

POLICY *dialogue* BRIEF



Taking Stock of the Responsibility to Protect in the Asia-Pacific

Ten years after the adoption of the Responsibility to Protect (R2P) in the World Summit Outcome document, a gap remains in understanding the ways different regions work to implement R2P. A number of overarching points from the recent report by the Southeast Asian High-Level Panel on R2P demonstrate progress in Asia of adopting R2P, even if it is not readily apparent: the Association of Southeast Asian Nations (ASEAN) community has a vision of protecting its people from the very worst crimes against humanity; R2P is not alien to the region, and many of R2P's goals, particularly strengthening state capacity to assist one another, converge with regional aspirations; and the charter of ASEAN that calls for people-centric ideas, and ASEAN's evolution to a peace and security organization, preclude a need for a lot more bureaucracy or organization.

Given this promising foundation, experts, government officials, and civil society representatives met in consultation to identify gaps, challenges, and opportunities to implementing R2P in Asia. This included reviewing past and current efforts in domestic and international contexts, gaps in knowledge or capacity, and priorities for the next decade of R2P. The Asia Pacific Centre for the Responsibility to Protect, the Stanley Foundation, and the United Nations Joint Office of the Special Adviser on the Prevention of Genocide and on the Responsibility to Protect (Joint Office) convened this meeting in Phnom Penh, Cambodia, on February 25, 2015. The following themes and recommendations emerged from the discussion:

- R2P needs to be more widely understood in Asian publics so they can demand implementation from their governments.
- All governments in the region should designate a mass atrocity prevention focal point in order to identify risks, coordinate and build national capacities, and promote R2P in policymaking.
- More coordination is needed among experts in the Asia region to fill knowledge gaps of risks, tools, and lessons from regional experiences.
- Multilateral organizations in the region, particularly ASEAN, should put R2P on their agendas.

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This brief summarizes the primary findings of the conference as interpreted by the rapporteur, Rei Tang, and the chair, Keith Porter. Participants neither reviewed nor approved this brief. Therefore, it should not be assumed that every participant subscribes to all of its recommendations, observations, and conclusions.

- In discussing R2P in Asia, it should be related to other issues, including natural disasters, terrorism, border conflict, peacekeeping operations, and climate change. It should also be linked to economics because despite Asia's rapid economic growth, inequalities among groups can increase atrocity risks.
- China is a significant part of the puzzle in many regional issues, rendering it indispensable on many R2P-related matters.
- The fallout from regime change in Libya, after which some publics and governments viewed R2P as violating sovereignty principles, is an impediment to discussing R2P in Asia, and advocates for R2P need to clarify the principle's intervention facet.
- The United Nations needs to signal, perhaps through a more explicit atrocity prevention strategy, that R2P will persist regardless of future secretaries-general.

Assessing Implementation

The Asia-Pacific and South Asia, where half the world's population lives, has a large role in international peace and security. The Asia region has a violent past, and while the R2P concept may not be well known there, the region is no stranger to atrocities. Since the end of the Cold War, peace and stability, and cooperation and development have been priorities. This has kept the region from descending into the chaos it once knew. Reforms taken by national authorities in Southeast Asia have prioritized political, economic, and social progress. In interstate relationships of Southeast Asia, only six countries were a part of the ASEAN in 1967; with all the countries of the region joining by 1999, previous relations characterized by instability, mistrust, and confrontation changed. Outside Southeast Asia, improved relationships with other countries and development institutions have brought about assistance directed toward capital investment, trade, and capacity building, all of which have contributed to poverty reduction and narrowed the development gap.

