

Conference Paper

The Character of Sovereignty in the Framework of International Economic Law and Its Progress in Asean Community

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Abstract

The last decade of the 20th century and the first decade of the 21st century was the most challenging periods of the various theories and assumptions of the concept of sovereignty, which has become fragile because of the forces of globalization. The biggest problem of these forces clearly is at the level of state sovereignty. South East Asia, which starting to put into practice its Economic Community through ASEAN, regionally has a lack of experience in facing those theoretical changes. This research examines the relevance of sovereignty concept in international law and its changes, and how the countries in South East Asia through their Economic Community respond about this. By reviewing various journals from international law experts, reports from some of the South-East Asia's leading economic institutions, as well as examining reports and statements of South East Asia's state institutions, this research concludes that the opposition to the sovereignty as a normative idea does not need to be encouraged to produce something that degrade the concept and produce a new concept of sovereignty which is considered to be satisfactory to all countries. South East Asia Economic Community may be considered weakens the concept of sovereignty that has been applied for so long in this region, but it would not necessarily add to the opposition to the traditional concept of absolute sovereignty, because apparently, it will provide some possibility for some countries to project their sovereignty and interests globally.

Keywords: ASEAN, Economic community, Globalization, International law, South East Asia, Sovereignty

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1. Introduction

The last decade of the 20th century and the first decade of the 21st century was the most challenging periods for the various theories and also includes the assumption of generally accepted international law. The forces of globalization are accompanied by significant changes in government institutions, increased activity and outstanding advocacy from NGOs, a strong emphasis on the idea of a market economy and a reaction to it, making the theoretical foundations of international law that has been generally accepted for many centuries increasingly fragile especially the theory of sovereignty. Economic globalization and trade liberalization cannot be denied has transformed into a need and demand for all country in the world, which makes the trade competition increases, notably in acquiring market opportunities and global trade transactions. Impact and changes that appears in the results of globalization is inevitable, described by Friedman as a system that has several advantages more than the disadvantages, but still going through a period of darkness that cannot be avoided [1]. On the other hand, globalization and trade liberalization provides an open opportunity to any country to develop their economic ability that is expected to follow the demands of economic globalization and free trade world. Development of economic capacity can be achieved because basically globalization and liberalization is intended to remove all obstacles in the trade, so that all businesses are expected to easily conduct trading activities in the global market.

The biggest problem of the effects of trade liberalization clearly is at the level of state sovereignty that attach themselves to any agreement made within the framework of global governance through international organizations, the largest of it is the WTO. Sovereignty will always be a controversial concept, and may have been discussed and debated in the world's international law community today, especially when dealing with countries that still retains the traditional concept of sovereignty. The pace of technological development of transportation and communication, together with the development of international organizations and treaties, particularly in the fields of trade, has brought a shift towards a more globalized era. Sovereignty of a country as has been transformed from independence into interdependence, especially in the international economic environment.

ASEAN, as the biggest economic community in South East Asia has announced that they are integrating their state members, and will be finished in 2020. The total population of the ten ASEAN member states is more than 600 000 000 people. Few seem to doubt the potential, especially by expanding the glaring weaknesses and obstacles

that stand in the way of both integration and success for ASEAN. The ten member states appeared have more that sets them apart than brings them together. Conflict, suspicion, governance, level of development, and foreign policy interests make up broad categories of divisive issues. They are perhaps best understood as polities where internal challenges outweigh external threats. Despite its plans for an integrated ASEAN, which promises something akin to a single market and security community, the ASEAN Member States remain stubbornly insistent on its principle of non-interference. For regional and international observers alike, it is becoming increasingly challenging to reconcile non-interference with prospects for functioning trade agreements that are commonly perceived to require some form of legal basis. Perhaps what seems most strange is that ASEAN would state ambitions to these ends in the first place.

2. Research Methods

By reviewing the literature on sovereignty in international law and opinions of the experts stated in various journals, as well as reviewing reports of several international organizations, particularly related to world trade, the authors will try to explain some of the problems that arise in the world of modern commerce today, namely whether the concept of sovereignty has lost its relevance in the international legal system as it is debated by experts, or sovereignty still has an important role in determining the relationship between countries, especially in the South East Asia region. The discussion about sovereignty in this research will be limited in terms of international law only, and the talks about South East Asia region will be regarded as a legal discussion, not politics.

