



# AP R2P

## Asia Pacific Centre for the Responsibility to Protect

P: +61 7 3346 6449 • E: [r2pinfo@uq.edu.au](mailto:r2pinfo@uq.edu.au)

MAY 2016 • ISSUE 30



### Workshop on R2P and Risk Factors for Atrocities

Dr. Noel M. Morada, the Centre's Director for Regional Diplomacy, conducted the workshop on R2P and UN Framework of Analysis for Atrocities. The main objectives of the workshop were as follows:

- Introduce the principle of the responsibility to protect and the importance of mass atrocities prevention in promoting the protection of human rights in Malaysia;
- Walk through the UN Framework of Analysis for Atrocities; and
- Delineate through discussion and exchange of ideas among participants the opportunities and enabling factors that will help strengthen the capacity of Malaysia to prevent and respond to risk factors related to mass atrocity crimes.

Following the lectures by Dr. Morada, participants were divided into two groups to discuss further the the risk factors and their relevance to Malaysia. A number of risk factors were identified by participants such as: 1) Risk Factor no. 3, weakness of state structures; 2) Risk Factor no. 9, intergroup tensions or patterns of discrimination against protected groups; and 3) Risk Factor no. 14, serious threats to humanitarian or peacekeeping operations in reference to war crimes. With regard to weakness of state structures and "[c]ircumstances that negatively affect the capacity of a [s]tate to prevent or halt atrocity crimes," the groups recommended the following steps for Malaysia: appointment a national focal point;

## SPOTLIGHT ON R2P

### Malaysia: Atrocities Prevention Workshop and the HLAP Report Public Seminar

*APR2P AND ISIS MALAYSIA ORGANIZE A HLAP AND R2P WORKSHOP 15, MARCH 2015 IN KUALA LUMPUR, MALAYSIA.*

#### Overview

The Asia Pacific Centre for the Responsibility to Protect (APR2P) and the Institute of Strategic and International Studies (ISIS Malaysia) organized a workshop on the R2P, the UN Framework of Analysis for Atrocities: A Tool for Prevention crimes and a public seminar on the High Level Advisory Panel's (HLAP) Report on Mainstreaming the Responsibility to Protect (R2P),

in Kuala Lumpur, Malaysia on 15 March 2016. Former ASEAN Secretary-General and the Chair of the HLAP, Dr. Surin Pitsuwan, was the keynote speaker in the HLAP Report public seminar, which was attended by members of government agencies, academia, think tanks, civil society organizations and special interest groups. The public seminar in Kuala Lumpur on the HLAP Report on Mainstreaming the Responsibility to Protect in Southeast Asia is the fourth in a series organized by the Centre in Southeast Asia after Bangkok (in October 2014), Jakarta (January 2015) and Phnom Penh (August 2015) with the support of a local institutional partner.



Australian Government  
Department of Foreign Affairs and Trade



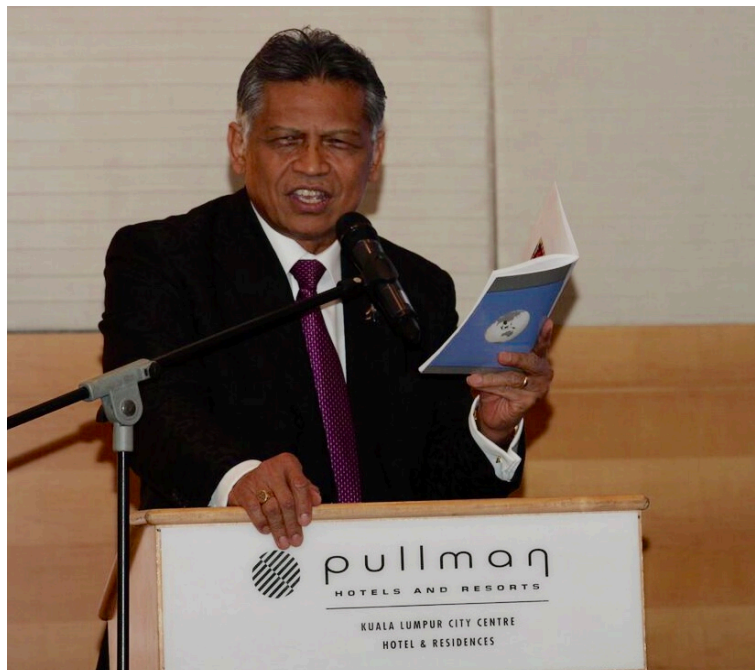
THE UNIVERSITY  
OF QUEENSLAND  
AUSTRALIA

