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ASEAN, THE ROHINGYAS AND MYANMAR'S RESPONSIBILITY TO PROTECT

How can the central government in Myanmar be encouraged to do more in implementing its responsibility to protect the Rohingyas and affected communities in Rakhine state? What is the role of ASEAN and other international actors in preventing further escalation of the crisis between the Rohingyas and ethnic Rakhines? This policy brief identifies some recommendations on how Myanmar and ASEAN could work together with the rest of the international community in dealing with the crisis in Rakhine state following the renewed ethnic violence in the area.

Ethnic violence between the stateless Rohingyas and majority Rakhines in Myanmar's Rakhine state erupted again in late October a few months after the first outbreak in early June this year. Based on media reports, thus far about 90 people were killed and close to 30,000 Rohingyas have been displaced by this new wave of violence after extremists vigilantes attacked and burned homes and boats in the predominantly Muslim town of Kyaukpyu.¹ An undetermined number of Rohingyas have also taken to sea in houseboats, barges and fishing vessels in panic, with over a hundred people reported to have drowned after their boats capsized. Satellite images published by Human Rights Watch indicate that the arson attack on settlements of Rohingyas in Kyaukpyu was apparently premeditated and involved elements from the military, which affected some eight townships or districts that left over 4,000 homes destroyed as well as religious buildings.² Kyaukpyu is said to be a strategic area where a multi-billion dollar China-Myanmar oil pipeline project is supposed to start.³ Since the outbreak of violence in June, close to 200 people have been killed and over 100,000 Rohingyas have been displaced in Rakhine.⁴



Yan Thei Village, Mrauk-U Township, on 11 February 2012. Pre-attack view of village in satellite image.

*Damage Analysis: Human Rights Watch; Image © DigitalGlobe 2012;
Source: EUSI*

Available at <http://www.hrw.org/news/2012/11/17/burma-satellite-images-show-widespread-attacks-rohingya>



Yan Thei Village, Mrauk-U Township, on 3 November 2012: Post-attack view of village in satellite image with annotated building damages.

*Damage Analysis: Human Rights Watch; Image © DigitalGlobe 2012;
Source: EUSI*

Available at <http://www.hrw.org/news/2012/11/17/burma-satellite-images-show-widespread-attacks-rohingya>

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Response of the Government

The Myanmar government imposed a curfew in Rakhine in response to the renewed ethnic violence and sent troops to restore peace and order in affected areas. While the immediate response of the central government is appropriate, the local government and law enforcement agents in Rakhine remained inadequately prepared to deal with the ethnic violence. Specifically, some extremist groups have called for violent attacks against the Rohingyas as well as the Muslim Kamans (a recognized ethnic group in Myanmar) who have also been forced from their homes. Some core leaders of the extremist groups reportedly have ties to the Rakhine Nationalities Development Party (RNDP), which participated in the 2010 elections.⁵ This has raised concerns about the spread of violence against other minority Muslim groups in the country. Even international aid workers, including staff members of the UN Commission on Refugees, have also been threatened by vigilantes if they continue to extend humanitarian aid to Muslims in Sittwe, for example. Medics sans Frontiers (Doctors without Borders) reported that its medical staff has been afraid to work in refugee camps and medical centers as radical groups have been preventing the organization from delivering medical assistance to displaced Muslims in Rakhine.⁶ Some Buddhist monks and university students were reportedly continuing to stir up sentiments against the Rohingyas during protests in Sittwe, the capital of Rakhine.⁷

Rakhine was put under a state of emergency after the outbreak of violence in June. Although the military was largely praised for quelling the violence, local police authorities, Rakhine vigilantes, and border guards were reportedly conducting unprecedented harassment and oppression of Rohingyas.⁸ In July, the government created a fact-finding committee to investigate the root causes of the conflict. This is largely in response to serious concerns expressed by the international community, including member states of ASEAN, about the humanitarian crisis in Rakhine. However, the committee's report that was due on 14 November is unlikely to be finished soon given the lack of cooperation from local Rakhine, Muslim community, local government, and even members of parliament in the investigation.⁹ Meanwhile, Myanmar's Information Minister U Ang Kyi said that the government is now focusing on conferring citizenship to the Rohingyas as part of a "win-win" solution to the conflict.¹⁰ Even so, some exiled Burmese activists alleged that the military is behind the campaign against Rohingyas based on anti-Islamic pamphlets widely being circulated in western Myanmar.¹¹

Aung San Suu Kyi's Calculated Response

Opposition leader Aung San Suu Kyi has been criticized even by exiled activists and international supporters for her restrained response to the issue. She has argued however that both sides of the communal divide have committed human rights violations and that rule of law must be the first step in addressing the root causes of ethnic strife in Rakhine.¹²

