

SPOTLIGHT ON R2P



National Dialogue

“The ASEAN Five-Point Consensus on Myanmar: Lessons Learnt and Ways Forward”

On Wednesday, 27 September 2023, the Cambodian Institute for Cooperation and Peace (CICP) and the Paññāsāstra University of Cambodia (PUC) co-organized a national dialogue on “The ASEAN Five-Point Consensus on Myanmar: Lessons Learnt and Ways Forward” at Sunway Hotel, Phnom Penh. The event was supported by the Asia Pacific Centre for the Responsibility to Protect (APR2P) of the University of Queensland, Australia.

The event brought together about 70 relevant stakeholders including diplomatic corps from the United Nations, France, China and Russia, think tanks, members of civil society, university students and Friends to R2P-Cambodia Network.

The dialogue aimed to examine key lessons of the 5PC and discuss ways forward on how to practically operationalize ASEAN’s efforts in addressing the situation in Myanmar. The event also attempted to bring underdiscussed issue of how the roles of international norms such

as the Responsibility to Protect (R2P) and other related norms can fit into discussions in exploring ways forward for ASEAN to respond to the Myanmar Crisis.

The dialogue began with an opening remark by Amb. Pou Sothirak, Executive Director of CICP. After that, Dr. Noel Morada, Director, Regional Diplomacy and Capacity Building, APR2P, delivered his introductory remark. Followed was a welcoming remark by H.E. Veng Sereyvuth, Chairman of the Board, PUC.



From Left to Right: Dr. Noel Morada, H.E. Veng Sereyvuth, Ambassador Pou Sothirak

The dialogue was divided into two sessions. Each session began with 10-minute presentations by speakers, followed by open discussions with the participants. Speakers from CICP and PUC were invited to share their views in each session. The first session, “Assessment of the ASEAN Five-Point Consensus: Lessons Learnt”, had three speakers Mr. Kevin Nauen, Professor, PUC, and Senior Fellow, CICP; Mr. Him Rotha, Research Fellow, CICP; and Ms. Tov Jingsoung, Research Fellow, CICP. The session was moderated by Mr. Soeung Bunly, Research Fellow, CICP.

The second session was on “ASEAN and Myanmar Crisis: Ways Forward”, with three speakers –Mr. Soeung Bunly, Research Fellow, CICP; Mr. Him Raksmeay, Research Fellow, CICP; and Ms. Say Puthy, Professor, PUC and Research Fellow, CICP. The session was moderated by Maurice Peireira, Research Fellow, CICP.

Opening Session

The national dialogue commenced with an opening remark by Amb. Pou Sothirak, Executive Director of CICP. He warmly welcomed all speakers and attendees who took their time to join the event.

He expressed his sincere appreciation to APR2P for the continued support extended to CICP over the years to promote awareness on R2P principle. CICP was pleased to join other like-minded institutions, such as Paññāsāstra University of Cambodia (PUC) and other individual supporters of R2P in hosting this national dialogue. Without APR2P's enduring support, this event would not have been possible. APR2P has been one of the core partners of CICP for the past 10 years. Their support is valuable in contributing to the promotion of important international norms such as R2P in Cambodia and in the region.

He also paid his special thanks to Dr. Noel Morada, Director, Regional Diplomacy and Capacity Building of the APR2P for traveling all the way from Australia to lend his support for this special national dialogue. Amb. Pou conveyed his warm regards and deep appreciation to Professor Alex Bellamy, Director of APR2P for his unwavering support of this partnership.

He thanked to H.E. Dr. Kol Pheng, Founder of the Paññāsāstra University of Cambodia for agreeing to co-organize this event with CICP. His thanks also went to H.E. Veng Sereyvuth, Chairman of the Board of PUC, for taking time to join this dialogue.

He expressed his thanks to his researchers at CICP and colleagues at PUC for their efforts in making this event a success.

Amb. Pou provided some contexts of the national dialogue.

The Five-Point Consensus (5PC) has been the reference point capitalizing on the ASEAN's approach in managing crisis in Myanmar which stemmed from the military coup on 1 February 2021. The 5PC symbolizes ASEAN's efforts to help Myanmar return to normalcy, aiming particularly to reduce violence of the situation on the ground in Myanmar,



Amb. Pou Sothirak, Executive Director CICP

facilitate conducive environment for political dialogues of all key stakeholders, and channel humanitarian aids to those in need in the country.

