Asia, with its diverse political systems and complex internal affairs. The ASEAN Way encourages all ten members of the organization to practice non-interference, consensus decision-making, and peaceful dispute and conflict resolution. For many, the existence of the ASEAN Way has been linked to ASEAN's success in preserving a relatively stable region for the past thirty years since the organization's inception in 1967 (Ramcharan, 2000). Moreover, critics of the ASEAN Way argue that stability and security have been built as a result of conflict avoidance rather than conflict resolution. In fact, ASEAN is familiar with the norms and objectives of the R2P. However, how to apply the concept of R2P to promote ASEAN's human rights mechanism is still under discussion.

For Myanmar, calls for R2P have become a hallmark of protests for civil groups in Myanmar since the military coup in February 2021. Local pro-democracy demonstrators in Myanmar want to depose the military administration and hand authority back to the people; such calls were also made earlier in the aftermath of the Cyclone Nargis disaster and the Rohingya crisis. Given the Myanmar government's criminal disregard for the human suffering of Cyclone Nagis victims, the international community was likely to use the Myanmar government's irresponsibility to justify a humanitarian intervention in Myanmar under the guise of R2P (Emmerson, 2008). When faced with the threat of invoking R2P to engage militarily in Myanmar, the military leadership was concerned that international humanitarian aid would be tied to political objectives from outside, particularly from western countries. In addition, the economic sanction and military intervention of R2P will intensify the poverty and other economic-related and human-rights related humanitarian crises in Myanmar. The Myanmar authorities are apprehensive of any foreign influence, particularly Western influence. As for the junta, it is a reasonable move or an issue that should be prioritized to meet the goal of delivering humanitarian aid (Julian, 2016). Under comparison, Myanmar appeared receptive to receiving assistance from other ASEAN countries compared to those from West countries (Moran, 2008). According to Shang's research (2021), Myanmar's strategic culture has the following characteristics: first, it tolerates no foreign intervention, second, it always pursues a road of self-reliance in diplomacy, and third, it is Myanmar's nature to be independent. The Myanmar authorities' hostile stance toward R2P is reflected in these strategic cultures. Youth scholars Yaolong and Praveen (2021) also gave their comments on the common attitudes of ASEAN and Myanmar, due to the decision-making process being fraught with political gamesmanship, R2P is not a panacea, and its capacity is limited. For the ASEAN side, understanding that humanitarian intervention under a fully internalized R2P could have a negative impact on regional stability, ASEAN may choose a constructive and peaceful solution by working with the junta in a partially internalized R2P rather than forcibly intervening against it.

To sum up, there are different attitudes between the Myanmar military government and the local protesters toward implementing R2P, these differences can also be reflected in the ASEAN context. On the one hand, the overall human rights situation in Myanmar has

deteriorated since Feb 2021, it is important to assist Myanmar to improve the human rights protection system from a humanitarian perspective. On the other hand, since ASEAN has long followed the principle of non-interference, there is a certain institutional conflict between the ASEAN Way and R2P, which makes it difficult for ASEAN to directly intervene in the Myanmar issue. At the same time, the Charter of the UN also states that the UN has no authority to intervene in matters which are within the domestic jurisdiction of any state. As such, there is a lack of an institutional synergistic mechanism for the international community and ASEAN to provide humanitarian assistance to Myanmar. Likewise, in an anarchic international society, the implication of non-traditional security cooperation with neighboring countries to deal with the Myanmar crisis also should not be ignored.

### **III. The Construction Strategy of Synergistic Mechanism**

#### *Model construction strategy and theories*

After analyzing the different attitudes between ASEAN and Myanmar, this article is devoted to raising a rational way to improve ASEAN human-rights mechanisms of coping with the Myanmar crisis, which need to be comprehensively considered from the perspectives of non-interference, R2P, and AICHR, and international society. If norm localization is defined as the process by which external ideas are simultaneously altered to match local practices, then norms must take regional preferences and attitudes into consideration in order to be successfully disseminated (Acharya, 2004). The sentence of Acharya means that although the theory of Realism insists that the state remains the most vital actor in the international system or emphasizes the significance of sovereignty, the Myanmar state's behavior or other members also need to form a collective behavior or awareness over the "self" in the international system of ASEAN. In the context of Southeast Asia, R2P can be harmonized with the principle of non-interference. According to the analysis, there are some synergistic points can be found between the AICHR and R2P, while the non-interference is also in line with the UN Charter. As the following table:

**Table 2** Synergistic Points Between Mechanisms

| <b>Synergistic points between mechanisms</b>                                                                                                                                                                    |                                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|
| <b>Charter of ASEAN Intergovernmental Commission on Human Rights (AICHR)</b><br><i>Encourage ASEAN members contribute to UN peacekeeping and post-conflict peacebuilding by provide humanitarian assistance</i> | <b>International Humanitarian Assistance</b> |
| <b>Second Pillar of the Three-Pronged Strategy in the Implementation of R2P</b><br><i>International assistance and capacity building</i>                                                                        |                                              |

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## Synergistic points between mechanisms

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### **Principle of Non-interference of the ASEAN Way**

*All the ASEAN member states have to follow the non-interference principle in the internal affairs*

### **Non-interference**

#### **Charter of the United Nations**

*Article 2 (7): The United Nations has no authority to intervene in matters which are within the domestic jurisdiction of any state*

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**Note:** The table was made by the Authors.

