

SPOTLIGHT ON R2P

The Responsibility to Protect at 15: Challenges and Future Prospects



The Asia Pacific Centre for the Responsibility to Protect (APR2P), University of Queensland, in cooperation with the Cambodia Institute for Cooperation and Peace (CICP), co-organized a virtual seminar on 14 September 2020 to commemorate the 15th Anniversary of the adoption of R2P, titled “The Responsibility to Protect at 15: Challenges and Future Prospects”.

The online seminar aims to primarily review the progress and challenges in implementing R2P and atrocities prevention since its adoption in the UN General Assembly in 2005. It also seeks to revitalize and renew

the impetus of the principle of R2P by examining roles of the UN and regional organizations in advancing atrocities prevention and R2P.

Six distinguished speakers were invited to discuss on the above objectives, namely Ambassador Pou Sothirak, CICP Executive Director; H.E. Dr. Karen Smith, Special Adviser to the UN Secretary General on R2P; Professor Alex Bellamy, Director of APR2P, Dr. Noel M. Morada, Director, Regional Diplomacy and Capacity Building, APR2P; Dr. Sriprapha Petcharamesree, Senior Lecturer of the Ph.D. Program in Human Rights and Peace Studies (International) of

the Institute of Human Rights and Peace Studies at Mahidol University and former Thai Representative to the ASEAN Intergovernmental Commission on Human Rights (AI-CHR); and H.E. Edmund Bon Tai Soon, Former Malaysian Representative to AICHR. Despite not being able to join the online meeting, Professor Bellamy had a recorded video message for the Virtual Seminar.

There were 15 core members of the Network of Friends of R2P-Cambodia attended the seminar at CICP Office while there were additional 50 participants joining the event online.



Below is the summary report of the Virtual Seminar.

Ambassador Pou Sothirak, CICIP Executive Director, welcomed all viewers including the distinguished speakers and online participants to the virtual seminar. He stated that CICIP hosts this online event in order to join the international community to commemorate the 15th anniversary of the adoption of the Responsibility to Protect (R2P). He mentioned that the principal aims of this virtual seminar are to discuss how R2P has transpired after 15 years and to debate the ongoing difficulties among state actors towards genuine acceptance and implementation of this norm. The online meeting also hopes to review the progress and challenges of implementing R2P and atrocities prevented 15 years since its adoption by examining roles of the UN and regional organizations such as ASEAN including Cambodia in advancing atrocities prevention and R2P and in confronting persistent problems in taking this global norm to a higher level.

Ambassador Sothirak thanked APR2P for the ongoing support and the event represents yet another important milestone in promoting R2P in Cambodia as well as raising awareness about atrocities prevention in the country and in ASEAN. He also emphasized the enduring commitment of CICIP and APR2P in working tirelessly to develop practical projects to disseminate R2P at a national and sub-national level, which will help governments formulate policies and foster connections with other ASEAN member states in enhancing atrocity prevention efforts.

Following the welcome remarks by Ambassador Sothirak, UN Special Advisor on R2P Dr. Karen Smith delivered her keynote address. She highlighted the following points in her presentation:

1. After 15 years since the adoption of R2P, atrocities are still happening which made some

people think R2P has been failing. However, she contended that R2P has not been failing in its principle but in its implementation as there has been a lack of political will among states to uphold their responsibility to prevent mass atrocities.

2. Notwithstanding the above, certain achievement have been made in the UN system to promote R2P. This include annual releases of reports on R2P by the UN Secretary General, increased momentum to incorporate R2P in formal agendas in the UN Security Council, the UN General Assembly and the UN Human Rights Council, expansion of state membership in the Friends of R2P Group and regular risk monitoring and assessments in each violence-prone state by the UN Office of Genocide Prevention and R2P.
3. Despite these accomplishments, she added that more works need to be done by states in order to uphold their commitment to R2P. While the UN can assist states in implementing R2P, the primary responsibility to prevent and protect populations from atrocity crimes rests on states. No country is immune from the risks of mass atrocities. In atrocity prevention, there are triggering factors that states have to address such as ensuring good governance, respecting human rights, dealing with economic inequality and curbing hate speeches.
4. Domestic actors such as civil society organizations and individuals have roles to play in order to further advance R2P. She emphasized domestic actors have moral responsibility to help prevent atrocity crimes from happening.

