

R2P IDEAS in brief



International Assistance and the Responsibility to Protect in Southeast Asia

Noel M. Morada

The UN Secretary General's sixth report on the Responsibility to Protect (R2P) since 2009 focuses on Pillar 2 (international assistance) and the role of the international community in encouraging and helping states to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. The report focuses on the three core elements of Pillar 2, namely, **encouragement, capacity-building, and protection assistance** and provides some examples of good practices at national, regional, and international levels. It also identifies a number of challenges to the implementation of Pillar 2 and sets out several recommendations for advancing this important pillar. The Secretary General's Report will be the topic of this year's Informal Interactive Dialogue on R2P held by the UN General Assembly on 8 September 2014. Since 2009, a number of Association of Southeast Asian Nations (ASEAN) member states participated in the annual dialogue on R2P, with four of its ten members—Indonesia, Malaysia, Singapore, and Thailand—reflecting on the Secretary General's Report in last year's dialogue.¹ For the first time, **Southeast Asia will be represented among the Panelists in this year's Interactive Dialogue as former ASEAN Secretary-General, Dr. Surin Pitsuwan, will address the General Assembly on this topic.** Dr. Surin currently serves as Chair of the **High Level Advisory Panel on the Responsibility to Protect**. At the request of the Mr. Adama Dieng, Under-Secretary-General of the UN and Special Adviser on the Prevention of Genocide, **the High Level Panel will present a report on the steps that ASEAN might take to mainstream R2P in Southeast at the United Nations on 9 September this year.**

This policy brief highlights some important points in the Secretary-General's Report on R2P and identifies a number of priority areas for international assistance that are relevant to ASEAN member states and that could contribute to capacity building at the national and regional levels. Specifically, it focuses on the need for continuing support for the promotion of human rights protection, conflict prevention, peace, and reconciliation; the creation of national architectures for mass atrocities prevention in ASEAN states; the need to deal with past atrocities; and the importance of inter-faith or communal dialogue.

1. Principles behind Pillar 2

The Secretary-General identifies important principles that should guide international assistance in building the capacity of states to prevent mass atrocities, which include **sovereign equality, collective responsibility, and partnership**. In accordance with the 2005 World Summit, Pillar 2 underscores the consensus among UN member states that **R2P "is intended to reinforce, not undermine, sovereignty"**; "it was not designed to create a hierarchical structure" that will "impose demands and solutions on States"; and **that the norm "reaffirms the fundamental principle of sovereign equality"** (pp. 4-7). The Report also reiterates the 2005 consensus on **collective**

R2P IDEAS in brief



responsibility in protecting populations against the four R2P crimes—genocide, ethnic cleansing, war crimes, and crimes against humanity—and how the principle enabled discussions in the UN to focus on how to assist states in protecting potential victims of atrocity crimes. It pointed out that the principle of collective responsibility is **“demanding but more inclusive”** (p.5) and that this is fulfilled under Pillar 2 of R2P. Among the important elements of collective responsibility are: ensuring national ownership; building mutual trust; doing no harm; giving priority to prevention; and sustaining flexibility (pp.5-6). The Report also recognized the critical role of **partnerships in implementing Pillar 2**, particularly by those **“with the proximity, trust, knowledge, capacity or legitimacy”** (p. 6) to best provide the leadership in certain circumstances. Apart from the work of the **UN and its associated agencies** in promoting international assistance, the Report also acknowledges the important contributions that other **international organizations, such as the World Bank and the International Criminal Court**, can make in providing direct and indirect assistance to states in fulfilling their R2P obligations. **Regional organizations** and the increasing number of **global and regional networks of states committed to mass atrocity crimes prevention**, as well as the significant role played by **civil society groups**, are also highlighted in the Report (pp. 6-7).

2. Forms of Assistance under Pillar 2

The Secretary General’s Report identified three broad categories of assistance under Pillar 2, namely: **encouragement, capacity building, and assistance to states in protecting their populations** against mass atrocities. Encouragement may be offered through **awareness-raising and norm dissemination**, as well as **engaging in confidential or public dialogue** that aims to remind states, especially those under stress, of meeting their R2P obligations and responding to potential crisis situations. In particular, the Report underscores that all forms of encouragement should focus on **“the protection of the most vulnerable populations”**, such as the **protection of women and children against conflict-related sexual violence and recruitment of child soldiers**. It also recognized the value of **dialogue and preventive diplomacy** as forms of encouragement that can prevent mass atrocities, specifically in protecting minorities and in promoting non-violent resolution of conflicts (pp. 8-10).