A variety of mechanisms mostly centered on ASEAN have made peace and security, and human rights part of the regional agenda. ASEAN has its three P's of peace, prosperity, and people, and has adopted a self-concept of being people-centered. On December 31, 2015, ASEAN Community Councils will be established in three areas: politics, security, and economics. From the blueprint of the ASEAN Political Security Community, the ASEAN Intergovernmental Commission on Human Rights developed a Declaration on Human Rights, a move that would have been taboo to the region's international politics just a few years ago. Advocacy by nongovernmental organizations was critical in achieving this breakthrough, which highlights their importance in raising the profile of human rights issues in the region. Some participants stressed that the R2P agenda

should respect and work through ASEAN processes. Other multilateral instruments dealing with peace, security, and human rights in Asia include the Treaty on Amity and Cooperation (a code of conduct for accession to ASEAN), the Southeast Asia Nuclear Weapons Free Zone Treaty, the ASEAN Regional Forum, the East Asian Summit, the ASEAN Commission on the Promotion and the Protection of the Rights of Women and Children (ACWC), the Council for Security Cooperation in the Asia-Pacific, and the ASEAN Institute for Peace and Reconciliation. Regional organizations like ASEAN can serve as a link between pillars one and two of R2P and as an early warning system. One participant said the increase of troop-contributing countries in Asia for peacekeeping operations could be an opening to raise the R2P issue. The sharing of experiences, best practices, and lessons learned can build preventive capacities.

A partnership between the United Nations and ASEAN has been developed over many years—most notable is the UN Transitional Authority in Cambodia created after the Paris agreement that ended that nation's civil war. The United Nations played instrumental roles in the establishment of the Khmer Rouge Tribunal in 2003, the transition of East Timor to an independent state in 1999, and in the disaster response to Cyclone Nargis in Myanmar in 2008. A participant said the United Nations needs reform to engage regions better on implementing R2P, particularly to address issues of politicization, selectivity, and double standards.

Country-Specific Examples

Participants noted the symbolism of hosting this conference in Cambodia, a country that experienced genocide under the Khmer Rouge regime. Cambodia today has the highest economic growth rate in Southeast Asia. It has been transformed by efforts from national authorities to maintain peace and stability, and to prioritize economic development, with assistance from the international community and mediation by the United Nations.

Australia has responded to the R2P agenda by designating a focal point, a national official responsible for implementing R2P. The focal point role is complex, given its inward- and outward-looking functions. As a domestic job, the focal point can be in a civil affairs or interior affairs ministry. Because Australia viewed the focal point as a responsibility of its foreign relations, it chose to designate its focal point in the Department of Foreign Affairs and Trade. To determine how Australia would make a contribution to implementing R2P, the government examined its domestic institutions and how they linked to the needs of its neighbors. The Australian Civilian Corps, originally charged with responding to natural disasters, has increasingly taken on prevention work that count as R2P capacities, including stabilization, governance, and law and justice. Australia has two training centers open to participation by neighbors to help build R2P capacity: the Peacekeeping Operations Training Center and the Australian Federal Police International Deployment Group Training Center.

Singapore has served as an example of a cohesive multiracial and multiethnic state, overcoming racial and ethnic riots that occurred in the 1960s. Its constitution does not discriminate and provides economic opportunity for all. The government takes an active role in promoting social cohesion. The society eschews race-based politics, and all races are represented in Parliament.

The Solomon Islands is a post-conflict country moving to maintenance of the rule of law and national ownership of governance, without which reconstruction gains will not last. Economic growth and development will play a large role in building the country, but it must be shared across constituencies. There is a strong partnership with the Regional Assistance Mission to the Solomon Islands that involves internal stakeholders like civil society. The country is developing a national security policy in which involvement from the grassroots up is intended to provide a sense of national ownership. Despite all the work being done in the Solomons, R2P is not well known or understood by the people of the Solomons, even though it would be a powerful way to hold their state accountable. There is a knowledge gap in this sense. International assistance to the Solomons needs to be given with assurances that the assistance will not be abused and that the assistance has the potential to achieve something the national government could not achieve by itself. In the region, participants noted, the Pacific Islands Forum is instrumental in maintaining peace and security, and they said the United Nations is often viewed as having too much of a Western perspective on security.