Yet, since its adoption on 24 April 2021 at the Special ASEAN Leaders' Meeting in Jakarta, the implementation of 5PC has been sluggish and met with lack of any substantial progress, in large part due to complex nature of the crisis and difficulties in operationalizing 5PC as the result of the continuing uncooperative attitudes by the Military regime in Myanmar. ASEAN has not significantly achieved any of the key objectives stipulated in the 5PC. Violence in Myanmar remains unabated and human suffering continues, primarily perpetuated by the Tatmadaw among other armed organizations. There are grave crimes widely reported of continuing tragedy particularly of civilians in Myanmar. Moreover, despite efforts, ASEAN has not been able to facilitate an environment for any meaningful political dialogues given that key stakeholders such as Daw Aung San Suu Kyi and her senior officials have been barred by the Military Authority from taking part in any political process. Furthermore, ASEAN deliveries of humanitarian aids have continuously been impeded by intense fighting between Tatmadaw and other ethnic armed resistances.

The Myanmar Crisis, now nearly in its third year, continues to inflict misery and loss of lives of people in Myanmar, spurring the situation to be one of the worst humanitarian crises in the region.

On 5 September 2023, at the 43rd ASEAN Summit in Jakarta, ASEAN Leaders made some key decisions on Myanmar. Key among them were maintaining 5PC as the main reference point, specifically naming the

Military Authority as a key perpetrator of violence, continuing to invite non-political representative of Myanmar to ASEAN Foreign Ministers' Meeting and Summit, and snubbing Myanmar of the rotating ASEAN Chairmanship in 2026. While these decisions reflect ASEAN's efforts in trying to address the Myanmar crisis, the fundamental issues remain, especially how ASEAN practically implement the 5PC to its entirety, and how international norms such as the Responsibility to Protect (R2P) can play roles.

He hoped that there would be open, productive and constructive discussions between the speakers and participants during this national dialogue so as to enable ASEAN to play positive roles to help return Myanmar to normalcy. International principles and norms such as R2P should not be ignored. ASEAN should pay more attention on how elements of international norms such as R2P can play effective roles in ending human suffering inflicted by the military coup.

In his view, R2P could be a normative tool in enhancing ASEAN diplomatic effort to encourage the Tatmadaw to implement the 5PC. After all, R2P is an international principle adopted unanimously - including Myanmar and other Southeast Asian countries - at the UN World Summit in 2005.

R2P emphasizes state's responsibility to protect its populations from four atrocity crimes namely genocide, war crimes, crimes against humanity and ethnic cleansing. The norm has three pillars. First, states have responsibility to protect their own populations from the four mentioned atrocity crimes. Second, the international community has responsibility to help states to enhance their responsibility to protect their own populations. Third, should states fail, the international community through the UN system takes actions including military actions to prevent mass atrocities.

Given the ongoing polarizations in the UN Security Council, different interpretations of R2P and state sovereignty among the UN members as well as the overall realpolitik in the international system, military

intervention is out the question. However, R2P is a tool specially designed for the international community within the UN system to call for atrocity preventions and protection including diplomatic pressures, and economic sanctions. R2P should not be never seen as a tool for UN to intervene in the internal affairs of a state.

By almost all risk indicators as noted in the UN Framework of Analysis of Atrocity Crimes, what happened in Myanmar, especially since the coup in 2021, seems to indicate that the country is heading toward elements of the four R2P mass atrocity crimes.

At the very least, ASEAN should mention R2P in its statements on Myanmar. By doing so, ASEAN's 5PC is more equipped with additional tools to help Myanmar end this crisis, leveraging upon the UN system to press relevant parties in Myanmar, particularly the Tatmadaw, to reduce violence, open humanitarian channels and return to negotiating tables as stipulated in the 5PC. The relevance and credibility of ASEAN will be enhanced if the regional bloc is able to forge a constructive path in order to lead the way in helping address the situation in Myanmar.

For his part, Dr. Noel Morada, Director, Regional Diplomacy and Capacity Building, APR2P expressed his appreciation to CICP and PUC for co-organizing this national dialogue.

This event was timely because it happened amidst growing violence and looming humanitarian crises in Myanmar. No signs of any comprehensive political settlements are in sight.

With growing intensifications of great power competitions, international responses to help return Myanmar to normalcy have been



Dr. Noel Morada, APR2P

muted. International principles and norms have been overlooked. International and regional institutions such as the UN and ASEAN have had limited abilities to help forge common paths towards any meaningful solutions on the ground in Myanmar.