In his presentation, Professor Alex Bellamy argued that at 15 years of age, R2P remains a promise unfulfilled. He pointed out four ways that the international community has failed to implement R2P. First, the international community failed

to protect populations from atrocity crimes as in the case in Syria when the Assad government was able to gas its own people with impunity in 2013. Second, the international community failed to prevent mass atrocities. For example, in Myanmar, despite early warnings of atrocities were made for at least 18 months before the violent crackdown took place in August 2017, the UN, ASEAN, and other neighboring states, did nothing to prevent the Rohingya genocide. Third, the international community failed to challenge the culture of impunity that enables atrocity crimes. As long as governments enjoy impunity, they are able to perpetuate mass crimes against their own populations. Fourth, the international community has failed to care adequately for the victims of atrocity crimes. For instance, Rohingya refugees have no choice but to live in squalid camps in Bangladesh where their children are vulnerable to abuse and without access to education.

Professor Bellamy then discussed why the international community has failed on the above matters. First, atrocity prevention is seldom known as a national priority, even for R2P loudest champions. There are always other countervailing interests – domestic politics, strategic partnerships, money, power, privilege, that keep states occupied. Second, there is a decline in respect for fundamental tenets of international humanitarian, human rights, and refugee laws, not just by the violent extremists and authoritarian states that perpetrate atrocity crimes but also by states of good standing and even some champions of human rights protection. In ASEAN, not even basic humanitarian laws are uniformly embraced by its member states. Third, many state and non-state actors still see atrocities as a way of getting what they want. For example, Sri Lanka succeeded in defeating the Tamils by committing atrocity crimes while Rohingya genocide enables Myanmar to assert its authority in Rakhine. Fourth, the international community has conceded too much in search for an illusory consensus. Silence only helps the oppressor. The UN

in Myanmar did not win meaningful concessions by agreeing not to use the word Rohingya. When it comes to atrocity prevention, quiet diplomacy has a failed based on track record. Fifth, the international community has not mobilized global activism. The international community has not demanded enough and has not advocated effectively enough to hold governments accountable to their own populations. R2P should make governments uncomfortable. It demands that they do better.

For ways forward, Professor Bellamy made four recommendations. First, knowledge regarding to atrocity prevention needs to be enhanced with more specifics. Second, individual responsibility is needed to further advance R2P. Third, there is a need for organization and mobilization of R2P efforts in order to hold governments accountable and demand that they fulfill their solemn promises of atrocity preventions. Fourth, the importance of increased actions for atrocity preventions without the UN and governments need to be understood and scaled up. Activities such as civilian peacekeeping, monitoring, and human rights reporting can all make a positive difference.

For his part, Ambassador Pou Sothirak focused on the Cambodian experience in promoting R2P. He mentioned that Cambodia has made important efforts to prevent the horrific tragedies like those happened during the Khmer Rouge era from happening again. However, works remain to be done to ensure mass atrocities will not return to Cambodia. He then highlighted Cambodia's achievements in upholding R2P, including: signing and ratifying the Rome Treaty, setting up the Extraordinary Chambers of the Courts of Cambodia (ECCC), establishing the Toul Sleng Genocide Museum, passing a domestic law against the denial of genocide and war crimes committed by the Khmer Rouge, becoming one of the largest contributors to the UN Peacekeeping missions in ASEAN, and appointing a R2P National Focal Point. Despite these progresses, challenges

remain. Cambodia still faces other challenges such as structural deficiency and institutional weaknesses related to promoting human security, human rights protection, responsive public services, accountable security sector, impartial judiciary and good governance. Despite relatively high economic growth, Cambodia still has more room for improvement in order to ensure that its development challenges can be met satisfactorily. This includes sustainable and inclusive economic policy can be achieved, enhanced public services, improved transparency, accountability and social protection, as well as alleviate widespread poverty.