Accordingly, **capacity-building in the context of atrocity crime prevention must begin from national and local levels**, and should focus on developing two sets of state capacities: first, building **“effective, legitimate and inclusive governance”**; and second, creating **“inhibitors to the commission of atrocity crimes”** aimed at enhancing the ability of institutions and actors in preventing the “escalation from risk to imminent crisis.” The Report identifies seven important areas of capacity building, namely:

- Professional and accountable security sector;
- Impartial institutions for overseeing political transitions;
- Independent judicial and human rights institutions;
- Capacity to assess risk and mobilize early response;

R2P IDEAS in brief



- Local capacity to resolve conflicts;
- Media capacity to counteract prejudice and hate speech; and
- Capacity for effective and legitimate transitional justice. (pp. 10-15)

For states that are under stress or facing an impending crisis, international assistance may be provided through **denying the means to commit atrocities** (e.g., stemming the flow of small arms and light weapons, illicit financing and other forms of illegal trafficking, among others) and/or **providing civilian assistance** by responding to requests by states for civilian resources in protecting vulnerable populations. With regard to the latter, the Report identifies five areas of civilian assistance that are likely to have the most impact:

- Dispute resolution expertise;
- Human rights monitoring;
- Law enforcement and criminal investigation;
- Protection of refugees and internally displaced; and
- Protection of civilians in humanitarian emergencies. (pp.15-16)

Peacekeeping and stabilization assistance is another form of immediate response to states under stress or facing impending crisis of mass atrocity crimes and which focuses on **civilian protection**.

3. Challenges and recommendations

The Secretary General's Report identified a number of challenges to implementing Pillar 2 and offers some recommendations aimed at overcoming them. These challenges include: the **multifaceted agenda of R2P's Pillar 2**; the **lack of political will** on the part of some states **to operationalize prevention**; **fiscal restraint** faced by many countries that **constrain the implementation of R2P**; and, finally, **implementing Pillar 2**—which focuses on assistance to states—**becomes untenable especially when it is governments that exploit state structures to commit atrocity crimes**. In order to respond to these challenges, it pointed out that successful implementation of Pillar 2 agenda “necessitates coordinated action” amongst stakeholders and actors identified in the Report “in order to avoid overburdening national actors or fragmenting international assistance.” Thus, **a common understanding among states of the core priorities for international assistance** must be pursued, to wit: **intensifying efforts in encouraging states to meet their R2P commitments**; **investing in capacity building** in “addressing horizontal inequalities and buttress inhibitors of atrocity crimes”; and **“deploying additional capacity to states under stress to boost their ability to protect populations.”** (pp. 18-19) More specifically, the Report recommended the following to help states fulfill their responsibility to protect by:

- Leveraging “existing mechanisms and institution, ...such as **peer-review process of the UN Human Rights Council and relevant regional organizations**”;
- Investing in tools that will enable them “to respond to emerging or ongoing crisis, such as **good offices and preventive diplomacy**”;

R2P IDEAS in brief



- Improving existing forms of assistance at various levels (national, regional and international);
- Focusing capacity-building efforts on **eliminating horizontal inequalities and designing or strengthening such programmes “aimed at the seven inhibitors of atrocity crimes”**;
- Enhancing the capacity of civilian resources and “expanding training programmes for peacekeeping, security and law enforcement personnel in atrocity crime risk factors and dynamics”;
- Ensuring that “international assistance under Pillar 2 is **coordinated and coherent**”;
- Supporting the “**early warning and capacity building efforts of the Office on Genocide Prevention and Responsibility to Protect**”;
- Supporting efforts “to better monitor and evaluate the impact of preventive actions”; and
- Strengthening “**regional and international networks for atrocity crime prevention**”. (pp. 19-20)

In its conclusion, the Secretary-General called on member states **to renew their commitment to protection under the R2P principle** and, on the occasion of the tenth anniversary of the World Summit in 2005, encouraged them to build on the consensus in 2005 and “take stock of efforts to implement the norm”, as well as **to consider the inclusion of the Responsibility to Protect on the formal agenda of the UN General Assembly**. Specifically, the Secretary General called on member states “**to craft an ambitious vision for the next decade of the responsibility to protect**: a principle that has become a core part of the world’s armour for protecting vulnerable populations from the most serious international crimes and violations.” (p. 20)