Following a meeting of the parliament's Rule of Law committee she heads, Suu Kyi and other leaders of ethnic minority groups in the national assembly issued a statement on 8 November for the government to increase security forces in Rakhine and urged all parties in the area to respect human rights regardless of race or religion. The statement also called on the government to make transparent its policy on citizenship even as it also recognized that one of the root causes of the communal strife in the area is illegal migration and border security.¹³

In the context of Burmese nationalism and apparently strong social prejudice against the Rohingyas in Rakhine state, Suu Kyi's response to the situation is evidently a well-calculated move aimed at avoiding alienating herself and her party, the National League for Democracy (NLD), from majority Buddhist supporters at home. In March this year, the

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NLD opened its Rakhine regional office in Sittwe as part of its preparations for the 2015 general elections.¹⁴ (In the 1990 elections that the NLD won by landslide, the party won 9 seats in Arakan—former name of Rakhine state—although the military refused to recognize the party’s victory in the country.) As well, she would also want to deny any opportunity for conservative and hardline military elements to exploit the crisis in Rakhine that could drive a wedge between her and President Thein Sein on this issue, one that could very well undermine ongoing political reforms in the country.

Concerns from the International Community

The international community led by the Association of Southeast Asian Nations (ASEAN), the UN Secretary General, the Organization of Islamic Cooperation (OIC), Australia, the United States, and the United Kingdom have expressed serious concerns about the communal strife in Rakhine since it first broke out in June. Specifically, ASEAN foreign ministers issued a statement in August that:

- 1) encouraged the government in Myanmar to continue working with the UN in addressing the humanitarian crisis in Rakhine (although the statement did not mention the plight of Rohingyas);
- 2) express willingness of the regional organization to provide humanitarian assistance; and
- 3) underscored that the promotion of national harmony in Myanmar is an integral part of the country’s ongoing democratization.¹⁵

For his part, ASEAN Secretary General Surin Pitsuwan warned that the Rohingya issue could destabilize the region if the international community— including ASEAN—failed to respond more effectively and in a timely manner to the crisis.¹⁶



Myanmar Buddhist monks march, protesting against plans to open office of the Organization of the Islamic Conference (OIC), in Yangon, Myanmar, Monday, Oct. 15, 2012.
(AP Photo/Khin Maung Win)

Available at <http://washingtonexaminer.com/myanmar-wont-allow-oic-to-open-liaison-office/article/feed/2038952>

He also acknowledged that ASEAN cannot press the government to grant citizenship to the Rohingyas.¹⁷ As then Chair of ASEAN, Cambodian Prime Minister Hun Sen, carefully avoided any reference to the ethnic violence in Rakhine although he underscored the importance of respect for religious differences within ASEAN societies in a recent meeting of the ASEAN Social Cultural Council in Phnom Penh.¹⁸ Meanwhile, UN Secretary General Ban Ki-moon called on the government of Myanmar to take swift action to stop the “vigilante attacks, targeted threats, and extremist rhetoric” in northern Rakhine state.¹⁹

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In the recent Asia-Europe Meeting (ASEM) in Laos, Indonesian Foreign Minister Marty Natelagawa supported the position of United Kingdom counterpart, William Hague, that the Myanmar government should address the issue of Rohingya citizenship even as he also pointed out that the ethnic violence in Rakhine is a communal strife and not a religious conflict.²⁰ Australian Prime Minister Julia Gillard for her part also expressed concern over the plight of the Rohingyas during her bilateral talks with President Thein Sein on the side of the ASEM summit in Laos.²¹ Meanwhile, Thomas Quintana, the UN special rapporteur for human rights in Myanmar called on the government to address the underlying sources of between Buddhist and Muslim communities in Rakhine, including taking measures to deal with discrimination against the Rohingyas such as reviewing the 1982 Citizenship Act.²²

In September, the OIC sent a fact-finding mission to Myanmar and announced that it would support Muslim Rohingyas gain their right to citizenship in the country. Following renewed violence in October, the OIC sought to establish a humanitarian liaison office in Rakhine. However, the Myanmar government refused the request as it invoked national sovereignty even as thousands of Buddhist monks in Yangon and Mandalay reportedly protested the opening of an OIC liaison office.²³ Djibouti's Foreign Minister and acting Chair of the OIC, Mahmoud Ali Youssuf, called on the international community to protect Muslim minorities in Rakhine from genocide even as he asked US President Obama during his visit in Myanmar to press the government to stop its oppressive policy against the Rohingyas.²⁴

Conclusion and Recommendations

Myanmar is considered by a team of R2P experts as one of the most at-risk countries that may experience genocide or politicide between 2011-2015.²⁵ Indeed, the renewed outbreak of ethnic strife in Rakhine state in October clearly demonstrates the weakness of the central government in implementing the principle of R2P, which it supported in the 2005 UN World Summit and expressed its commitment to in the UN General Assembly Interactive Dialogue on R2P in 2009 (see box). Although it quickly declared a state of emergency and implemented certain security measures to restore peace and order in the area since the first outbreak in June, there are strong indications that these remain inadequate in the face of local authorities and law enforcement agents failing to protect not only the Rohingyas but also other affected communities from vigilante attacks. That the UN's and other international organizations' humanitarian assistance work has been hampered by threats from extremist groups also shows that the central government has not effectively contained the ethnic violence in western Myanmar.