Some participants expressed dismay at the region's passive stance at the civil conflict in Myanmar. Despite recent peace efforts and engagement by the international community, participants described Myanmar's conflicts as unresolved, without having addressed core issues or making needed changes in the security sector and in institutional practices. The country's high economic growth has come with greater regional stability and security, but inequitable growth can divide groups, as has happened to Muslims and Buddhists in the Kyaukpyu Special Economic Zone. One participant said the ASEAN community's focus on economics this year should encourage due diligence in big businesses and state-owned enterprises in order to prevent atrocities or conflict risks. Governments can aggravate risks of atrocities in their efforts to assert control of land and resources for development. Examples in Myanmar include laws that control interfaith marriage and birth, as well as disenfranchisement in Kama-Bengali. Aside from Track 1 efforts or official diplomatic meetings, participants suggested Track 3 efforts of coordinating local and grassroots activists and media for public advocacy, including asserting the internationally recognized rights of women in Kachin state guaranteed in UN Security Council Resolution 1325. Even in cases of Rohingyas fleeing the Myanmar conflict in open waters and seeking refuge, many Southeast Asian countries denied them entry and aid, showing an insensitivity to the human rights problems they faced and a situation with flashing risk indicators.

One participant mentioned that in addition to Track 3 efforts for public advocacy, Track 2 efforts, in which diplomacy is carried out in unofficial meetings with legislators, could serve as a process for expressing concerns over atrocities risk and crimes. ASEAN states tend to use proxies for regional advocacy, like the ASEAN Parliamentary Union for Rights. If ASEAN cannot deliver, one participant noted, the United Nations remains a space for states that are sympathetic and concerned about human rights to engage with Myanmar. In situations that have not reached a crisis point, informal organizations have played a significant role in peacebuilding and peacemaking. Track 2 efforts helped to resolve the Eritrean-Ethiopian war of 1998–2000. Progress made in Myanmar over the last 5 to 20 years owes much to the role of informal organizations.

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It was noted that despite the advancements in ASEAN in the long term, there has been backsliding in some states in the past five years. Some participants suggested ASEAN could build an early warning and risk architecture to avoid complacency. This discussion raised questions about the role of economic development in the decrease of conflict in Southeast Asia and whether it was sufficient. While economic development and its management merit further examination, the conditions of local dispute settlement, incitement, and intercommunal relations might also provide lessons. R2P advocates must strategize ways to integrate the principle with the more prominent frames of conflict prevention and human rights used in the region.

Finally, dialogue between Asian and African states could help both regions understand how to implement R2P. Neither fully embraces the concept, and both have knowledge gaps, yet both view capacity building as important, and both have regional organizations capable of addressing major issues.

Knowledge and Capacity Gaps

R2P is not well known in Southeast Asia despite its global adoption ten years ago. The region has a cautious attitude toward R2P, but no countries are in direct opposition, and it shares key similarities with regional goals. R2P is rarely mentioned in ASEAN meetings or documents. The optimism in the region, with its period of peace and prosperity, make R2P concerns seem distant. As a result, R2P does not often appear on the regional agenda. Other issues could be related to R2P in order to increase its presence on the agenda, including natural disasters, terrorism, and border conflict. Participants brought up the possibility of adding R2P to ASEAN meeting agendas. The regional consideration of human rights issues, which ASEAN would have previously dismissed, shows that the regional status quo can evolve and has done so.

Participants shared one success at the local level in Myanmar regarding an attempt by government authorities to burn out the Muslims in Rangoon to grab a prime piece of real estate. In one targeted neighborhood, where Muslims had protected Buddhists during the Saffron Revolution, community leaders came together to dispel rumors of violence in order to avoid retaliatory acts, partially by verifying if the sources of rumors were local or planted. This process prevented violence. On the other hand, violence did break out in other communities without these local conflict-prevention processes, particular in the Khan region.

Participants recognized the knowledge gap in civil service staff and foreign ministries. In particular, they need clarification on pillar three, the definition of mass atrocities, the mechanisms of R2P, and issues of politicization in efforts countries and advocates use to urge the international community to action. Training, education, capacity building,

and designating focal points could spur conversations and implementation in regional organizations and ministries. Participants suggested that the media have a role in bridging the knowledge gap and implementing R2P. The media should also not spread hate speech or incite violence.

In Thailand, the government views itself as having capacity for implementing R2P domestically as well as being capable of offering capacity to the region for all parts of the conflict-prevention and resolution process. Thailand stresses the role of women, takes an approach of constructive engagement with host governments, is careful not to impose values and templates, and views national ownership of initiatives to implement R2P as the key to success.