4. Priority areas for R2P international assistance to ASEAN

The Secretary-General’s Report on Pillar 2 resonates clearly in Southeast Asia given the importance of the principles and forms of international assistance identified in the report. Specifically, a number of states in the region could find **international assistance** useful because of continuing challenges in managing ethnic and other identity-based tensions and communal conflicts. For example, Myanmar, the current chair of ASEAN, is still in the process of a delicate political transition since 2011. Its central government will need continuing encouragement by the international community to honor its commitment in upholding R2P in dealing with internal conflict. This includes the ongoing humanitarian crisis brought about by ethnic violence that erupted in Rakhine state in 2012.² The crisis spilled over into other parts of the country and has increased tensions between the Buddhist and Muslim communities, which led to violence in the city of Mandalay in July this year. The incident forced the central government to declare a state of emergency in the area.

Meanwhile, the government in Indonesia faces a challenge in protecting minority religious groups that have been on the receiving end of violent attacks by Islamist extremists. Protests by radical Islamists against Christian and Shia minorities have also resulted in the forced closure or razed houses of worship in various parts of the country. Elsewhere in the region, conflict over resources (e.g., mining, access to water, and land grabbing) in Cambodia, Vietnam, and Myanmar; autonomy

R2P IDEAS in brief



or self-determination in Myanmar, the Philippines, and southern Thailand; as well as protection of women and children against sexual violence in conflict areas in Myanmar and the Philippines continue to pose challenges. Even in otherwise stable states in ASEAN, social tensions among communities have been reported. In Thailand, the escalation of the political crisis brought about by the stalemate between pro- and anti-Thaksin forces may have been temporarily averted by a military coup in May this year. However, the country's political stability remains precarious. This will no doubt have some implications for a peaceful resolution the conflict in southern Thailand. Thus, the promotion of protection of human rights in the region remains a fundamental concern across the ASEAN member states should continue to be encouraged to protect their populations even as they attempt to manage these internal concerns and pursue national resilience

At the regional level, international assistance for mass atrocities prevention could be anchored on ASEAN Political Security Community project and might focus on the following priority areas:

- **Promotion of human rights protection**

The ASEAN Charter recognizes the importance of promoting human rights protection in the region. The **creation of the ASEAN Inter-Governmental Commission on Human Rights (AICHR)** in 2009 and the **adoption of an ASEAN Declaration on Human Rights** together with the **reaffirmation by ASEAN leaders of the UN Universal Declaration on Human Rights** in 2012 indicate at least a more formal commitment of its members to promoting human rights protection in ASEAN. However, the mandate of AICHR remains limited in monitoring and responding to violations of human rights in Southeast Asia. In fact, only five of the ten members have national human rights institutions with varying degrees of autonomy and they function independently from the AICHR. In the context of R2P, international assistance to AICHR could focus on the following areas: 1) promoting **awareness on the importance of mass atrocities prevention** through education and training for stakeholders; 2) developing regional capacity to **assess and monitor risks of mass atrocities (e.g., early warning system)**; and 3) creating a regional **mechanism for dialogue and exchange of knowledge and good practices** among stakeholders on the importance of **rule of law, judicial reform, and accountability of security sector in mass atrocities prevention**.

- **Conflict prevention, peace and reconciliation**

International assistance should also focus on building the **capacity of ASEAN to promote conflict prevention, peace, and reconciliation** in the region. In particular, the **ASEAN Institute for Peace and Reconciliation (AIPR)** could be supported and encouraged to build a **regional knowledge-system** or hub from contributions of scholars and think tanks in the following areas: 1) promoting a **culture of peace**; 2) engaging in **inter-faith or communal dialogue**; 3) enhancing mechanisms for **conflict prevention**; and 4) **dealing with past atrocities**. As well, **ASEAN dialogue partners** (e.g., Australia, Japan, the EU and the US) can provide assistance to the AIPR in building the capacity of ASEAN to assess and monitor risks related to mass atrocities and **conflict over resources** (e.g., mining, land grabbing, and access to water) through exchange of knowledge and good practices.