While recognizing certain progress in democratic reforms in Myanmar since 2011, the international community however should remain vigilant in continuing to exert pressure on both President Thein Sein and opposition leader Aung San Suu Kyi to do more in preventing the escalation of ethnic violence in Rakhine and the spread of anti-Islamic sentiments in the country. While international attention is focused on the plight of Rohingyas in light of recent developments, the central government should also be encouraged to continue in improving its record in protecting other ethnic groups in predominantly Burmese society. Failure on the part of the central government to contain the ethnic violence, as well as the inability of the international community to provide assistance in this regard, would only undermine the political reforms initiated by President Thein Sein. If this happens, this will benefit only the hardline elements in the military that are strongly opposed to his reforms.

In view of the foregoing, a number of policy recommendations need to be considered, to wit:

- ASEAN should play a central role in exerting pressure and providing assistance to Myanmar in order to prevent the escalation of ethnic strife in Rakhine. In partnership with the UN, the regional organization could be the main

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avenue for extending humanitarian assistance to all affected communities in the area. It must be noted that following the humanitarian crisis brought about by Cyclone Nargis in 2008, Myanmar opened its doors to international humanitarian assistance through ASEAN and in partnership with the UN.

- ASEAN could also use its various mechanisms in providing assistance to Myanmar in dealing with the Rohingya issue. Specifically, its member states could help in addressing the root causes of ethnic conflicts in Rakhine through capability building in peacemaking, mediation, and conflict prevention; border security management and migration issues; as well as strengthening local government capabilities in peace and order management. Myanmar could also benefit from lessons learned by other ASEAN member states in managing communal or religious conflict. The ASEAN Institute for Peace and Reconciliation, which will be launched this month in Phnom Penh, is the most appropriate venue to explore further assistance to Myanmar on many of these issues.
- The ASEAN Inter-Parliamentary Organization (AIPO) could also help Myanmar's parliament in reviewing and amending current laws on citizenship, refugees, and stateless people with a view towards enabling the central government and local authorities in managing these concerns. That the Myanmar government is already open to the idea of granting citizenship to qualified Rohingyas in Rakhine is already an opportunity that ASEAN should take advantage of.
- As dialogue partners of ASEAN, Australia, the United States, and members of the EU may assist in Myanmar's capacity building in law enforcement, rule of law, human rights protection, and good governance.

Overall, the international community should remain steadfast in exerting pressure on the government in Myanmar in meeting its obligations under the R2P principle even as it must be recognized that it also needs encouragement and assistance in building its capabilities to deal with ethnic violence in the country. Myanmar's chairmanship of ASEAN in 2014 may prove to be a good incentive for the government to comply with international norms in dealing with the crisis in Rakhine.

MYANMAR AND R2P

In July 2009, Myanmar's Deputy Permanent Representative U Kyaw Zwar Min during the UN General Assembly the Informal Interactive Dialogue on R2P, stated that under the agreement in the 2005 World Summit on R2P, the obligation of the international community "is not to intervene but rather to take timely and decisive steps" when atrocities occur. He also pointed out that the Secretary-General's Report has delimited the scope of R2P and that the norm "should not be used to address all social ills but is narrowly focused on the prevention of genocide, ethnic cleansing, war crimes, and crimes against humanity." While he recognized that "prevention is at the heart of the concept of R2P," he also warned that states could invoke the principle as a "rationale for intervention of [the] international community when prevention fails." He also expressed his government's agreement with the Secretary General that it is important for the General Assembly to consider proposals and determine how the United Nations can fulfill the commitment made by world leaders in 2005.²⁶

Among other factors, Myanmar's sensitivity to R2P, particularly in insisting on its limited scope, stems from its experience in 2008 in the aftermath of Cyclone Nargis. The international community then was seriously concerned about the government's refusal to accept Western humanitarian assistance. France, a permanent member of the Security Council, invoked R2P (albeit for the wrong reasons) and called for intervention in Myanmar. Members of ASEAN of course did not support the call but instead used backdoor diplomacy in convincing the military junta to allow humanitarian assistance to come in. The current crisis in Rakhine however clearly falls within the scope of R2P as the violent attacks on either side of the ethnic divide constitute crimes against humanity. While the Rohingyas are considered stateless people, the central government is still obligated under R2P to protect them because they are human beings living within the territory of Myanmar. While international attention is currently focused on the Rohingyas, the government should also be called to task in protecting other ethnic groups in the country who have been subjected to various forms of violence and oppression by state agents, including rape and abuse of women in Kachin and Karen states.

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