Regarding how the international community could assist Cambodia in atrocity prevention efforts, he recommended the following:

1. Develop educational training program on the essence of R2P and mass atrocity prevention;
2. Assist and encourage Cambodia in fulfilling its protection obligations by providing training to a broad spectrum of the country's diplomats, police and military, judges, local government officials, community leaders on human rights protection and international humanitarian law;
3. Capacity building through scholarships should be provided to general public to help develop home-grown knowledge to enable them to undertake policy-relevant research to advance atrocity prevention efforts;
4. Assistance should be made available for building a national database that monitor risk factors deriving from issues such as poverty, social injustice and resource-related conflicts;
5. Encourage the government to engage in national dialogue among other stakeholders on how to build a national architecture for mass atrocities prevention;
6. Encourage Cambodia to address root causes of conflict and risk factors for atrocity

crimes, and identify what the sources of conflict are that could create tensions among populations;

7. Promote engagement of the youth and young generation of future leaders in the country in order to develop a constituency that advocates and champions R2P and atrocities prevention; and
8. Continue to support the work of the ECCC as the process of finding justice will promote human security in Cambodia and will have an impact on countering violence in society. Specifically, this is important in promoting the rule of law, healing traumas, improving national reconciliation, ending impunity, making history known clearly so as to prevent future atrocities, and strengthening the foundation of local institution such as the judiciary.

On the roles that Cambodia could play to encourage and promote R2P in the context of ASEAN, Ambassador Pou Sothirak shared his views below:

1. Cambodia can take steps to lead other ASEAN states in mainstreaming mass atrocity prevention as an integral part of existing ASEAN mechanisms.
2. Cambodia can share invaluable lessons based on its experience in dealing with atrocity in the past and stand to explore the best ways to address humanitarian situations in the region.
3. Cambodia can be a regional hub for education and training in ASEAN on atrocity prevention.
4. With the appointment of R2P Focal Point, Cambodia could undertake initiatives such as holding regional dialogues on mass atrocity prevention in an effort to mainstreaming the R2P principle in ASEAN and proposing to create a network of R2P focal points in ASEAN.

5. The Network of Friends of R2P-Cambodia should be strengthened and emulated across the region to promote R2P by raising greater awareness and helping to put in place effective mechanisms to protect populations from atrocities.

Dr. Noel M. Morada, APR2P Director for Regional Diplomacy, shared his views on overcoming challenges to promote atrocities prevention in ASEAN through R2P promotion and implementation. He said that ASEAN still has a long way to go in adopting and implementing R2P in the region. While there has been a better understanding of R2P among key stakeholders since 2005, many ASEAN member states are still reluctant to embrace the norm because of Pillar 3, which is still viewed as a tool for intervention by major powers. He also noted that mainstreaming R2P in ASEAN will be a major challenge in the medium to long term, which will require serious efforts among local and regional champions or advocates of the norm to constantly engage policymakers in dialogues about the importance of atrocities prevention. The bottom-up approach to promote R2P, focusing especially on the first pillar, is the key to deepening understanding of and commitment to the principle, which needs to be anchored on complementary local, national, and regional norms. ASEAN states and societies must invest in R2P and atrocities prevention through education and training, capacity-building, and developing home-grown knowledge in assessing relevant risk factors for atrocities faced by countries in the region. It is also critical to pay attention to the role of young people and emerging leaders in the region in promoting atrocity prevention. They need to be actively involved in building national and regional capacities for atrocity prevention, and in shaping regional and international policies, responses, and strategies in dealing with atrocities.