For the ASEAN side, firstly, the non-interference principle of the ASEAN Way is one of the key factors to building the ASEAN Community harmoniously, and the sovereignty of other countries should be respected in the process of building the APSC. At the same time, it also needs to be aware of the value of United Nations laws and regulations and R2P as the risk management mechanisms for improving the credibility and accountability of the ASEAN mechanisms. Secondly, To maintain the regional autonomy of ASEAN, It's necessary to carry out bilateral and multilateral non-traditional security cooperation between member states and non-member states based on the Treaty of Amity and Cooperation in Southeast Asia. Thirdly, the Myanmar crisis affects the neighboring countries' security and development interests, non-ASEAN and ASEAN cooperation is also an important factor in promoting regional stability, prosperity, and development.

As such, the Charter of AICHR encourages ASEAN members to contribute to UN peacekeeping and post-conflict peacebuilding by providing humanitarian assistance, which can be integrated with the Second pillar (particular manifests as the international humanitarian assistance and capacity building for Myanmar's humanitarian crisis) of the Three-Pronged Strategy in the implementation of R2P. Doing so could build a synergistic channel for humanitarian assistance between ASEAN and non-ASEAN regions to improve the comprehensiveness and inclusiveness of the ASEAN humanitarian assistance mechanism to Myanmar. This channel is also in line with the principle of non-interference of ASEAN and the UN Charter. In addition, accountability of the humanitarian-assistance mechanism is indispensable, whereby introducing United Nations laws and regulations or internalizing R2P at ASEAN level is a means of supervision. Moreover, ASEAN countries can have a deeper understanding among ASEAN member states through extra- or inter-regional non-traditional security cooperation, which will help member states get rid of the long-term constraints caused

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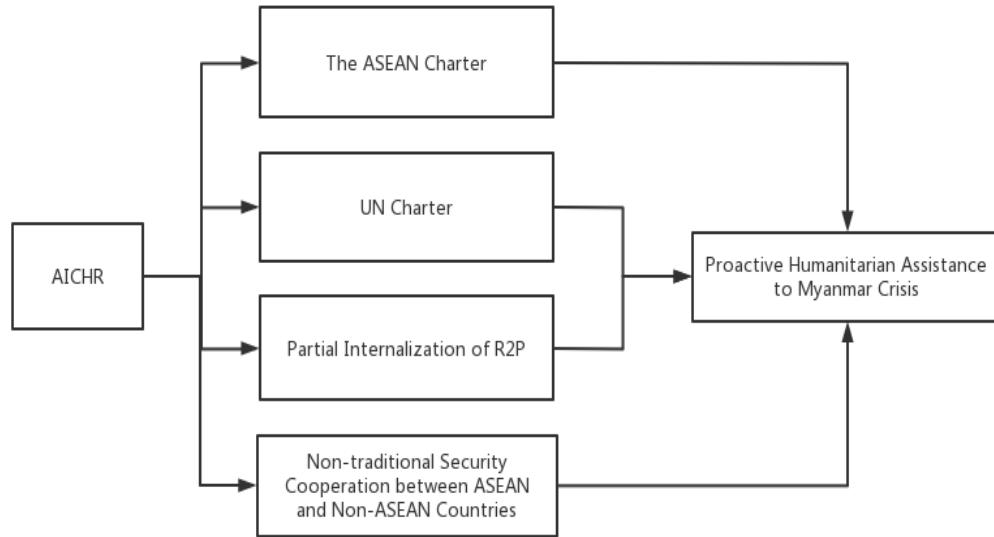
by internal affairs, such as Myanmar crisis, to improve political mutual trust and the functionality of APSC (Mounnarath, 2021).

### ***Model illustration***

The objective of constructing the model is to promote practical problem resolution, meet the needs of the Myanmar people for humanitarian assistance and alleviate the ripple effects of the Myanmar crisis in neighborhoods. There are synergistic institution among the mechanisms (as shown in Table 2), and the AICHR is a coordinated one to synergize the others.