Specifically in the case of ASEAN, the progress of implementing its 5PC has been difficult. ASEAN has tried its regional mechanisms to explore any common regional responses to help Myanmar, but with no avail. This is in part due to ASEAN's own modus operandi of consensus and non-interference, making the regional bloc encountering with continued challenges to forge an effective regional mechanism to address the ongoing crisis in Myanmar. ASEAN's credibility has been consistently tested with its ability to respond to the situation in Myanmar.

R2P is not strange to ASEAN. Through various ASEAN key documents such as ASEAN Charters and ASEAN Community Blueprints, the regional bloc has subscribed to various principles that are relevant to R2P including the culture of protection, people-centered and people-oriented organization. Yet, for some reason, including continued concerns on state sovereignty, ASEAN has not utilized R2P in response to its humanitarian crises such as those in Myanmar.

There is a need of a rethinking for ASEAN on how R2P may be invoked in addressing the crisis in Myanmar. Dr. Morada hoped there would be fruitful discussions during the national dialogue in exploring these key issues.

In his remarks, H.E. Veng Sereyvuth, Chairman of the Board of PUC, expressed that his university was pleased to join with CICP to co-host this national dialogue on a topic of great importance with the support of APR2P.

R2P is a vital norm for enhancing peace. This norm is particularly imperative to post-conflict societies like Cambodia which used to experience horrific atrocities, conflicts, and wars. He recounted his tragic experiences during the Khmer Rouge regime from 1975-1979, and



H.E. Veng Sereyvuth,
Chairman of the Board of PUC

witnessed how brutal the regime was in killing their own populations. For this reason, R2P is important to prevent this mass atrocity from happening again in Cambodia.

Enhancing peace requires leadership. In Cambodia's case, peace has been possible with the Win-Win Policy of former Prime Minister Hun Sen in the late 1990s. For him, the former PM was a statesman with strong qualities of leadership in desiring for peace in Cambodia. Therefore, it is important for Cambodians to preserve peace. International principles and norms such as R2P can be a useful tool for Cambodia to maintain and enhance its peace. The international community should continue to help Cambodia on this important endeavor.

Session 1: Assessment of the ASEAN Five-Point Consensus: Lessons Learnt

In his presentation, Mr. Kevin Nauen discussed ASEAN's efforts in the



From Left to Right: Mr. Him Rotha, Mr. Soeung Bunly, Ms. Tov Jinsoung, Mr. Kevin Nauen

Myanmar crisis and what should be done next. ASEAN has put efforts to try to instill possible solutions to help solve the crisis in Myanmar. However, ASEAN's approach, the 5PC, has not been successful due to various factors such as lack of leverage, different interpretations of ASEAN members and uncooperative attitudes of the Myanmar military.



Mr. Kevin Nauen

ASEAN's diplomacy in the crisis in Myanmar has not worked well. There is a need for recalibrations. Among them is to hold open dialogue with the National Unity Government (NUG) because engaging only with the Tatmadaw proved to be ineffective in pushing any solutions forward. Moreover, there is a need for ASEAN to link its 5PC to key UNSC resolutions on Myanmar to enhance its international leverages on relevant stakeholders in Myanmar, particularly the Tatmadaw.

For his part, Mr. Him Rotha took the floor to speak. He focused on the problems of 5PC, ASEAN's efforts on Myanmar and suggested some ways forward for the regional bloc. The key problems of the 5PC are three-fold. First, 5PC was not inclusive. The negotiations of 5PC involved between the ASEAN leaders and the Myanmar military chief. No other stakeholders of Myanmar took part in those discussions. Second, 5PC is vague and redundant. Third, 5PC has no targets and implementation timeline and goals.

Despite shortfalls of 5PC, ASEAN continued to use 5PC as its main reference point. For past three chairmanships under Brunei, Cambodia, and Indonesia, the organization still used the 5PC as its basic approach. ASEAN has made no official recognition of any governments in Myanmar since February 2021. ASEAN under the three chairmanships has tried to implement relevant points of the 5PC but to no avail. It is understandable because the 5PC is problematic by design. ASEAN also admitted that there was no substantial progress in implementing the 5PC.