3. Sovereignty Revisited

Forms that are always emerged and debated in the development of the theory of sovereignty is the degree of absoluteness. A sovereignty has absolute nature when it is not restrained by a constitution, existing laws, as well as traditional customs that already apply in advance, and there is no law or policy area that is separated from the control of a sovereign entity. International law, policies and actions from adjoining entities, cooperation, and respect for the common interest of the international community, how to apply, even to the resources to implement the policy of the entity, are the factors that may limit sovereignty. Therefore, various debates about the development of the modern theory of sovereignty will always be associated with the definition of

its absolute nature. The key element that is probably have the most relationship with the absolute nature of sovereignty is the exclusivity of the jurisdiction that is owned by an entity, because the degree of policy on an absolute nature of sovereignty of an entity may be different and even conflicting with other entities that have the right to determine its sovereignty. Such as those put forward by Max Weber studied by Kenneth Newton, that sovereignty is the monopoly of a community that claims to have the authority to commit violence in a particular jurisdiction, and therefore other groups that claim the same right as it should be debated on the position sovereignty, if they prove not to have true legitimacy, or disputed later proved to have no sovereignty at all to do so[2].

Various fields progress in the form of technological development, the emergence of various international organizations and entities both state and non - state, the increasingly changing of social structure of society at the level of international and national, and other phenomena such as the violation of human rights, cross countries corporations, to the political competition both nationally and internationally, could possibly determine the degree of exclusivity which is the element of the absolute nature of sovereignty. The concept of sovereignty that are offered by experts from classical times until the 19th century was so identical with *internal sovereignty*[3-7], but the development of the theory of sovereignty further expanded on the concept of nation-state since the emergence of the League of Nations which later became the United Nations with the primary objective to maintain the continuity of international peace, may erode the exclusivity of the absolute jurisdiction, so the shift of the meaning of sovereignty in the era of state sovereignty becomes a routine debate of international legal experts.

In international law, the sovereignty of the country is often associated with the most essential qualification to determine the membership of a country into the international community. State, in the history until today, still remains the main subject and the heart of any discussion about the rules and regulations of international law. Based on the trajectory of the theories and concepts of sovereignty that already stated above, which raised the supporting subjects of the sovereignty, such as communities and regions, than the State is the most important entity to run the concept of sovereignty itself as agreed in the Article 1 of Montevideo Convention on the Rights and Duties of States 1930, that an entity is a State if they able to show the criteria of "*a permanent population, defined territory, a government, and the capacity to enter into relations with other States.*" Various concepts of sovereignty that developed in international law is part of a discourse that never stops even controversial with no comprehensive understanding

until today [8]. Apart from the various concepts that indicate the way to determine the acquisition of sovereignty under international law by a country with due regard to ethics that generally accepted by experts [9], the concept of state sovereignty in the relation between countries is a discussion that crossed internal area in conjunction with the other sovereignty of state or non - state. This poses a problem in the realm of international law which inherent in every debate to the experts, that is, if the relationship between these countries raises the relation between state sovereignty, which is very likely to bring an intervention against the sovereignty of other countries, then the legitimacy of the intervention will be a big question [10].

Before the 19th century, the immunity of a sovereign state from the judicial process and the application of the jurisdiction of the national courts is an absolute thing. In addition to sovereignty, another important concept underlying the exclusivity of a sovereign state from the outside world is the equality of the states, which have also been recognized by the United Nations in the UN Charter Article 2.1. Related to this, sovereignty can only mean the power to create laws that are supported by its whole forcing strength in its application, that a sovereign state has a *suprema potestas* within the limits of its own territory. *Equality* itself is an incidental concept in the development of existing international law in the ancient times when experts formulated the theory of sovereignty [11], with the premise that the entities that have the same status should be granted rights and privileges that can be compared and apply reciprocity, and applicable absolutely, owned by all countries in every good relationship with individuals within the country or to another entity outside the country, although the discussion of equality in sovereignty of the country has not received the proper place in the discourse theory by the international legal experts.