Dr. Morada recommended a few ideas on next steps to mainstream R2P in the region. First, ASEAN states should endeavor to build na-

tional capacities in atrocity prevention by enacting laws and policies that would address root causes of internal conflicts that could lead to atrocity crimes. They should also strengthen national institutions that will enhance the rule of law, and good governance as well as take seriously their primary responsibility to protect by adhering to international norms and laws. Second, it is important for ASEAN to enhance partnership with the UN and its mechanisms in promoting atrocity prevention through dialogue, capacity building, and developing national and regional resilience in dealing with relevant risks for atrocities. Third, ASEAN states should also pass domestic laws that will demonstrate their commitment to international treaties and conventions to punish and prevent mass atrocity crimes. With regard to enhancing its capacity to prevent and respond to atrocities in the region, ASEAN should seriously consider developing accountability mechanisms when there are erring members who must be held accountable for systematic violations of human rights within their borders. Lastly, in the wake of the Covid-19 pandemic, vulnerable groups such as migrant workers, health workers and refugees have encountered risks of violence as hate speech and fake news have been on the rise. There are mechanisms that need to be created to protect these civilians at risk.

For her part, Dr. Sriprapha Petcharamesree discussed the challenges and future prospects concerning promotion of R2P in ASEAN. She noted that after 15 years, many ASEAN states continue to express reservations on R2P. She raised four key challenges that prevent the norm from further advancing in the region. First, ASEAN countries still perceive sovereignty in absolute terms, and R2P is deemed to undermine the states' supreme authority. Second, human right regimes in ASEAN are too weak to mainstream R2P due to the principle of non-interference. Third, institutional designs of ASEAN are less accommodative to R2P as they focus more on broad long-term priori-

ties such as economic development and social resilience. Also, R2P is too politically sensitive to even be discussed. Fourth, there is a lack of democratization in ASEAN. R2P has been closely associated with democracy and human right protections that give people more political freedom and demanding to hold their governments accountable. The democratic space can be observed to be not very open in the region as ASEAN states have not been comfortable with redefining sovereignty as responsibility.

In the wake of the above hindrances, Dr. Sriprapha Petcharamesree offered four recommendations. First, existing ASEAN human right mechanisms should be strengthened. Second, there is a need of paradigm shift of the principle of "non-interference" in ASEAN that would allow actions such as legal sanctions taken place to those erring states. Third, mechanisms such as ASEAN-X, ASEAN Troika and dispatching envoys might be useful in atrocity prevention efforts. Fourth, national and regional dialogues need to be promoted to increase more understanding of R2P. She ended her presentation by noting that it is now time ASEAN could accommodate people's concerns and transform the regional body to be a people-centered community. Promoting R2P is part of this endeavor.

H.E. Edmund Bon Tai Soon, former Malaysian representative to the ASEAN Inter-Governmental Commission on Human Rights (AICHR), focused on the limitations of ASEAN bodies in advancing atrocity prevention and what needs to be done to further promote R2P in the region. Accordingly, ASEAN bodies such as the AICHR, the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC), and the ASEAN Institute for Peace and Reconciliation (AIPR) face two main constraints when it comes to atrocity prevention. First, sovereignty continues to be paramount. For ASEAN states, the implementation of R2P means transferring sovereignty away from them.

Second, ASEAN regional bodies have limited mandates and they are constrained by the principle of consensus decision-making among member states. Looking forward, he recommended that more debates and discussions are needed to address ASEAN states' concerns and critiques on R2P. He also hoped that a systematic early-warning mechanism can be established in order to be the basis of early responses to protect vulnerable groups and prevent atrocity crimes in the region. ASEAN regional bodies such as AI-CHR, ACWC and AIPR can be given broader mandates to undertake this important task.

After all distinguished speakers concluded their presentations, the discussion session proceeded. Venerable Heng Piseth, an official from Sihanoukraj Buddhist University and a core member of Friends of R2P – Cambodia, asked H.E. Dr. Karen Smith on what roles the UN can play in order to overcome existing challenges that confront the promotion and implementation of R2P. Before answering, she noted that this is the question that she wants to learn from domestic actors on the ground on what they think the UN can do in order to have more inputs and approaches to further advance R2P. She said that what the UN can do is to lead by example, meaning that its atrocity prevention office has to put forth R2P on any UN formal agendas for discussions and implementation. Another role that the UN can play is to promote greater awareness through having dialogues with relevant stakeholders to increase more understanding and reduce misunderstanding with regards to R2P.