The political fallout from R2P's invocation in the case of Libya raised skepticism about the concept in the Asia-Pacific, even though countries still recognize the unanimous adoption of R2P in 2005. Countries worry about the potential of politically motivated military interventions using R2P as justification. Advocates could prioritize discussion of R2P's preventive facets, especially since some say the fear of potential military intervention is used as a way of avoiding discussion on R2P.

Participants discussed the reticence about R2P following Libya, given the controversy over regime change during the intervention and the subsequent post-conflict challenges of rebuilding the state. One participant clarified that the coercive dimensions of R2P already exist in traditional UN Charter collective security provisions and that the UN Security Council would decide on coercive responses "on a case-by-case basis." Another participant added that the Organization of Islamic States and the League of Arab States asked the UN Security Council to take action on Libya. The criticism of R2P after Libya usually came with two main points: R2P was applied inconsistently, and the way it was applied was problematic. Focusing on these points, one participant said that inconsistent application of R2P was unavoidable given the UN Charter and Security Council mechanisms were inherently political. The United Nations also has positions such as the joint office, the secretary-general, and the high commissioner for human rights that have a role in pushing for consistency. The determination of whether a situation falls into the four crimes of R2P is not a legal judgment, which comes after the fact, but a reasonable-basis assessment of obligation to prevent them. One participant urged that the conversation on R2P address Libya in order to get back to implementing R2P. The participant found that the Brazilian proposal of "responsibility while protecting" holds promise for advancing the R2P discussion.

In ASEAN, strengthening the preventive and capacity-building facets of R2P could include creating media awareness and improving the political profiles of supportive countries. The narrative of R2P could include economic costs to countries that are at greater risk, not just because of internal instability but also outside pressure and negative

images. As countries jockey for leadership positions in Asia, they will be more attentive to humanitarian issues. Many ASEAN member states and other Asian countries invest resources in gaining UN Security Council seats. Civil society and friendly states could ask for their commitment to R2P. Participants acknowledged that despite reservations about pillar three, there are still significant knowledge and capacity gaps to fill surrounding pillars one and two.

Priorities for the Next Decade of R2P

For the Asia region, R2P advocates should focus on several major trends: economic downturns and crises, great power politics, and managing regime transitions. Unresolved postcolonial issues such as those in Myanmar remain a source of risk, as does North Korea. Globally, climate change threatens to increase risk factors for mass atrocities, and some countries consider it their greatest threat to economic development and stability. Southeast Asia can build more regional capacity to identify risks. Two possibilities to do so include the Malaysian proposal for ASEAN to work toward a multinational peacekeeping policy and the Southeast Asian ideas on preventive diplomacy.

Some participants viewed the trend of economic cycles as a constant but were more worried about whether China would initiate major conflict in the East and South China Seas. Participants saw this as unlikely, even if China continued to contest some claims. In this context, some participants did not see the chance of R2P crimes being perpetrated in Asia as high and so urged R2P champions to focus on pillars one and two and incorporate R2P with existing norms and principles of Southeast Asia. One participant raised the need to bring the R2P conversation to China. In the coming ten years, China may be dealing with regime transitions in which it has large stakes. The Chinese leadership is thinking about how to manage these issues, which may be an opportunity for engagement. The participant pointed to China's initiatives in mediating between the Kachin independence movement and Myanmar in 2013, and between factions in South Sudan in 2014 as signs of its growing awareness of mass atrocities issues. The ASEAN Regional Forum, the Council for Security Cooperation in the Asia-Pacific, or the Joint Office could facilitate dialogues with China.

Advocates of R2P should support national and regional architectures and human rights institutions. A participant said that the discussion on R2P needed refreshing, as a new generation of the public and government officials have started to overlook basic human rights values, especially with regard to tolerance and diversity. The participant noted a trend of ruling parties shoring up power by inciting intergroup hatred. One participant commented that R2P needed to be more connected to the grassroots; another mentioned the need for an empirical database of prevention and lessons learned, as well as securing funding for prevention.