Research on the degree of absolute exclusivity of the jurisdiction, and equality of rights and responsibilities for each country, brings us to the conception of a sovereign country, which can mean a country that subject or population voluntarily has adherence to it, and is not a subject of another state or entity, has a firm position in relation to other states and manifest in both internal and external relations. The essence of a having a state is sovereignty, which is the principle that each country is only following the orders of its own and is not responsible for the larger international community except when it has agreed to do so. The deal to take responsibility on the international community by itself spawned the opposite concept of sovereignty itself, or at least the concept changed and reduced. Changes or reduction of the concept of sovereignty had actually been taking place since the end of 19th century and early 20th century, where the controversy about the absolute and indivisible concept of sovereignty was slowly

began to sink [12]. Since the Treaty of Westphalia which gave rise to the principle of territorial integrity in which sovereignty is interpreted as a legal capacity that puts the authority of the state above all the legal authority outside the country, the changing paradigm of state sovereignty has never stopped due to the factors that have been pointed out earlier, coupled with the phase of the World War II and the formation, development, and the role of the United Nations for the mutual benefit of all countries. Absolute power claimed by sovereign states had to deal with the presence of international organizations and other inter-governmental bodies that support the existence of a state of collective action and accountability to an international community, and create a huge erosion of sovereignty paradigm.

One of the views raised about the existence of the supreme power to describe the integrity of a sovereign is the notion of "irreducible core, the non-negotiable given of any sovereign order" proposed by Neil Walker [13]. The idea is, the sovereignty is something that has an intact and unchanged power. Based on this idea, Neil Walker observes that sovereignty should be viewed as a form of discussion on the problem of the existence and character of supreme ordering power of a government that specifically debated. This supreme ordering power is essentially to preserve the identity and status of a political entity, provide the continuously source for the entity, and the entity becomes a vehicle for legal regulation. This concept is traditional concept which uncontested until 20th century with the elements of absolute and unlimited freedom in its formulation internally. But in the end, countries in the world on the 20th century began to realize the need for cooperation in order to achieve the common goal of development and therefore all members of the international community had to be together to account the valid destination from other members when applying sovereignty. In this case, the state is no longer able to act independently of the other countries, because of the increased aspects of life in the country that is responsive to the activity outside the boundaries of the country, although there is still the other side of a country that continues to expand without having to have relationship at all with the outside world. This tendency is directly challenging the traditional conception of sovereignty as the supreme power and freedom.

Although the majority of international legal experts argue that international law is based on the wishes of the country, some of them argue that the desire of the country should also be imposed certain restrictions, for example through the *Doctrine of Restrictive Interpretation* [14], conception of the international community that must not be isolated so that relations between countries are an independence, the idea of cooperation and coexistence, rules of warfare and weaponry, some fundamental change

in the theory of international law, especially the country's sovereignty, and others. The international community is increasingly changing and always moving forward, added with the issue of cross areas of international law such as the settings of human rights in international economic law, the regulation of humanitarian intervention in countries that are engaged in war, makes the interdependence between countries in the international legal sphere more real.

The emergence of interdependence between countries is not a new case in international law expert discourse today. Despite the emergence of supranational entities today, developments in the process of "institutionalization" through integration in the era of globalization is something the international community cannot avoid. This process was raised in the emergence of international organizations, gradual substitution of the traditional conception of co-existence toward international law by cooperation, and a more strength ties that occur in the international community. The most important effect that could arise because of this interdependence is a shift from different national legal systems, in the direction of international law which the limits are getting disappear and the rapid development and inevitable across borders, so that in certain cases can cause conflicts between national policies and international interests.

4. ASEAN Community and World Trade Organization, A Concept of Sovereignty in the Interdependence Era

At the Bali Summit in Indonesia in 2003, ASEAN leaders agreed that an ASEAN Community would be built by the year 2020 with three pillars of political and security cooperation, economic cooperation, and socio-cultural cooperation [15]. A year later, at the Vientiane Summit in Laos, the Vientiane Action Programme was announced to provide more details to the idea by identifying norms, principles, and cooperation fields to help realizing the ASEAN Community. Recalling the Declaration of ASEAN Concord II, which elaborates on the themes of ASEAN Vision 2020 by setting concrete milestones to reach the goals of a broad and comprehensive ASEAN Community founded on the three pillars of political and security cooperation, economic integration, and socio-cultural cooperation, to form the ASEAN Security Community, the ASEAN Economic Community and the ASEAN Socio – Cultural Community by 2020;

At the 12th ASEAN Summit in Cebu, Philippines in January 2007, ASEAN leaders agreed to accelerate the establishment of ASEAN Community by 2015, instead of 2020 as they envisioned before. Among the three pillars of the ASEAN Community, the ASEAN Political – Security Community (APSC) was at focal point. At the original stage,

the concept of APSC was drafted by Indonesia where they defined security community as a group whose “member countries... have achieved a condition, as a result of flows of communication and the habit of cooperation, in which members share “expectations of peaceful change” and rule out “the use of force as means of problem solving” [16]. In fact, Indonesia’s concept of APSC had two main elements: the non-use of force to settle disputes and the collective action to address common problems. The first element is truly a classical concept of security community defined by Karl Deutsch in the 1950s [17]. The second element was seen as “in response to new transnational dangers in the region” like the haze problem, the financial crisis, international terrorism, small arms trafficking, etc. which would “presumably require a dilution of ASEAN’s non-interference doctrine.”

