

SPOTLIGHT ON R2P



Participants in the second Thai national dialogue on atrocities prevention

Second Thai National Dialogue on Atrocities Prevention: Locating Violence and Possibilities for Application of R2P in the Thai Context

The second Thailand National Dialogue on R2P was organized by the Asia-Pacific Centre for the Responsibility to Protect (APR2P) in partnership with the Department of International Relations, Faculty of Political Science, Chulalongkorn University, and the Institute of Human Rights and Peace Studies, Mahidol University at Anantara Siam Hotel in Bangkok, Thailand on 21 September 2018. Some 50 local participants including university lecturers, researchers, government officers, media and civil society actors from different parts of the country participated in the one-day seminar. The dialogue's objectives include: 1) promoting understanding of R2P; 2) identifying the relevant risk factors in the country; 3) examining the relevance of R2P and atrocities pre-

vention in the Thai context; and 4) exploring the prospects for developing a national action plan for implementing R2P in Thailand. The participants also discussed some concrete ideas and recommendations for implementing atrocities prevention in Thailand, including identifying focal persons to sustain the dialogue process among stakeholders. The one-day dialogue was conducted in Thai, with three speakers in the plenary session in the morning and four speakers in the afternoon.

Welcome Remarks by Organisers

In her welcoming remarks, Dr. Preee Thiparat of the Faculty of Political Science, Chulalongkorn University, explained the background of the notion "Responsibility to Protect" as

part of the emerging trends in international norms in the post-Cold War period, which has been an attempt by the international community to search for consensus on how to deal with humanitarian crisis situations, including the use of humanitarian intervention. Specifically, the R2P norm was adopted by UN member states in 2005 in response to the failure of international community and regional organizations to protect civilians against mass atrocities in many parts of the world. It also illuminated further the debate about humanitarian intervention, particularly in dealing with traditional norms such as "sovereignty" and "non-interference" principle. She also highlighted that the R2P norm expands one's understanding of sovereignty as it underscores the state's obliga-

tion to protect and look after populations within its territorial jurisdiction. She further explained the evolution of the principle since its adoption in the World Summit Outcome Document in 2005, the publication of the UN Framework of Analysis for Atrocity Crimes in 2014, and the UN Secretary General's Reports on R2P since 2009, which focused various pillars and approaches to atrocities prevention.

Dr. Pranee said that R2P is relevant to ASEAN as some countries have experienced mass atrocity crimes in the past even as there are also ongoing armed conflicts in the region. This includes the 1965 mass killings in Indonesia; the 1975-1979 genocide in Cambodia; and humanitarian crisis during the 2008 Cyclone Nargis and the recent Rohingya crisis in Myanmar. In this regard, promoting the principle at the regional and domestic levels is important. The Faculty of Political Science of Chulalongkorn University and various stakeholders in Thailand have actively participated in various meetings on R2P held in Bangkok since 2003. This includes the 2008 seminar on "Preventing Mass Atrocities: Asian Perspectives on R2P" supported by APR2P and Australia's Department of Foreign Affairs and Trade, which saw the launching of the APR2P in Bangkok, as well as other regional conferences it co-organised in 2012 and more recently in August 2018. It also hosted the first national dialogue on R2P in Thailand, which was held in March 2017.



Dr Pranee Thiparat, Department of International Relations, Faculty of Political Science, Chulalongkorn University

For his part, Dr. Noel Morada, Regional Director of APR2P, in his welcome remarks highlighted the importance of national dialogues as part of the bottom-up approach in promoting and raising awareness on R2P and prevention of mass atrocity crimes in the region. Specifically, he underscored the strong and continuing commitment of APR2P in capacity building and awareness raising on mass atrocity prevention in Indonesia, the Philippines, Cambodia, and Thailand, as well as through ASEAN regional workshop on atrocities prevention for parliamentarians and executive officials, which was held in Thailand in June 2018. He also expressed his gratitude to H.E. Kasit Piromya, Professor Emeritus Viti Muntarbhorn, Dr. Nirun Pitakwatchara, and other Thai partners for their strong commitment in supporting the work of the Centre in promoting R2P and mass atrocity prevention at both national and regional levels.