R2P IDEAS in brief



Some ASEAN member states have already set up their national institutes for peace and reconciliation (e.g., **Bali Institute for Peace and Democracy in Indonesia and the Myanmar Peace Centre**) with external funding support from other states (e.g., Australia, the United States) and organizations (e.g., the EU). They are open to partnerships with regional and international organizations in developing programs for capacity building in the areas of human rights education, peace building, and conflict prevention. **Peace studies programs** have also been established or are in the process of being set up in various higher education institutions in Southeast Asia (e.g., the Philippines and Thailand), which undoubtedly can contribute to building the capacity of ASEAN members to promote peace and reconciliation in the region. These developments clearly indicate that there is not just a growing interest in the region for promoting peace and conflict prevention but also—and more importantly—opening of more opportunities for further engaging stakeholders in the region on the importance of mass atrocities prevention.

At the national level, international assistance to ASEAN member states should give priority to the following:

- **Building national architecture for mass atrocities prevention**

The primary responsibility of states to protect their populations from mass atrocities is a commitment that ASEAN states can demonstrate by **prioritizing the building of a national architecture on mass atrocities prevention with the help of the international community**. Specifically, states in the region that are facing risk factors should be encouraged to hold a national dialogue among stakeholders on R2P and seriously consider, among others: 1) **incorporating R2P and atrocity prevention in national security framework and social-economic development plans**; 2) appointing a **R2P focal point or committee**; and 3) developing **home-grown mechanisms for early warning** that will enable governments to monitor and assess risks related to mass atrocities. Appointing a focal point or setting up a national committee for atrocities prevention will open opportunities for ASEAN member states to **access international assistance and coordinate efforts** with other states and international organizations in building their capacities for prevention of and/or responding to mass atrocities at home. An **international network of R2P focal points** composed of states from Europe, Latin America, and Africa **is already in place from which ASEAN members can also learn and exchange ideas and good practices** in setting up their national architecture for mass atrocities prevention. More specifically, they can engage in bilateral or region-to-region dialogue on the role of various stakeholders in promoting human rights protection, mass atrocities prevention, and conflict prevention and peace.

Parliamentarians in particular can contribute significantly to building atrocity prevention national architecture **by mainstreaming R2P in their legislative agenda**, such as persuading other ASEAN member states to **ratify the Rome Treaty (International Criminal Court)**, enacting **domestic laws against genocide and crimes against humanity**, performing **oversight functions on unresolved human rights violations**, creating or enhancing **national human rights institutions**, as well as

R2P IDEAS in brief



allocating more resources in the national budget for capacity-building of states to prevent mass atrocities. The **Inter-Parliamentary Union’s (IPU) resolution on R2P**, which was adopted in March 2013, is a good starting point for parliamentarians and the **ASEAN Inter-Parliamentary Organization (AIPO)** in deepening the commitment of ASEAN states in implementing the Responsibility to Protect at home.

- **Dealing with past atrocities**

Confronting past atrocities is an important preventive strategy in avoiding future mass atrocities from happening again. This can be done through the creation of **transitional justice mechanisms** (e.g., truth commissions), **memorialization** (e.g., commemoration events, museums), and **reconciliation programs** between victims and perpetrators of past atrocities. In ASEAN, **Cambodia serves as a good model** in dealing with past atrocities under Khmer Rouge based on a number of its accomplishments, namely: 1) setting up a **genocide museum** and continuing research and documentation of Khmer Rouge atrocities; 2) creating a **hybrid tribunal called the Extraordinary Chambers of the Cambodian Court (ECCC)** to try former Khmer Rouge leaders and cadres most responsible for committing mass atrocities; 3) enacting a **domestic law against denial of Khmer Rouge atrocities**; and 4) ratifying **the Rome Treaty**—the first in ASEAN to do so—that created the International Criminal Court. These achievements, however, would not have been possible without the continuing support of the international community. In Indonesia, past atrocities under Suharto’s “New Order” following a military coup in the mid-1960s and other human rights violations just before his regime’s downfall in the late 1990s have emerged as a significant political issue in the recent elections. There are expectations, particularly from human rights advocates and some supporters of president-elect Joko Widodo, that under his administration the central government will seriously address the issue of past atrocities in Indonesia. Specifically, civil society groups and parliamentary staff in a recent R2P workshop in Bogor proposed, for example, holding a national dialogue on this issue; providing assistance to victims; creating a truth commission; and promoting *memorialisasi* (or memorialization) as part of learning from the past and avoiding future atrocities. Indeed, Indonesia and other ASEAN member states can learn much from the experience of Cambodia as they attempt to confront past and more recent atrocities in their respective societies.