Moreover, as noted by most Deutsch scholars, a security community is also marked by the absence of a competitive military build-up or arms race involving their members because within a security community, “war among the prospective partners comes to be considered as illegitimate”[18]. Therefore, member countries need to have a string of confidence building measures to reduce the possibility of arm race among the community members. These measures include the transparency of military budget, notification of maneuvers or exercises, exchange of military personnel, etc. Leaders from member countries will also have meetings more frequently to have exchange on issues of common concern. Though these measures have been already practicing by ASEAN as a purpose of the ASEAN Regional Forum, it is expected that ASEAN will further strengthen the confidence building process as the group aims at building a security community. Thus, this process will increase the trust among ASEAN leaders, making them feel freer and easier to talk about the other’s internal affairs, thus, dilute the principle of non-interference.

Every member of ASEAN is also a member of WTO, which commonly accepted as the biggest trade organization in the world. Currently, the WTO has 137 members, accounting for more than 90 % of the world trade. More than three fourths of these members are developing or least developed countries. The organization has four principal functions: administering trade agreements, settling trade disputes, conducting trade policy reviews of its members, and acting as a forum for trade negotiations [19]. In addition, it provides technical assistance to developing countries in trade policy and cooperates with other multilateral agencies, but it always comes from the WTO Agreements.

The WTO agreements are lengthy and complex because they are legal texts covering a wide range of activities. They deal with: agriculture, textiles and clothing, banking,

telecommunications, government purchases, industrial standards and product safety, food sanitation regulations, intellectual property, and much more. But a number of simple, fundamental principles run throughout all of these documents. These principles are the foundation of the multilateral trading system, such as Most-Favoured-Nation (MFN) and National Treatment. Most Favoured Nation basically rules that other people should be treated equally. Under the WTO agreements, countries cannot normally discriminate between their trading partners. Grant someone a special favour (such as a lower customs duty rate for one of their products) and you should do the same for all other WTO members. This principle is known as most-favoured-nation (MFN) treatment. It is so important that it is the first article of the General Agreement on Tariffs and Trade (GATT), which governs trade in goods. MFN is also a priority in the General Agreement on Trade in Services (GATS) (Article 2) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (Article 4), although in each agreement the principle is handled slightly differently. Together, those three agreements cover all three main areas of trade handled by the WTO. National treatment basically is a rule to treat foreigners and locals equally. Imported and locally-produced goods should be treated equally – at least after the foreign goods have entered the market. The same should apply to foreign and domestic services, and to foreign and local trademarks, copyrights, and patents. This principle of “national treatment” (giving others the same treatment as one’s own nationals) is also found in all the three main WTO agreements (Article 3 of GATT, Article 17 of GATS and Article 3 of TRIPS), although once again the principle is handled slightly differently in each of these. National treatment only applies once a product, service or item of intellectual property has entered the market. Therefore, charging customs duty on an import is not a violation of national treatment even if locally-produced products are not charged an equivalent tax.

Talks on international economic law will never be limited to positive laws, but will always pushing the boundaries of theory, empirical, to the field outside the law, both deduction and induction, based on existing knowledge and evolved past the trajectory of international events and the evidence of the existence of this science in the international relations between countries. The most critical element uncovered is when the international economic law in touch with public policy of the sovereign state, and it would be difficult again when dealing with the state that promotes traditional concept of sovereignty. The intersection of international economic law with those policies gave birth to endlessly debate about sovereignty itself. One model that is most prominent in the process of enlightenment era of international economic law is new is the existence of an integration law among nations, either in the form of regional integration in a

particular area such as the European Union and ASEAN, as well as the agreements particular in the field of international economic law that emerged the dynamic and growing new law both for agreement makers and those who bind themselves with the agreement, which the state merged into an organization to enhance cooperation and reduce tensions between countries. Although it has a positive purpose, but the integration of this law generated much debate that tends toward a fear of weakening the sovereignty of a country.