Meanwhile, Dr. Eakpant Pindavaniya, Director of the Institute of Human

Rights and Peace Studies at Mahidol University, expressed his thanks for inviting the Institute to this year's dialogue as co-organiser. He also acknowledged the importance of atrocities prevention particularly in dealing with violence and killings, which may be rooted in the negative attitudes and hatred of people towards other different groups. He provided the example of Rwanda genocide in which Tutsis perceived Hutus as "dirty people" and the killings were committed by neighbours within their own communities. In addition, he noted that such prejudices and hatred towards others had been shaped through social cognitive learning process for generations. The experience in Rwanda may also be relevant in the context of Thailand where there is prejudice towards migrant workers or people from neighbouring countries. Dr. Eakpant highlighted that the responsibility to protect humanity from all kinds of violence should not be limited to states but must also include ordinary citizens as well. Specifically, he argued that by transforming attitudes and perceptions, the environment that often leads to incitement or hatred towards others could be changed into building of mutual trust and understanding.

Contextualizing R2P and Mass Atrocity Prevention in Thai Society

Democratic Culture and Civic Education

In his keynote address, H.E. Kasit Piromya, former Thai Foreign Minister, highlighted the importance of de-



Dr Noel M. Morada, Director (Regional), Asia Pacific Centre for the Responsibility to Protect



Dr Eakpant Pindavaniya, Director of Institute of Human Rights and Peace Studies at Mahidol University

mocratization, democratic culture, and civic education as key factors in making R2P, atrocities prevention, and respect of human rights possible in Thailand and ASEAN. Specifically, he pointed out that R2P should be viewed from three levels: 1) nation-state; 2) regional or in the context of ASEAN; and 3) international, or the context of United Nations and International Criminal Court.

At the nation-state level, Mr. Kasit suggested that the state's Responsibility to Protect is reflected in the national Constitution. For example, in Section 4 of the 2017 Constitution of Thailand, there are provisions that ensure the protection of human dignity, rights, and liberties of Thai people. He proposed that the state's responsibility to protect human rights should encompass three entities, namely: the government, bureaucracy, and citizens. More specifically, citizens should include scholars, media practitioners, religious leaders, etc. At the same time, however, he raised some concerns with regard to implementing R2P in Thailand where the culture of impunity persists even as there are certain provisions in the current constitution. For example, Section 52 of the Constitution says that "the state shall protect public order" and Section 68 also says that "the state shall provide protective measures for State officials in justice process." Accordingly, these provisions may lead to misuse or abuse of power by authorities to suppress people at their discretion.

At the regional level, Mr. Kasit argued that ASEAN should no longer use the principle of non-interference among ASEAN member states and the "right to intervene" in other member states should be permitted if certain internal problems spill over to other member states. For example, civil wars and internal conflicts such as the Rohingya crisis in Myanmar have led to millions of refugees fleeing to neighboring countries. He also suggested that Thailand and other member states in ASEAN should protect and take care of people affected by atrocities as part of their humanitarian obligation.

At the international level, Mr. Kasit pointed out that the adoption of



H.E. Kasit Piromya, former Thai foreign minister, delivering his presentation on the importance of democratic and civil culture in promoting human rights protection and atrocities prevention in Thai society.

the R2P principle by UN members in 2005 signify international consensus on preventing mass atrocity crimes following the humanitarian crises brought about by genocide in Rwanda and Serbia. Overall, he stressed that the implementation of R2P is a common responsibility to all member states, which should start at home where each UN member state should take seriously their primary responsibility to protect their people from such atrocities. In conclusion, Mr. Kasit recommended the adoption of several approaches in promoting R2P, including advocacy and movement of concerned citizens, network building, and education and awareness-raising through media.

R2P and Violence in Thai Society

Dr. Nirun Phitakwatchara, Dean of College of Medicine and Public Health, Ubon Ratchathani University and former National Human Rights Commissioner, in his presentation focused on violence in Thai society especially structural violence and human rights violations in relation to R2P. Specifically, he recounted his involvement in investigating trans-border human rights violations committed by Thai businesses in Cambodia, which to him is part of responsibility to protect human rights of people during his tenure. He also underscored that R2P and the right to protection principles should be viewed from a political epidemiological lens, which could help prevent various forms of violence from escalating into mass atrocities.