- **Promoting inter-faith or communal dialogue**

International assistance to ASEAN members, particularly those dealing with ethnic tensions or conflict, need to be pursued more vigorously as part of capacity building in mass atrocities prevention at the national level. A priority area is the promotion of inter-faith or communal dialogue, which has been recognized in the region as key to conflict prevention and peace. For example, organizing community-level dialogue among Buddhist and Muslim communities in Myanmar and southern Thailand can contribute to **building of trust and confidence, managing tensions**, and **developing a response mechanism** to avoid escalation of conflicts into crisis

R2P IDEAS in brief



situations. The Philippines, as an advocate of inter-faith dialogue in the region, can also serve as a facilitator in this regard, given its wealth of experience and good practices in promoting peace amongst various faith-based communities in conflict areas of Mindanao involving various stakeholders (e.g., civil society groups, local leaders, rebel groups, the military, and international aid organizations).

5. Conclusion

International assistance for capacity building of states is an important component of implementing R2P in Southeast Asia. Clearly, ASEAN as a regional organization can benefit enormously from coordinated efforts under Pillar 2 of R2P in developing its capacity to prevent mass atrocities by focusing on the promotion of human rights protection and conflict prevention in the region. Specifically, the AICHR and AIPR will play a critical role in advancing mass atrocities prevention in ASEAN through enhancing their mandate, facilitating exchange of knowledge and good practices, and sustaining their engagement with various stakeholders. At the national level, ASEAN members should be encouraged to deepen their commitment to implementing R2P by seriously considering building a national architecture on mass atrocities prevention, confronting past atrocities, and promoting inter-faith or communal dialogue at home. With sustained international assistance in these priority areas, the capacity of ASEAN members in implementing their primary responsibility to protect their populations from mass atrocities will be enhanced further.

This is a point underscored by the High Level Advisory Panel on R2P in Southeast Asia. In its report, *Mainstreaming the Responsibility to Protect in Southeast Asia: Pathway Towards a Caring ASEAN Community* the Panel argues that:

“Mainstreaming the Responsibility to Protect in Southeast Asia could make a significant contribution to the establishment of a ‘sharing and caring’ ASEAN Community, which the Association’s Member States aspire to achieve in 2015. The responsibilities of protection stem not just from international law and global commitments made by the region’s governments at the United Nations, but also from the commitments that ASEAN Member States have made to each other. The concepts and norms of the Responsibility to Protect converge with ASEAN’s vision of a peaceful, just, democratic, people-centered and caring community in Southeast Asia. As such, the Responsibility to Protect provides ASEAN with a major pathway towards realizing its vision of a caring and sharing community in Southeast Asia and supports ASEAN’s responsibility to care for the protection of its own people.”

International assistance involves ASEAN member states supporting each other and working with external partners to achieve these goals.

R2P IDEAS in brief



Biographical note and acknowledgements

Dr. Noel M. Morada is Director of the Regional Diplomacy and Capacity Building program of the Asia Pacific Centre for the Responsibility to Protect (AP R2P).

The *R2P Ideas in Brief* series is produced as part of the activities of the Asia Pacific Centre for the Responsibility to Protect (AP R2P) [DFAT Agreement 63684]. The AP R2P wish to acknowledge the funding support provided by the Australian Government, Department of Foreign Affairs and Trade.

REFERENCES

¹ In 2009, six ASEAN members participated in the dialogue (Indonesia, Malaysia, Myanmar, the Philippines, Singapore, and Vietnam). There were no participation from ASEAN members in 2010 and 2011, but three members participated in the dialogue in 2012 (Malaysia, Singapore, and Vietnam).

² The Rohingyas are not recognized by the central government of Myanmar as an ethnic group based on the country's 1982 citizenship law. They are referred to as Bengalis by local authorities and citizens of Myanmar. Bangladesh also does not recognize the Rohingyas as citizens or nationals.