ratification of the Rome Statute and other international treaties and conventions, as well as integrating these into domestic legislation; set up a commission or council for atrocity prevention to coordinate efforts between government agencies and NGOs; and provide necessary funding and training for atrocity prevention for civil society.

In the context of Risk Factor no. 9, Malaysia's multi-ethnic society and inter-ethnic tensions were consistently emphasized even as the threat of terrorism and the refugee crisis were mentioned as exacerbating factors for atrocity risk in Malaysia. The groups proposed that Malaysia ratify the international refugee convention and encourage greater involvement of civil society and better cooperation between civil society and the military in response to humanitarian crises. They also pointed to the need for enhanced institutional capacity of Malaysia's Human Rights Commission or SUHAKAM, and for Malaysian civil society to be more involved in atrocity prevention to support the government and NGO institutions.

### HLAP Report Public Seminar

Dato' Steven CM Wong, ISIS Malaysia Deputy CEO, gave the welcome remarks and expressed appreciation for the APR2P in choosing ISIS Malaysia as partner



*Dr. Surin Pitsuwan addresses the audience in his speech on the recommendations in the HLAP Report*

for holding the seminar in KL on the HLAP Report. For his part, Australia's High Commissioner to Malaysia, HE Rod Smith, stressed the importance of R2P for Australia, its relevance to the rest of the world, and the essential role ASEAN must play in its global implementation. He underscored the importance of collective political will in R2P implementation and atrocities prevention, which are linked to promotion of human rights protection in ASEAN. Specifically, he pointed out that respect for human rights lie at the foun-

dation of atrocity prevention and states' responsibility to protect. He also said that ASEAN is a "uniquely placed organization to provide deeper contextual understanding of the region and to identify entry points for prevention of atrocities." Meanwhile, Dr. Morada thanked ISIS Malaysia for agreeing to host the HLAP Report public seminar in KL and expressed hope that it will lead to further engagement in Malaysia on deepening knowledge and understanding of R2P and atrocities prevention. He also expressed appreciation to Dr. Surin Pitsuwan for taking the time out of his very busy schedule to come to Kuala Lumpur for the presentation of the HLAP Report.

Dr. Surin began his presentation by explaining why he remains involved in promoting R2P and atrocity prevention even after he finished his term as ASEAN Secretary General and in his current capacity as Chair of the HLAP on the Responsibility to Protect in Southeast Asia. For him, Southeast Asia needs a better profile in the international community on atrocity prevention issues, and the way to accomplish this was through the implementation of the R2P principle even though there is the problem of reluctance in accepting this norm in the region. The purpose of the HLAP Report is primarily



*Australia's High Commissioner Rod Smith expressed Australia's commitment to R2P, and encouraged ASEAN to use its understanding of human rights to implement R2P in the Asia-Pacific.*



to underscore that R2P as a principle is not contrary to the norms of ASEAN as it is anchored on international law. He also stressed the symbiosis between ASEAN norms, its institutional mechanisms such as the ASEAN Inter-Governmental Commission on Human Rights (AI-CHR), and Responsibility to Protect, even as he argued that the principle is already a fundamental aspect of ASEAN's mandate and should not be discounted as foreign or externally imposed.

In his presentation, Dr. Surin expounded on some of the HLAP Report's recommendations and their relevance to Malaysia.