Drawing from Galtung's theory on

violence, Dr. Nirun argued that all kinds of violence—including direct violence, structural violence, and cultural violence—are various forms of abuse of power or influence that limit or destroy human potentials. Accordingly, cultural violence is deeply embedded in Thai society given that "Thainess" as culturally defined has led to marginalization and discrimination of ethnic minorities and might have been used to justify violence against people with different identities. In order to overcome these challenges, he recommended that stakeholders should take efforts in addressing the "myth" of absence of violence in Thai society by: 1) acknowledging the existence of differences or conflicts; 2) promoting memorialization for past violence; 3) documenting lessons learned and truth-telling; and 4) recognising that "public order" is sometimes used as justification for state violence. He further pointed out that authoritarian regimes have abused their power by using law enforcement agents to control society and violate the rights of people. Moreover, he emphasized that horizontal inequality is an important risk factor for violence in Thai society and that this issue should be dealt with by adopting policy and/or structural changes through education and decentralization of power. In conclusion, Dr. Nirun raised what he called the "shadow of violence" in Thai society where people continue to be blind to the suffering of others, unaware of the existence of structural violence and inequality, and indifference towards non-violent and constructive changes in society.

Domestic Law and Accountability

In his presentation, Professor Emeritus Vitit Muntarbhorn from Faculty of Law, Chulalongkorn University underscored the importance of looking at the three pillars in understanding the term “responsibility” in R2P, to wit: 1) protection responsibilities of the state towards its population, 2) responsibility of international community to offer assistance and capacity building, and 3) responsibility of the international community to act in a timely and decisive response to prevent mass atrocity crimes including intervention by use of force under Chapter VII of UN Charter. He also presented the important milestones since the adoption of R2P in 2005 in the UN (e.g., the appointment of UN Special Advisor on Genocide as well as Special Advisor on R2P; the publication of the UN Framework of Analysis for Atrocity Crimes: A tool for prevention in 2014; and the publication of the Plan of Action for Religious Leaders and Actors to Incitement to Violence that Could Lead to Atrocity Crimes 2017) even as he also cited various UN Security Council resolutions that used the R2P principle in dealing with crisis situations such as those in Libya, Somalia, Sudan, and South Sudan. As well, he identified the various challenges within the UN in implementing R2P. This includes: 1) the exercise veto power by some permanent members of the UN Security Council against necessary action in response to mass atrocities such as the case of Syria; 2) failure of the UN to take action as a part of R2P under Chapter VII; 3) the question of residual responsibility of individual states to take action if the UN fails to act; and 4) unilateral intervention.

With regard to its engagement on R2P, Professor Vitit cited Thailand’s commitment to the World Outcome Document 2005, the UN Charter, human rights treaties (e.g. CEDAW, CRC, CRPD), and the Geneva Conventions although it is not a party to the Genocide Convention and the Rome Statute that created the ICC. However, he pointed out that under Thai law, there is no notion of crimes against humanity, genocide, and ethnic cleansing even though it recognises war crime. He argued that that the jurisdiction of ICC could

be applied to Thai nationals only if there was a cross-referral to the ICC by UNSC or the crime was committed in the territory of the state party. While some human rights violation that may not be considered atrocity crimes (e.g. breach of freedom of peaceful assembly, disproportionate shootings by state officers), they should nonetheless be subject to accountability proceedings through local criminal and civil law, as well as through political and social pressure. He then raised the question of whether past violent incidents in Thai society—such as 1992 Bloody May, extra-judicial killings, political violence in 2008-2014, and violence in southernmost provinces of Thailand—should be considered as atrocity crimes or not.

In his concluding remarks, Professor Vitit suggested the following steps in implementing R2P in Thailand: 1) integrate prohibition and prevention of genocide and crime against humanity in the national law and policy; 2) consider the use of universal jurisdiction against international crimes; 3) develop a monitoring system against perpetrators of atrocity crimes and include them in visa ban; 4) cooperate with the UN promoting accountability; 5) consider becoming a party to Genocide Conventions and ICC; 6) implement UN action plans especially in countering hate speeches and prohibition of incitement of violence and hatred; and 7) develop an early warning system and promote capacity building/education to prevent violence and atrocity crimes.