Trade flows become more complicated in this era of globalization that makes countries in the world holds a variety of economic relations, either through bilateral or multilateral negotiations, in order to deal with issues that arise. One result of the development of multilateral negotiations in world trade area is the presence of World Trade Organization (WTO). John Mo believes that the WTO is the most important developments in the history of international trade. As the one and only international organization that formulates the rules of world trade, the WTO set up to improve living standards and incomes, ensure the creation of jobs, increase production, and optimize utilization of resource both goods and services [20]. Marco Bronckers also argues that the WTO has the potential to become an important pillar in global governance that put aside differences, embodied through the opening of the WTO Agreements by emphasizing the importance of sustainable economic development and integration of developing countries and least developed countries in world trade, which is not listed in the preamble of the GATT Agreement 1947 [21]. the way to achieve these objectives are also included in the preamble of the WTO Agreements which briefly is by reducing trade barriers and eliminating discrimination of trade, which should be implemented with the principle of reciprocity and mutual benefit.

Despite its power to the domestic law of a country still getting a lot of debate among experts, but the terminology of Agreements in the WTO has a strong base to tie the state in Article 3 Vienna Convention on the Law of Treaties 1969:

“The fact that the present Convention does not apply to international agreements concluded between States and other subjects of international law or between such other subjects of international law, or to international agreements not in written form, shall not affect:

- i. the legal force of such agreements;
- ii. the application to them of any of the rules set forth in the present Convention to which they would be subject under international law independently of the Convention;

- iii. the application of the Convention to the relations of States as between themselves under international agreements to which other subjects of international law are also parties.”

and Article 5:

“The present Convention applies to any treaty which is the constituent instrument of an international organization and to any treaty adopted within an international organization without prejudice to any relevant rules of the organization”.

Structurally, the peak of the pyramid is the WTO rights and obligations in the WTO Agreements. This agreement is largely institutional and contain provisions regulating issues such as membership, the changes, and decision making. The basic structure of the WTO Agreements provides a fertile ground and atmosphere that allows the potential for conflict or overlap in the application of WTO norms. The approach taken by the negotiators during the Uruguay Round is to choose a set of multilateral trade agreements annexed to the WTO Agreements. The result is a model of single undertaking, i.e. the same package of agreements binding on all WTO members. Accession to the WTO itself implies acceptance of all the rights and obligations contained in all multilateral agreements annexed to the WTO Agreements. Single undertaking approach which is marked with the Uruguay Round of trade negotiations is sufficient to represent a shift in the regulation of multilateral trade rules.

In particular, single undertaking can be interpreted that the state cannot choose to ignore one of the treaty even if those countries do not see the benefits of the agreement. With this principle, the WTO member countries should be committed to all the agreements that have been agreed in the WTO. Thus, the nature of any WTO Agreements based on the principle of single undertaking are collectively exhaustive and applies to all members. Any agreement that is produced will be valid without any personal consent to a particular country. This concept will ultimately result in new problems that arise for WTO members especially developing and least developed countries in any resulting agreement. Although in agreement WTO allocate special and differential treatment for developing and least developed countries, they are considered into the most disadvantaged because they do not have a choice or even its right as if revoked in order to determine and choose where in the WTO agreements are eligible to apply in his country.

5. Sovereignty Contested, ASEAN and Non-Interference Principle

Non-interference is a principle based on the notion of equality of sovereign states in international systems, which were established by the Treaty of Westphalia in 1648. The concept of state sovereignty defines that no sovereign may exercise authority in the domain of another. That means within the territory of a political entity, the state is the supreme power, and as such no state from without the territory can intervene, militarily or otherwise, in the internal politics of that state. Traditionally, non-intervention is defined that "governments can attempt to influence each other's behavior only through established diplomatic channels". Governments cannot seek to expand influence by a direct appeal to citizens of another country, by occupation, or by using home territory as a base for opposing another regime [22]. In other words, John Stuart Mill described it as "let other nation alone" [23]. In most of ASEAN's documents, the principle is pervasively enshrined. In Bangkok Declaration in 1967, ASEAN proclaimed its determination "to ensure their stability and security from external interference in any form or manifestation". In the Zone of Peace, Freedom, and Neutrality Declaration in Kuala Lumpur in 1971, ASEAN reiterated that every state, regardless of its size, has the right to lead its national existence free from outside interference in its internal affairs.