Professor Soy Kimsan wanted to know what will be the future of R2P in relation to COVID-19 given that the norm is not given priority attention by governments in the region. He mentioned that the virus has killed tens of thousands individuals due to the inability of the government to protect civilians from this disease. H.E. Dr. Karen Smith replied that more discussions are need on the implications of COVID-19 for atrocity prevention efforts. This issue is



important because some governments have used the pandemic as an excuse to perpetuate human rights violations.

Mr. Maurice Pereira, a university student and a core member of Friends of R2P – Cambodia inquired about how the UN can capitalize on the in the post-pandemic period to advance R2P. H.E. Dr. Karen Smith pointed out that so far, the UN Secretary General has come up with plans of action on wide range of issues including human rights situation after the pandemic. However, she noted that it is still early to say because how the UN is going to respond in the post-pandemic period depends on which direction the world order is going to be.

Lecturer Soeung Bunly from Svay Rieng University, wondered about what constructive ways that ASEAN countries can play to address the Rohingya crisis. H.E. Edmund Bon Tai Soon made a comment that engagement with Myanmar has been the ASEAN's approach to address the situation in Rakhine. ASEAN also has channeled some reliefs to the Rohingya refugees through the ASEAN Coordinating Centre for Humanitarian Assistance on disaster management (AHA Centre). He posited that ASEAN set up an ad hoc task force to work with Myanmar on repatriation, security guarantees, and other relevant projects to provide assistance in repatriation of Rohingyas.

On the question of what the future of R2P is in the next 15 years. H.E. Dr. Karen Smith responded by hoping

that R2P will be in a developing process at the regional level. Dr. Noel Morada also intervened that there is a need to focus on the young people who are more cosmopolitan and open-minded about new ideas, and they are also the future leaders of their respective countries. Promoting and implementing R2P requires a change of mindset that perceive sovereignty as responsibility. Therefore, raising awareness on the importance of atrocity prevention to young people is key to increased acceptance of R2P in the future.

With regard to what non-state actors especially the youth can do to promote R2P, Dr. Sriprapha Petcharamesree replied that for educators, incorporating R2P in educational curriculum and promoting human rights and peace studies are one of the ways to gradually synergize the norm into the educational system. For NGOs, sharing good practices on how to protect vulnerable groups is another approach that non-state actors can do to promote R2P. NGOs can also engage and criticize ASEAN member states and its regional bodies to exert pressure into taking concrete actions regarding atrocity prevention. For his part, H.E. Edmund Bon Tai Soon also added that for young people, creating social mobilization is important to promote R2P. To promote R2P, many young people can undertake many different approaches based on their desire and specialties such as being activists, reformists, and/or social change agents. They can all have different roles but they need to have the same objective.

As the discussion session came to an end, Ambassador Pou Sothirak took turn to deliver his closing remarks. He said that the virtual seminar was successful and productive as there were lively interactions and frank discussions between participants and distinguished speakers. He raised two take-away points from the online meeting. First, the failure of R2P rests on its implementation, there is a need for more in-depth discussions on which pillars of the norm that states have failed to implement and why it is so. Accordingly, recommendations could be formulated to make implementation more feasible. Second, regarding political will, unless states who hold the primary responsibility to protect civilians are firmly committed to promoting R2P, advancement of the norm would not happen.

In conclusion, Ambassador expressed sincere appreciation to H.E. Dr. Karen Smith and other distinguished speakers for their invaluable contributions to the event. He offered his gratitude to APR2P and the Australian Government for their kind support for CICP's work in promoting R2P in Cambodia. Lastly, he thanked the Cambodian participants for their active participation in this online meeting.