As for ways forward, Mr. Rotha suggested four points. First, ASEAN should structure its roles on Myanmar. Among first steps were to have the Special Envoy of ASEAN on Myanmar, not the Special Envoy of



Mr. Him Rotha

the ASEAN Chair on Myanmar. Second, ASEAN should work together with Friends to Myanmar to organize an International Conference on Myanmar. Third, ASEAN needs to reconsider Myanmar's ASEAN Chairmanship until the situation on the ground in Myanmar has any progress. Fourth, ASEAN should not rule out the use sanctions and invoke R2P.

The third speaker, Ms. Tov Jinsoung, discussed the Myanmar Crisis and its humanitarian impacts. The military coup in February 2021 has caused a significant deterioration in the humanitarian situation with widespread protests, violence, and the use of air airstrikes by the military. Reports on the humanitarian aspects of the crisis have depicted the violent abuses of women and children, including rape, killings, forced labor, and other forms of violence.



Ms. Tov Jinsoung

The COVID-19 pandemic has further exacerbated the situation in Myanmar, with women and children again bearing the brunt of the impact. The healthcare system struggling to cope with the demands placed on it, and there have been reports of shortages of essential medical supplies and equipment. This has made it difficult for women and children to access the healthcare they need, including maternal and child health services.

In addition to these challenges, the natural disaster Cyclone Mocha in the western part of Myanmar destroyed homes and infrastructures causing widespread damage, and

resulted in significant death and injury.

The crisis in Myanmar has rapidly escalated, and the response from the international community has been inadequate. The military junta's restrictions on aid and humanitarian assistance have made it difficult for external organizations to provide much-needed support to the people of Myanmar.

The ongoing crisis in Myanmar, characterized by violence, poses the biggest challenge to the implementation of the five-point consensus, particularly regarding the provision of humanitarian aid and assistance to the people of Myanmar. One recent example, in May 2023 there were news reports of the attack on ASEAN officials delivering aid, which makes it difficult for aid workers to provide assistance on the ground.

External support from the international community, including the United Nations, is crucial for ASEAN to effectively implement the five-point consensus and exert pressure on the Myanmar government to fulfill its commitments under the agreement. This support is also necessary to ensure the provision of much-needed humanitarian assistance to those who are most in need.

Session 2: ASEAN and Myanmar Crisis: Ways Forward



From Left to Right: Mr. Soeung Bunly, Mr. Maurice Peireira, Ms. Say Puthy, Mr. Him Raksmeay

In his presentation, Mr. Soeung Bunly discussed the need for ASEAN to engage with the UN to seriously building a coalition to exert leverage on the Myanmar's relevant stakeholders particularly the Tatmadaw to implement the 5PC. So far, 5PC cannot be operationalized well because of its problematic nature as discussed in the first

session. ASEAN's 5PC alone has not proved to be able to reduce violence, foster political dialogues, and channel humanitarian aid in Myanmar in large part because of the regional bloc's limited leverage. By working with the UN, ASEAN can enhance its leverage and further push the implementation of the 5PC.

The second speaker, Mr. Him Raksme, discussed the ASEAN's latest decision on Myanmar. The decision has five key points including explicitly naming the Tatmadaw as the main perpetrator of violence, recognizing the lack of substantial progress of implementing the 5PC, committing to using 5PC as a reference point, establishing ASEAN Troika on Myanmar, and skipping Myanmar's turn in the 2026 ASEAN chairmanship. This decision represents an important step that the regional bloc has taken amidst growing frustrations over the lack of substantial progress in implementing the 5PC, in particular, and the overall situation in Myanmar, in general.



Mr. Soeung Bunly

While focusing more on forms rather than substantive changes in ASEAN's approach on Myanmar, these points are quick fixes that are largely symbolic to show that ASEAN commits to helping Myanmar any possible ways the regional bloc could. More than that, ASEAN also wants to have ways out in order not to let the regional grouping be "held hostage" by the Myanmar crisis. However, ASEAN cannot escape the crisis in Myanmar, and these quick fixes will only temporarily address short-term issues, such as the ASEAN chairmanship in 2026. ASEAN still must make important reviews and decisions on how the regional bloc can move forward to implement the problematic 5PC or other alternative approaches to address the Myanmar crisis – which might not end any time soon given

the complex natures and volatile situations on the ground of such crisis. ASEAN also has to seriously decide on how it wants to go forward to deal with other pressing regional affairs without Myanmar's participations in key decision-making mechanisms such as foreign ministers' meetings and summits. ASEAN has no quick fixes on these two-pronged dilemmas.