The authors suggest that under the coexistence of the concept of non-interference and R2P, ASEAN should utilize its existing regional human rights mechanism—AICHR, and strengthen cooperation with the UN and the neighborhoods to deal with the crisis in Myanmar. The Charter of AICHR is referenced in ASEAN Charter and other related ASEAN documents, and this commission operates through consultation and consensus, and guides the principles of non-interference principle regulate the domestic situation and international human rights law (reinterpreting the principle of non-interference) (Drummond, 2011). In addition, AICHR is a protective mechanism for building the ASEAN Community that possesses the elements to coordinate and promote broad participation in non-traditional security cooperation. According to the correlative document, the R2P norm is included in the APSC, which recognizes the importance of a “shared responsibility” to a comprehensive concept of security that takes non-traditional security into account to ensure an effective and timely response to the urgent crisis affecting ASEAN (e.g. Myanmar crisis 2021) (The ASEAN Secretariat, 2016). Meanwhile, under the APSC acknowledgment, AICHR holds workshops to enhance people’s needs and human rights mainstreaming in achieving SDGs (AICHR, 2021), and foster stakeholders’ partnership (refers to Myanmar's neighboring countries participating in non-traditional cooperation).

The ripple effects caused by the Myanmar crisis go beyond the general concept and involve the field of human-rights-based and people-centered development. Hence, while dealing with internal affairs, through reinterpreting non-interference and the cooperation with the non-ASEAN countries in non-traditional security fields, the AICHR plays the role of a synergistic mechanism partially internalizing the R2P (e.g. providing non-military involved humanitarian assistance) into the non-interference principle in an appropriate degree and form. The non-military involved humanitarian assistance is also in line with the current attitude of ASEAN and Myanmar towards external intervention. All in all, ASEAN can form a new synergistic mechanism to coordinate different attitudes, and practically deal with the consequences of the Myanmar crisis. Following the analysis above, the *Model of Beyond Non-Interference* was created to comprehensively illustrate the conceptual framework of the new synergistic humanitarian-assistance mechanism. As shown below:



**Figure 1** Model of beyond non-interference

**Source:** The model of beyond non-interference was created by the authors

On the one hand, by comparative analysis of the ASEAN's non-interference-based human rights mechanism and the concept of R2P, humanitarian assistance can be used as a point of synergy between the ASEAN human rights mechanism and R2P. On the other hand, the ASEAN's non-interference-based human rights mechanism is also in line with the UN Charter, in which the United Nations has no authority to intervene in things that are within a state's internal jurisdiction. Therefore, this paper constructs the *Model of Beyond Non-interference* to explain and analyze ASEAN's involvement in contributing to the crisis resolution in Myanmar by partially internalizing R2P through the provision of non-sanction, non-political, and non-military humanitarian assistance to Myanmar, while using the AICHR as a coordination mechanism to build institutional channels and risk management mechanisms for humanitarian cooperation between Myanmar, ASEAN and non-ASEAN countries so that ASEAN can better engage and manage the region's affairs in the future. Finally, this model can be adopted and progressive implemented under the concept of APSC, ASEAN Plus cooperative framework, and another ASEAN-related subregional cooperation framework. These multilateral cooperative institutions not only can improve the quality and efficiency of humanitarian assistance within the region, but also support "ASEAN Centrality" to deal with the ASEAN internal affairs and positively mediate between Myanmar and ASEAN. Moreover, the front-end risk assessment of this model is necessary, and the model can be tested and adjusted under certain circumstances, to make it more suitable and practicable in the local context.

## Conclusion

The crisis in Myanmar has long been of concern to the international community. Until now, the crisis has not yet been completely resolved. The long-standing internal conflict has also inspired ASEAN to reflect on its handling of human rights mechanisms in Myanmar. The ASEAN Way, as the ASEAN action norm in dealing with regional affairs, has played a significant role in promoting regional peace and development. The principle of non-interference is one of the features of the ASEAN Way and has led ASEAN member states to respect each other's national sovereignty. However, some ASEAN scholars have argued that the Myanmar issue has also revealed the limitations of the ASEAN Way in resolving regional affairs, and the international community has raised questions about whether ASEAN can play its proper role in facilitating conflict resolution in Myanmar and human rights issues in Myanmar. For this reason, several scholars have suggested that ASEAN could adopt the concept of R2P to improve ASEAN's human rights mechanisms. Due to the different attitudes of ASEAN, Myanmar's military government, and civil society toward R2P, as well as the conflict between ASEAN's non-interference and R2P, this situation caused the lack of a synergistic humanitarian-assistance mechanism in the region.

Based on the analysis of this paper, humanitarian assistance can be one of the synergistic points among the ASEAN Charter, UN Charter, AICHR, and R2P. Among them, the AICHR could be regarded as a coordination institution for Myanmar, ASEAN, and non-ASEAN countries to form a synergistic humanitarian-assistance mechanism that can contribute to ASEAN's efforts to construct a peaceful solution to the crisis in Myanmar.

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