#### At the regional level:

- The importance of an ASEAN early warning assessment system or institution for atrocities prevention.
- Regional consultation and exchange on issues of atrocity prevention such as the Rohingya issue, especially because Malaysia has been a major receiving country for refugees from Myanmar and a leading member of ASEAN in dealing with the root causes of the violence against the Rohingyas.
- Support for relevant civil society efforts to promote human rights protection, as Malaysia initiated the first ASEAN civil society conference in 2005 that provided the opportunity for

#### At the national level:

- Malaysia should develop a mechanism to support dialogue on the prevention of genocide, war crimes, ethnic cleansing and crimes against humanity.
- Malaysia should consider signing, ratifying and implementing relevant international treaties and conventions related to the prevention of genocide, war crimes, ethnic cleansing and crimes against humanity and protection of vulnerable populations
- Malaysia should consider appointing a senior-level official as national focal point for the Responsibility to Protect, to coordinate national efforts and lead engagement in regional and global dialogue.

#### In Partnership with the UN

- Strengthening High-Level Meeting between ASEAN and the UN through involvement of EAS leadership, the UN Secretary General and 10 member states of ASEAN.
- Promoting regular dialogue on peace and security with at-large members of ASEAN and UN officials.
- Exchanging information on R2P best practices by the UN
- Promoting young leaders dialogue on the prevention of genocide, war crimes, ethnic cleansing and crimes against humanity. Dr. Surin pointed out that if ASEAN wants to be

a successful community of caring and sharing societies, it should encourage its young leaders to build awareness about atrocities prevention in the region.

- Encouraging the UN's Office of the Special Adviser on the Prevention of Genocide to engage more with ASEAN, its Member States and relevant civil society groups in Southeast Asia. For example, Dr. Surin suggested that the OSAPG could organize the young leaders' dialogue on atrocities prevention.

Dr. Surin pointed out that an important strategy to promote R2P in the region is to focus on the youth sector in ASEAN. Specifically, he suggested the conduct of seminars to build awareness among students to the responsibility to protect principle, especially for students who are already passionate about human rights issues. Accordingly, the challenges to implementing R2P in ASEAN primarily stem from grappling with an unfamiliar concept, which could be addressed through education and engagement with various stakeholders in the region. He then concluded his remarks by underscoring the value of promoting the principle. Specifically, he said that the adoption of R2P as a norm reflects a significant progression in the international community's conscience and its own responsibility, in which we are all essentially keepers of our fellow human beings and of our neighbours. For him, there is a need to sustain the promotion



Members of government agencies, academia, think tanks, civil society organizations and special interest groups who attended the morning session. (From left to right) Ms. Elina Noor and Dr. Noel Morada pictured in middle.



*From left to right: Dr. Noel Morada, Dr. Surin Pitsuwan, Ms. Elina Noor, HE Rod Smith and Dr. discussed the HLAP Report's recommendations in the context of ASEAN's potential to implement R2P and the steps the international community must make in order to clarify the R2P principle and familiarize it in the region.*

and implementation of R2P not to anticipate future mass atrocities are but because it is important to be prepared and be able to prevent or diminish the likelihood of atrocity crimes from happening in the future.

During the open forum, Dr. Surin and Dr. Morada responded to the following issues raised by participants in the public seminar: 1) the application of R2P in Myanmar; 2) comparisons between ASEAN and the African Union (AU) in their acceptance and implementation of R2P; 3) whether there has been some change in attitudes toward the concept of R2P over the years; 4) whether R2P should include terrorism and natural disasters on top of the four crimes covered by the principle; and 5) the potential ambiguity of the R2P concept, and how that poses challenges to ASEAN's engagement with the principle.

Dr. Surin pointed out that ASEAN is a small group of states that are quite diverse and are protective of their diversity through the traditional norm of respect for sovereignty. It is therefore understandable that it will take time before ASEAN as a group could mobilize around an international principle such as R2P. However, in its own way, ASEAN engages in and can exert pressure on its members with regard to human protection issues in the region, such as the plight of Rohingyas in Myanmar. Specifically, ASEAN's

experience in dealing with Cyclone Nargis in 2008 raised the level of comfort that Myanmar leadership and some civil society felt with international institutions such as the UN and World Bank, due to their positive involvement in the form of providing humanitarian assistance during the crisis. Dr. Surin expressed optimism over further openings in ASEAN that could lead up to more conversations centred around human rights protection and R2P. This may be a slow process but clearly becoming more evident in the region, and would require deepened engagement with other stakeholders such as civil society and various government agencies including law enforcement.