There is a need for ASEAN to seriously recalibrate its approach on the ongoing crisis in Myanmar. ASEAN needs to recognize that it could not achieve different outcomes with the same approach that is proven to have failed to bring any meaningful results. ASEAN should not hope that continued discussions would magically yield any progress in Myanmar.

However, ASEAN need to accept that it has a limited role as a facilitator to help produce conducive environment to political negotiations among Myanmar's key political leaders. For this to happen depends on ASEAN members' ability to forge a consensus based on a clear objective and manage its expectations based on practical indicators of what ASEAN can and cannot do, as well as what it will and will not do.

To put a stop of ongoing violence and suffering of Myanmar's people, it is crucial that the country's political leaders work to put aside their differences and focus on the national interest of restoring peace for the sake of their people. ASEAN's roles would be to try its very best to be a facilitator to help provide a conducive environment to explore avenues for a peace process that requires commitment and willingness by Myanmar's political leaders to respect aspirations of the their people.

Myanmar is part of ASEAN's family. That is a fact. As family, ASEAN's key role to its troubled member is to help as much as possible but within its limited means. The destiny of Myanmar is ultimately decided by the Myanmar's leaders and people. Hopefully, the Myanmar's leaders and people would ultimately choose paths towards national reconciliation and peace.



Ms. Say Puthy

For her part, Ms. Say Puthy argued for the need to urgently prioritize channeling of humanitarian aid over other priorities. Myanmar is looming into one of the worst humanitarian crises in the world. ASEAN must work with the UN and other international humanitarian organizations for channeling of humanitarian aids.

Discussion

After speakers concluded their presentations, the moderators opened the floor for discussions. There were interesting exchanges between participants and speakers, particularly debating key lessons and ways forward for the ASEAN's 5PC. Some participants called for increased roles of ASEAN in internationalizing the Myanmar Crisis. Some attendees suggested for a cautious approach from ASEAN while respecting its cardinal norms of sovereignty and non-interference.

Amb. Pou Sothirak offered his thoughts on key lessons learnt about the 5PC. First, he argued that the 5PC lacks contingency plan. The plan is constructed based on an assumption that the Tatmadaw will agree to implement. Therefore, when the Tatmadaw has failed to comply with the 5PC, ASEAN seems stuck in its approach on Myanmar. Second, the 5PC lacks decisive action that must be implemented in a timely manner. Third, the 5PC lack synergy between regional and international efforts, particularly coordination between the ASEAN Special Envoy and other Special Envoys on Myanmar.

Regarding ways forward, Amb. Pou suggested to rethink the 5PC. ASEAN needs to make it more comprehensive with contingency plan, timeline, goals and objectives. As well, ASEAN needs to internationalize the Myanmar crisis. Moreover, ASEAN should strengthen collab-

oration on Myanmar among major powers and between the major powers and ASEAN members.

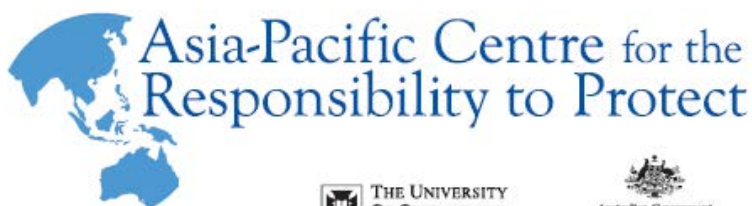
Closing Session

Dr. Noel Morada expressed his appreciation to CICP and PUC for organizing the event with many important discussions and takeaways. Through discussions, there were exchanges of views on lessons learnt, approaches and ways forward for ASEAN to help Myanmar. It is important the momentum of dialogues continues.

Lastly, on behalf of Amb. Pou Sothirak, Mr. Him Raksmeay expressed his thanks to all role players, speakers and participants for taking part of this event. He appreciated the support in making this event possible by APR2P. He thanked Dr. Noel Morada for his contributions to the national dialogue. He offered his thanks to relevant researchers at CICP and colleagues at PUC for lending their support in realizing this event. The key takeaway from this national dialogue is that 5PC needs to be recalibrated with more substance and actions for the approach to be more effective for ASEAN to respond the crisis in Myanmar. International norms such as R2P have an important role to play. However, political willingness and leadership of ASEAN leaders are important to rethink and restructure the 5PC to enhance ASEAN's credibility as a regional institution.



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