

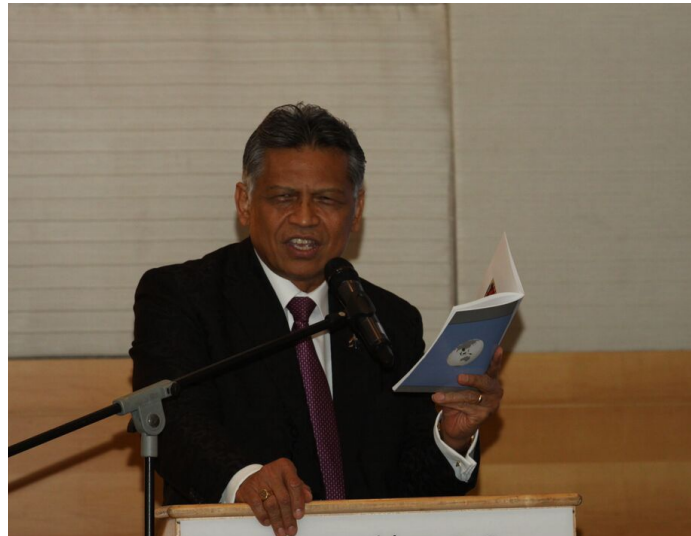


AP R2P

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SPOTLIGHT ON R2P

High Level Advisory Panel on the Responsibility to Protect Public Seminars in Southeast Asian Capitals

Overview

In its Report on Mainstreaming the Responsibility to Protect in South-east Asia, the High-Level Advisory Panel on R2P in Southeast Asia (HLAP)¹ sets forth the importance for ASEAN member states to implement the Responsibility to Protect in their effort to building a community of caring societies. Since the Report's presentation at the UN in September 2013, a series of public seminars have taken place in various capitals in the region to promote awareness of the principle and implement the Report's recommendations in their individual contexts.

The HLAP Report

In the context of ASEAN member states' commitment to establish a peaceful, just, democratic, people-centred and caring community, the HLAP Report's primary purpose is to underscore the importance of mainstreaming the R2P principle in the region. On their pathway towards this vision, R2P can contribute to promoting shared values related to the protection of human lives, adopting measures to end human suffering, and in building institutions to protect human beings from violence and from genocide, war crimes, ethnic cleansing and

crimes against humanity, the four crimes covered by R2P. Dr. Surin Pitsuwan, Chair of the HLAP and former Secretary-General of ASEAN, stresses that the principle is not an alien concept or contrary to ASEAN norms. Anchored in existing international law, it is not in conflict with but instead complements traditional norms of sovereignty and non-interference, as it recognizes the primary responsibility of governments within states. It is in symbiosis with ASEAN values, its institutional mechanisms, and already a fundamental aspect of its mandate. As an analytical tool, R2P can further make the existing

¹ The Panel consists of a small group of eminent persons. It is chaired by Dr. Surin Pitsuwan, who served as Secretary-General of ASEAN from 2008 until 2013, as well as Minister of Foreign Affairs in Thailand (1997-2001) and Deputy Minister of Foreign Affairs (1995-1997). Other members of the Panel are Hung Nguyen Duy, who has served as the Representative of Vietnam in the ASEAN Inter-Governmental Commission for Human Rights, Dr. Makarim Wibisono, who was Executive Director of the ASEAN Foundation from 2011-2013, Marina Mahathir, a prominent social activist and leader in many NGOs, such as the Malaysian AIDS Foundation, and Dr. Alberto Romulo, who served as Chairman of ASEAN in 2007 during his term as Foreign Secretary of the Philippines

mechanisms more effective, such as carrying out the human protection mandates of the ASEAN International Governmental Commission on Human Rights (AICHR), the ASEAN Commission on the Promotion of Protection of Women and Children (ACWC), and the ASEAN Institute for Peace and Reconciliation (AIPR).

However, R2P needs to be contextualized and properly understood through dialogue, building public awareness and deeper knowledge, and engaging various stakeholders at the national and regional levels in order to promote and implement the principle. The Report therefore contains a set of recommendations that could contribute to advancing the principle in the Southeast Asian context:

At the regional level:

- The importance of early warning mechanisms to develop and strength the capacity of ASEAN for atrocity prevention and management;
- Regional consultations and exchange of knowledge and information;
- Incorporation of atrocity prevention in the agenda of ASEAN;
- Support of the work of civil society groups in the region in promoting human rights protection and advancing the principles of atrocities prevention.