In the Treaty of Amity and Cooperation in Southeast Asia, ASEAN committed itself to certain principles, including "mutual respect for the independence, sovereignty, equality, territorial integrity and national identity of all nations; the right of every State to lead its national existence free from external interference, subversion or coercion and; non-interference in the internal affairs of one another." The principle was reaffirmed in the "Declaration of ASEAN Concord" (the Bali Concord) in Indonesia in 1976 that:

"Member states shall vigorously develop an awareness of regional identity and exert all efforts to create a strong ASEAN community, respected by all and respecting all nations on the basis of mutually advantageous relationships, and in accordance with the principles of self-determination, sovereign equality and non-interference in the internal affairs of nations."

In ASEAN Charter announced in 2007, ASEAN reaffirmed its intention to "respecting the fundamental importance of amity and cooperation, and the principles of sovereignty, equality, territorial integrity, non-interference, consensus and unity in diversity;" at the Preamble. At Article 2, ASEAN reaffirms to adhering to fundamental principles, including:

- i. Respect for the independence, sovereignty, equality, territorial integrity, and national identity of all ASEAN Member States;
- ii. Renunciation of aggression and of the threat or use of force or other actions in any manner inconsistent with international law;
- iii. Non-interference in the internal affairs of ASEAN Member States;
- iv. Respect for the right of every Member State to lead its national existence free from external interference, subversion, and coercion

However, ASEAN' practice of non-interference has not been absolute [24]. In some cases, ASEAN members have "intervened" in the internal affairs of others. Those interventions are manifested in five areas: *First*, ASEAN leaders have on several occasions lent support to one another in case of internal political upheaval. It was the case of ASEAN leaders' support to the Philippines' president Aquino in 1987 when ASEAN leader decided to attend the ASEAN Summit in Manila despite concerns of security situation there. In 1999, ASEAN leaders again showed their support to Indonesian president Wahid by affirming their "respect for the sovereignty and territorial integrity of the republic of Indonesia" and "support for the efforts of president Wahid towards a peaceful settlement of the situation in Aceh." [25]. But not in all the case of internal political upheaval do ASEAN leaders give support to other. In the cases of 2006 Thailand coup d'état and the incidents occurred after, ASEAN did comment nothing on the incidents. *Secondly*, ASEAN leaders have often sought to mediate in conflicts between neighboring states. *Thirdly*, several ASEAN countries have given direct security assistance to neighbors. In 1986, Indonesia provided aircraft to the Philippines for anti-insurgency operations; *Fourthly*, on several occasions ASEAN countries have taken up internal issues of other countries where these have involved important humanitarian, human rights issues or internal political to discussion. In 02/1986, five foreign ministers (minus the Philippines) called for a "peaceful resolution" to the conflict between pro and anti-Marcos forces in Manila. ASEAN also issued a series of collective responses to Myanmar calling for "the release of those placed under detention" [26] and urging the military junta in Yangon to "continue to work with the UN in order to open up a meaningful dialogue with Daw Aung San Suu Kyi" [27]. *Fifthly*, ASEAN countries have not felt constrained to hold back if domestic issues in another country spill over adversely into their own, like the haze problem in Indonesia during 1998 - 1999.

However, ASEAN's practice of non-interference has never been absolute as the group had tried to intervene in the domestic affairs of member states in some several cases. Scholars and policy makers around the region recently came to agree that

ASEAN is interpreting the principle flexibly. In this sense, one may raise several questions: Is ASEAN applying a “double standards policy” in interpreting non-interference? With ASEAN Economic Community passed its deadline on December 2015, in which direction does non-interference evolve to?

6. Conclusions

The impact of globalization to the concept of sovereignty can never be one-sided interests, but fundamentally should be considered in two ambiguous concepts naturally i.e. normative and judgment about the actual capacity of the state and its government to influence the outcome of the normative idea. The opposition to the sovereignty as a normative idea does not need to be encouraged to produce something that degrade the concept and produce a new concept of sovereignty which is satisfactory to all countries. The need of legal framework of sovereignty could only be achieved by what we called institutionalization. World Trade Organization as the most prominent organization in international economic law, will always be a capstone for every economic community, including ASEAN Community. South East Asia Economic Community through ASEAN may be considered using principles of non-interference, but in some practical cases they surely weaken the concept of sovereignty that has been applied for so long in this region, but it would not necessarily add to the opposition to the traditional concept of absolute sovereignty, because apparently, it will provide some possibility for some countries to project their sovereignty and interests globally.

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