Implementing R2P in Thailand: Issues, Challenges, and the Way Forward



Dr. Nirun Phitakwatchara, Dean of College of Medicine and Public Health, Ubon Ratchathani University and former National Human Rights Commissioner talked about structural violence in Thai society and how R2P may be a useful framework in preventing atrocities.

In the panel discussions Ms. Angkhana Neelapajit, National Human Rights Commissioner, began the session by highlighting that sovereignty of the state includes the responsibility to protect its citizens. She pointed out that although Thai society may be averse to conflict over differences or diversity, violence appears to be tolerated based on certain justifications such as the war drugs or counter-terrorism. Such tolerance, if unchecked, may lead to large-scale of violence or mass atrocity crimes in the future. Thus, part of implementing R2P is to ensure that the Thai state uphold the rule of law, abide by international agreements on human rights protection, promote accountability, and pursue security sector reform and governance. As well, Thailand should address R2P-relevant issues such as protecting refugees, asylum seekers, and human rights defenders, as well as pursuing justice for victims of enforced disappearances. For her, it is important that Thai society develop a strong sense of promoting accountability to ensure that future violence and atrocities would not happen again. For example, promoting the concept of “never again” through memorialization of past violent incidents such as October 1973, October 1976 and Bloody May 1992 would increase public awareness about past atrocities. Accordingly, the Thai government should acknowledge that violations of human rights exist in the country, which is an important first step to improve and correct the situation.

Dr. Prajak Kongkirati from Faculty of Political Science, Thammasat University pointed out that violence



Professor Emeritus Vitit Muntarbhorn, Faculty of Law, Chulalongkorn University in his presentation suggested that prohibition and prevention of genocide and crimes against humanity should be incorporated in Thai national laws and policies

has been part of Thai society's evolution but this fact remains hidden through the process of forgetting history. Accordingly, violence in Thai society was not about scale or intensity but more about the ignorance and indifference of people towards violence and culture of impunity. In relation to R2P, prevention of large-scale of violence is considered more important than protection or intervention when it occurred. He also stressed the need to understand structural violence and cultural violence in society as they are root causes of direct violence. Moreover, the issue of concentration of power and wealth within a small group of people as well as marginalization and exclusion of majority from access to resources, political rights, and recognition of ethnoreligious identities could result in violent conflicts, such as civil war or genocide. Thus, it is important to address structural problems or issues which included the promotion of equality, improved access to political power, security sector reform, and media reform. In order to overcome the culture of indifference or silence on violence in Thai society, Dr. Prajak recommended promoting awareness about human rights protection through education. For example, recognizing past violent conflicts in history textbooks is an important step towards making ordinary citizens aware of human rights issues and helping them to monitor human rights violations. This would then enable citizens to develop a sense of holding the state accountable if it commits violence or human rights violations against the people.

Meanwhile, Dr. Pranee Thiparat said that there is still a misconception in Thailand about R2P, which is viewed as based on Western values. However, she stressed that R2P is based on internationally accepted norms, which was first recognized by the African Union (AU) by shifting from the principle of “non-interference” to the principle of “non-indifference” with regard to dealing with mass atrocity crimes in Africa. Despite the development of the R2P norm for more than a decade, its implementation faces enormous challenges due to lack of understanding of its relevance in their own contexts by member states. It is also important to view R2P in connection



Dr Sriprapha Petcharamersee of the Institute for Human Rights and Peace Studies, Mahidol University wrapping up afternoon session of the national dialogue, with Dr. Prajak Kongkirati (left) from Faculty of Political Science, Thammasat University and Ms. Angkhana Neelapaijit (right), National Human Rights Commissioner

with other relevant concepts such as human security, peace, governance, development, etc. and she urged members of the academia to examine how this concept may be relevant to their academic interests. Most importantly, she argued that R2P's core is on prevention of violence and atrocity crimes, which includes addressing root causes of inequality and injustice, among others. In response to the root causes of violence in Thai society, she also suggested that we should raise awareness regarding violence and incitement of hate speech through education. She expressed her disagreement about “localizing R2P” as R2P is an international norm in which certain principles needed to be upheld. Instead, she suggested the use of “contextualizing R2P”. Finally, she proposed the building of network on R2P in each country at the beginning stage instead of appointing a national R2P focal point.