At the national level:

- Signing, ratification, and implementation of relevant treaties, conventions and international law by ASEAN member states;
- Support of national dialogues on atrocity prevention by engaging relevant stakeholders;
- Coordination of national efforts by appointing a national focal point

Partnership with the UN:

- Strengthening of regular dialogues between ASEAN and the UN, including training and exchange of best practices;

- Promotion of young leaders' dialogue on atrocity prevention in the region.

Contextualizing R2P

The question of how the Report's recommendations can be operationalized in the national and regional contexts is at the heart of the series of public seminars that conducted in the region since the Report was launched in the UN in New York in September 2014. The series was organized by the Asia Pacific Centre for the Responsibility with the support of local institutional partners in Southeast Asia. It serves the purpose of continuing the promotion of public awareness and regional diplomacy by bringing together relevant stakeholders and fostering dialogue on the question of how the norm can be implemented. In what ways can the individual ASEAN member states contribute to advancing the norm and building capacities on the regional and national levels to prevent atrocities? What role can various local actors play in raising public awareness and create a shared understanding of the norm among stakeholders, but also civil society?

Bangkok, 30 October 2014

The first public seminar on the HAP Report was organized in co-operation with the Department of International Relations, Faculty of Political Science at Chulalongkorn University in Bangkok on 30 October 2014. The seminar was conducted in Thai and was attended by some 70 participants from academe, government, civil society, media, and officials from the military and police, Ministry of Foreign Affairs and Ministry of Justice. Discussants were Dr. Amara Pongsapich, chairperson of the National Commission of Human Rights in Thailand, Dr. Sripapah Petcharamesree, Institute of Human Rights and Peace Studies, Mahidol University and first Thai Representative to AICHR, Dr. Janjira Sombatpoonsiri, from the Faculty of Political Science, Thammasat University, and Ms. Achara Ashayagachat, a journalist from Bangkok

Post. Dr. Pranee Thiparat, Assistant Professor at the Department of International Relations, Faculty of Political Science, Chulalongkorn University and Thailand country program coordinator of the Centre, chaired the seminar. Dr. Noel M. Morada, the Centre's Director for Regional Diplomacy, delivered the welcome remarks on behalf of the Centre.

In his presentation, Dr. Surin stated that in the context of Thailand, R2P may be applied if small conflicts — particularly ethnic or identity-based — are not resolved and escalate into crises. He added that R2P also speaks to the issue of extending human rights protection for refugees who are non-citizens in the country.

At a national level the norm has rarely been discussed, while the concept is in line with human rights protection. Although Thailand has no objection to the concept, it has not been active in promoting the norm at home. Among the salient points raised by the discussants were:

- The need to have a better understanding of the concept and respond to certain misconceptions about it (e.g., that R2P is all about military intervention);
- The continuing tension within ASEAN on promoting human rights protection, specifically between member states that adhere to universal values and those that believe in diversity of values. Accordingly, even the concept of human security was not fully adopted within ASEAN.
- In the context of Thailand, R2P is important in that it is about protection of all people, including the protection of human rights of those who are non-citizens.
- A change in the mindset of those working in the security sector is therefore necessary in order to implement the principle in the country especially in protecting refugees and other non-Thai nationals.
- R2P can also be advanced through its inclusion in Thai-

land's education curriculum even as the issue of its origin (or its inherently not being a Thai idea) should not matter. It should in fact be incorporated into both educational institutions and the media that play a significant role in raising public awareness of R2P.

Jakarta, 27 January 2015

On 27 January 2015, the Centre, in cooperation with Human Rights Working Group (HRWG)-Indonesia and the Embassy of The Netherlands, organized the second public seminar on the H LAP Report at the Erasmus Huis in Jakarta. Some 50 participants from various sectors attended the seminar, which was conducted in Bahasa Indonesia. Retired Lt. General Agus Widjojo and Ms. Roichatul Aswidah of the Indonesian Human Rights commission (Komnas-HAM) served as discussants in the seminar.

In his presentation, Ambassador Dr. Makarim Wibisono, member of the H LAP and currently UN Special Rapporteur on Occupied Palestine, highlighted the key messages of the H LAP Report. Among the key points made in the subsequent discussion were suggestions by the participants on what the next H LAP Report should focus on. Some of the significant points raised were as follows:

- Given the differences in the vision and action of states on R2P, the H LAP Report should address the international responsibility aspect of R2P, including the challenges and capacity constraints of states in the region, as well as the issue of sovereignty and intervention.
- In mainstreaming R2P in the region, the H LAP Report should also address the boundaries of and the criteria for mainstreaming the norm, particularly the appropriate measures in responding to mass atrocities situation, including military response.
- The issue of accountability should be included in a follow-up

Report, specifically in identifying judicial and non-judicial options in dealing with past atrocity crimes, but also contemporary crimes in the region relevant to R2P that should be addressed, including the protection of migrant workers and children, stateless children and slavery. These issues are continually being ignored in the region but are clearly linked to crimes against humanity.