For his part, Dr. Morada explained that while the scope of R2P is limited to the four crimes, it is important to recognize that a natural disaster, such as Cyclone Nargis in Myanmar in 2008, could be a triggering factor for atrocity crime. This is why it is important to be aware of the risk factors and triggers. Even so, providing humanitarian assistance is also part of the responsibility of the international community although it is not directly linked to R2P. On the issue of terrorism and R2P, violent extremism falls within the scope of the principle to the extent that atrocities being committed by non-state actors in pursuit of their ideology against a particular group

or innocent civilians, such as those being undertaken by ISIS/ISIL in Iraq and Syria. In Southeast Asia, Buddhist extremist attacks against Muslim minority groups in Myanmar are an example of non-state actors committing atrocities.

With regard to comparing ASEAN and the AU, Dr. Morada pointed out that the African Union's Constitutive Act, under Article 4(h), recognizes the role of the regional organization in preventing and responding to atrocity crimes. Specifically, the AU is given the mandate to intervene in any member state even without the latter's consent if atrocities are taking place. He also pointed out that even before the adoption of R2P in the World Summit Outcome Document in 2005, members of the African Union have adopted R2P as part of the Ezuwini Principles for preventing and responding to atrocities in the continent.

On the potential ambiguity of the concept, and the recommended sequencing of the three pillars of R2P, Dr. Surin explained that the principle is not an excuse to breach state sovereignty; rather, it gives the international community, the UN system, another concept to work with in their consideration of major decisions in preventing and responding to atrocities. For his part, Dr. Morada pointed out that the whole objective of R2P is to prevent the four crimes from happening. Pillar III of R2P or "timely



and decisive action” is invoked when there is manifest failure on the part of the state to protect its vulnerable population and when peaceful means in resolving conflicts have failed. Furthermore, invoking the use of coercive measures under R2P must have the approval of the Security Council. It is a misconception to think that the three pillars of R2P should be implemented in sequence because each of these can be invoked as appropriate in a given situation.

At the closing session of the public seminar, Dr. Surin thanked the Australian government for its commitment to promoting R2P in the region. He expressed hope that Canberra will also support the recommendation of the HLAP for convening a regional dialogue on atrocities prevention by emerging young leaders as part of implementing R2P in Southeast Asia. For his part, Dr. Morada expressed his deep appreciation to Dr. Surin, Dr. Wong, High Commissioner Rod Smith, and all participants in the seminar. He conveyed the Centre’s desire to continue the engagement with stakeholders in Malaysia on R2P and atrocity prevention. He pointed out that this could be realized with the establishment of a country program on R2P in Malaysia through a partnership with ISIS-Malaysia, which could contribute to promoting the norm and implementing atrocities prevention.



Two breakout groups considered the Workshop on R2P and the UN framework of Analysis for Atrocities in the context of Malaysia and highlighted risk factors 3 (weakness of state structures;), 9 (intergroup tensions or patterns of discrimination against protected groups) and 14 (serious threats to humanitarian or peacekeeping operations in reference to war crimes).



*Dr. Noel M. Morada is the Regional Director of the Asia Pacific Centre for the Responsibility to Protect, written and published with assistance from Ms. Emily Schraudenbach*

## ASIA PACIFIC CENTRE FOR THE RESPONSIBILITY TO PROTECT

Building 39A,

School of Political Science  
& International Studies

The University of Queensland,  
St Lucia Brisbane QLD 4072

P +61 7 3346 6435

E: [r2pinfo@uq.edu.au](mailto:r2pinfo@uq.edu.au)

W: [www.r2pasiapacific.org](http://www.r2pasiapacific.org)



**Australian Government**

**Department of Foreign Affairs and Trade**



**THE UNIVERSITY  
OF QUEENSLAND**  
AUSTRALIA