For his part, Dr. Noel Morada raised the question of accountability of



Dr Noel Morada joined the afternoon plenary session with other Thai presenters: Dr Pranee Thiparat, Dr. Prajak Kongkirati from Faculty of Political Science, Thammasat University, Dr Sriprapha Petcharamersee (moderator), and Ms. Angkhana Neelapaijit, National Human Rights Commissioner.

perpetrators of violence and atrocity crimes committed by states in the region. He argued that the essence of R2P is about human rights protection and without accountability, the culture of impunity will persist that could lead to future atrocities being committed. In order to prevent this, he suggested that education and awareness-raising about respect for diversity and tolerance be given priority. In fact, education should start at home such as teaching children about tolerance, issues of incitement or hate speech, or prejudice. In promoting the norm in the region through the Centre's engagement at the national and regional levels, he argued that it is important to view R2P as a friend, not an enemy, of sovereignty in the context of ASEAN. He maintained that if states were conscious of their primary responsibility to protect, which can be linked to ensuring the protection of human security, human development, and protection of civilians, it would actually enable states to enhance their legitimacy.



Thai participants in the second national dialogue on atrocities prevention asking questions to panel of speakers in the afternoon session

In contextualizing R2P, it is also necessary to anchor this principle with complementary local norms (e.g. religious values, local culture). He also stressed the importance of education and training for the security sector on human rights protection and civilian protection, as a part of building awareness about R2P. He cited as an example the case of the Marawi siege by militant extremists in Mindanao in the Philippines, which lasted for more than five months as hundreds of civilians were held hostage. The protection of civilians was given priority by the Philippine military as it was conscious of adhering to international humanitarian law and respect for the Geneva Protocols. With the rise of extremism, it is important to recognise that non-state actors could also commit atrocity crimes against civilians. In promoting awareness about R2P, Dr. Morada said that the bottom-up approach is an important strategy to build domestic constituency of champions of the norm. He underscored the role of educational institutions, as well as parliamentarians in promoting atrocity prevention in ASEAN. Lastly, he said that the absence of domestic law against atrocity crimes and monitoring mechanism for dealing with risks of atrocities remained a challenge not only in Thailand but in other ASEAN states as well.

Next Steps for R2P Implementation in Thailand

While there are still enormous challenges in implementing the rule of law in Thailand, particularly in promoting human rights protection, it is important to recognize that there are already some mechanisms in place that could be used as important platforms for promoting R2P. Specifically, educational institutions play a vital role in encouraging parliamentarians and decision-makers to pass laws and adopt policies that adhere to international norms and standards related to human rights protection. In this regard, participants in the dialogue agreed to commit themselves to continue promoting R2P and atrocities prevention in Thailand through education and building public awareness about prevention of violence that could lead to atrocity crimes. Specifically, they consider the follow-

ing steps as necessary to deepen understanding about R2P among stakeholders in the country.

- Engage with stakeholders in Thai higher education institutions and schools even though there may be some challenges in upholding the protection of rights of teachers;
- Consider promoting human rights education in schools, including teaching children and young people about the importance of learning from past history related to violence in Thai society, through appropriate teaching materials such as showing of documentary films, etc.;
- Conduct training seminars for student, young leaders, teachers and trainers on human rights protection, R2P norm, and atrocities prevention;
- Encourage lecturers and academic staff to commit themselves to include in their courses the history of ideas, including ongoing debates on the concept of nation-state and sovereignty in relation to R2P;
- Promote the development of transformative learning processes or pedagogy in schools to sensitize students on human violations and atrocity crimes in Thai society;
- Encourage lecturers in law and political science faculties to commit themselves to include R2P in the courses;

At the conclusion of the dialogue, participants agreed to establish an informal network of lecturers from various academic institutions in Thailand represented in the meeting. Specifically, two volunteers from law and political science faculties, respectively, were appointed to coordinate the further development of R2P program in Thailand, in partnership with Chulalongkorn University, Mahidol University, and the Asia Pacific Centre for the Responsibility to Protect.

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