- The role of the ASEAN Commission on the Promotion and Protection of Women and Children (ACWC), specifically in the context of prevention of sexual violence in the region should also be included in a future Report.
- It is important to impart the H LAP Report's values and recommendations to the younger generation of Indonesians and to incorporate the principle into government policies, specifically to prevent atrocities against indigenous peoples and minority religious groups in the country.
- International treaties should be signed and ratified without reservations (Indonesia was active in the deliberations on the creation of the ICC but thus far has not signed and ratified the Rome Treaty).

Phnom Penh, 12 August 2015

In partnership with the Cambodia Institute for Cooperation and Peace (CICP), the Centre hosted the next public H LAP seminar in Phnom Penh, Cambodia on 12 August 2015. The seminar was attended by over 50 local participants, including ambassadors from China, Japan, and Germany, representatives from ASEAN member states, senior Cambodian government officials, representatives from the academe, civil society groups, and the media. Dr. Noel M. Morada, H.E. Alison Burrows, Ambassador of Australia to the Royal Kingdom of Cambodia, and Ambassador Pou Sothirak, Execu-

tive Director of CICP, gave their welcome remarks during the seminar.

The seminar was a significant follow-up activity after the R2P at 10 Conference that was held in Phnom Penh on 26 and 27 February 2015, featuring members of the H LAP in its second plenary session. The conference was attended by 51 invited speakers and over 200 delegates including UN and governmental leaders, R2P Focal Points, diplomats and officials from the Asia Pacific region, R2P experts, and representatives of civil society. Key points drawn from the session were the endorsement of R2P by the UN and its conformity with ASEAN values.

At the H LAP seminar, Ambassador Pou recalled the commitment expressed by Prime Minister Hun Sen to R2P at the conference in February. He added that Cambodia has a significant role to play in mass atrocities prevention, given the country's past experience under the Khmer Rouge. Specifically, Cambodia can take the lead in organizing a regional dialogue on atrocity prevention and in launching a regional network of R2P focal points among ASEAN members. Ambassador Burrows underscored Australia's commitment to promoting R2P in the Asia Pacific region and in Cambodia in particular.

In his keynote speech, Dr. Surin Pitsuwan argued that R2P can be viewed from an Asian perspective where the principle is considered as "part of the new concept of human security". It deals with the security of individuals at the grassroots level rather than at the state level, can be linked to R2P as the latter emphasizes the primary responsibility of states to protect their populations from atrocity crimes.

Some of the relevant issues discussed in the forum included:

- The consistency of applying R2P: Dr. Surin stated that although the influence of national interests by Security Council members on decisions poses

a major challenge, one would hope that R2P will in the long run be strengthened by “its own logic and necessity for the international community.” In an increasingly interconnected world, many issues “need to be negotiated on a scale that goes beyond the nation state”.

- The importance to recognize that regional organizations like ASEAN have a greater responsibility for issues in their own region because they are the ones directly affected. Existing structures and instruments were not created because the UN said so but because people have become increasingly aware of the need to have regional mechanisms to respond to regional problems and to effectively promote mass atrocities prevention.

Kuala Lumpur, 15 March 2016

The fourth public seminar in 2016 took place in Kuala Lumpur, Malaysia on 15 March 2016 and was organized in collaboration with the Institute of Strategic and International Studies (ISIS Malaysia). It was combined with a workshop on the R2P and the UN Framework of Analysis for Atrocities: A Tool for Prevention crimes. Dr. Surin Pitsuwan, was the keynote speaker in the seminar, which was attended by members of government agencies, academia, think tanks, civil society organizations and special interest groups.

Dr. Noel M. Morada conducted the workshop in which he introduced R2P and the UN Framework of Analysis. In the Malaysian context, the participants then identified the risk factors no. 3 (weakness of state structures), 9 (intergroup tensions or patterns of discrimination against protected groups), and 14 (serious threats to humanitarian or peace-keeping operations in reference to war crimes). Drawing from their findings, the participants worked out a list of recommendations, which included the appointment of a national focal point, the ratification of relevant treaties and conventions and integration into domestic leg-

islation, greater involvement of the Malaysian civil society and enhancing their capacities through funding and training for atrocity prevention.

In the subsequent seminar, Australia’s High Commissioner to Malaysia, HE Rod Smith, pointed out that respect for human rights lies at the foundation of atrocity prevention and states’ responsibility to protect. He said that ASEAN is a “uniquely placed organization to provide deeper contextual understanding of the region and to identify entry points for prevention of atrocities”.

The following issues were raised in the seminar:

- Comparisons between ASEAN and the African Union (AU) in their implementation of R2P, pointing out that Article 4(h) of the African Union’s Constitutive Act recognizes its role in preventing and responding to atrocity crimes, giving the AU the mandate to intervene in any member state even without the latter’s consent if atrocities are taking place.
- A change in the attitude towards the R2P concept: Dr. Surin pointed out that ASEAN is a small group of states that are quite diverse and protective of their diversity through the traditional norm of sovereignty. It will therefore take time before ASEAN as a group could mobilize around such an international principle. However, in its own way, ASEAN engages in and can exert pressure on its members with regard to human protection issues in the region.
- The application of R2P in the region: Dr. Morada explained that while the scope of R2P is limited to the four crimes, it is important to be aware of the risk factors and triggers. Natural disasters, such as Cyclone Nargis in Myanmar in 2008, could be a trigger for atrocities, making humanitarian assistance also part of the responsibility. On the issue of terrorism, violent extremism also falls within the scope of R2P to the extent that atrocities are committed by

non-state actors in pursuit of their ideology against a particular group or innocent civilians.

- Dr. Surin also stressed the importance to focus on the youth sector. The challenges to implementing R2P in ASEAN, which primarily stem from grappling with an unfamiliar concept, could be addressed through education by conducting seminars to build awareness and engagement.

Dr. Morada conveyed the Centre’s desire to continue the engagement with stakeholders in Malaysia on R2P and atrocity prevention. This could be realized with the establishment of a country program on R2P in Malaysia through a partnership with ISIS-Malaysia.

Singapore, 7 November 2016

On 7 November 2016, the fifth public seminar on the H LAP Report was organized together with the Rajaratnam School of International Studies (RSIS) at the Nanyang Technological University in Singapore. It was integrated into the inaugural meeting of the Asia Pacific Partnership for Atrocity Prevention (APPAP), an alliance of organizations aiming to facilitate coherent action for the prevention of atrocity crimes and the protection of vulnerable communities. Among the speakers of the H LAP seminar were Ambassador Ong Keng Yong, former ASEAN Secretary General and Ambassador-at-Large at the Singapore Ministry of Foreign Affairs, non-resident High Commissioner to Pakistan and non-resident Ambassador to Iran alongside opening comments by the Australian High Commissioner to Singapore, Mr Philip Green. Dr. Surin Pitsuwan was the guest of honour and speaker.

Among the important issues raised in the seminar were the following:

- For other ASEAN member states to seriously consider appointing their respective national focal points, following the example of Cambodia who already appointed its national focal point in the person of Ambassador Pou Sothirak

- For ASEAN to consider mainstreaming the principle of R2P into the work of the ASEAN Inter-Governmental Commission on Human Rights and other existing mechanisms
- For the member states of ASEAN to give priority attention to addressing the root causes of internal conflicts in the region, especially in the case of Myanmar's ethnic minorities and the ongoing crisis in Rakhine. It is important to respond to the plight of the stateless people who self-identify as Rohingya who face social discrimination and continually fall victim to human trafficking, and are vulnerable to the influence of radical extremists.

with ASEAN values and international law, to incorporate it in ASEAN's existing institutions and mechanisms as well as national policies. By enhancing their own capacities through the utilization of the R2P principle as an effective analytical tool, ASEAN member states are not only able to respond more effectively to human protection issues, but also to anticipate and prevent future mass atrocities from happening.

Conclusion

In its efforts to build a community of caring societies, it is important for ASEAN to mainstream the R2P principle as it does not only complement ASEAN norms and values, but also constitute the member states' commitment to address human protection issues and prevent mass atrocities such as what happened in Cambodia from happening again in the region. The HLAP Report offers useful recommendations to fulfil both this responsibility and vision. The recommendations are being contextualized through continuing dialogue and public dissemination in the region. Based on the responses and issues raised by participants in the various seminars, it is clear that there is growing interest amongst stakeholders in the R2P principle and in thinking about how it can be applied in their respective societal contexts. As the findings of the seminars differ in their focus based on the specific local issues and priorities, it illustrates the added value of operationalizing the Report's recommendations in each domestic context. At the same time, one should recognize that there is still reluctance by some stakeholder to fully embrace R2P as a principle. It demonstrates even more the need to continue regional dialogue in order to establish a shared understanding of the principle and its conformity

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