Informal norms and expectations can be shaped through background briefings on conflict situations where there is risk of mass atrocities in regional multilaterals, as has been done with ASEAN Regional Forum meetings on Indonesia and Aceh. A participant commented that there needed to be a regionally owned culture of prevention but that stalled regional mechanisms needed to be overcome, perhaps at the ACWC, and that knowledge and capacity building held a lot of potential in security sector reform. Points of engagement in ASEAN include the secretariat, the ASEAN Regional Forum (where one participant suggested placing R2P on the agenda), and the ASEAN Institute of Strategic and International Studies (an association of think tanks). ASEAN leaders, civil society, and government officials can champion these issues in or bring them before ASEAN. ASEAN should have interregional dialogues with the South Asian Association for Regional

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Cooperation and the African Union on R2P. One participant suggested incorporating R2P in the Pacific Islands Forum Regional Security Committee annual meeting.

Some participants urged countries to get R2P on the agendas of multilateral organizations in the Asia-Pacific. Participants commented that implementation of R2P needs to be streamlined for small countries, as too many parallel processes and reports required of them by overlapping international and regional organizations could be unwieldy. In addition to the focus at the regional level, states that implement the processes need resources. Participants suggested that the international community provide staff or funds to countries to work with these processes, instead of centralizing them at the United Nations.

One participant commented that UN bodies such as the Department of Political Affairs, the Peacebuilding Commission, and the Department of Peacekeeping Operations need better forecasting capabilities and coordination. Another participant said the UN secretary-general needs to signal a clear strategy for prevention and set a program of work for the UN system. This way, the United Nations can see that R2P is not tied to a specific secretary-general and countries can see that they need to be prepared for when R2P is on the agenda. A more structured dialogue between the United Nations and ASEAN could help develop relationships between staff, which improves communication during crisis management. Desk swapping, in which policy professionals exchange their roles between organizations, could be a practical way to do so. Also, the international organizations and UN agencies working in the field need to be better informed and aware of mass atrocity risks and preventive tools.

Participants suggested more involvement from women—particularly through the UN Women, Peace, and Security agenda—and consideration for how R2P relates to gender empowerment in Southeast Asia and regional capacities in peace and security mechanisms. One participant suggested that ASEAN could have its own Resolution 1325, which links women, peace, and security in operations. Another participant responded that this was not likely, but that ASEAN countries, especially those that have served on the UN Security Council, cannot claim ignorance and have obligations to it.

One participant voiced concern about complacency over ASEAN's economic growth. The participant saw potential problems with depressed oil prices and imbalance in foreign exchange from fossil-fuels exports. Climate change could also limit the sustainability of economic growth. One participant suggested that mechanisms for R2P in the region should coincide with the long-term economic growth and political stability goals of countries. Participants noted the need to acknowledge that corporate behavior factors into intensifying or de-escalating risk. Corporate engagement is needed on due diligence regarding exposure to mass atrocities risk.

With its focal point designated, Australia's next step will be to consider risk assessment capacities, include democratic governance and inclusiveness in elements of its aid programs, and increase participation of women in governance. The US government's national mechanism, the Atrocities Prevention Board, could be invited to other countries for briefings. Meetings to counter religious extremism in the vein of US President Barack Obama's Summit on Countering Violent Extremism could be places to discuss risk assessment.

Conclusions

This consultation produced many paths that Asian R2P advocates, national governments, regional organizations, and United Nations could take to further implement R2P in the region. The discussion pinpointed many gaps at community, national, regional, and global levels. Participants also brought up issues to which R2P could be linked in order to give it more political salience. China's growing role as a significant part of the puzzle in many regional issues was also noted. Fallout from the Libya intervention has muddled understanding of R2P in the region and how pillar three works in particular.

Participants spoke of a disconnect between diplomats at the United Nations and publics in Asia on the R2P concept. Track 3 efforts of coordinating local and grassroots activists for public advocacy could create greater demand for governments to implement R2P. Media campaigns can educate people about the issues, especially by relating R2P to relevant situations like Myanmar and groups like victims or refugees. At the national level, participants urged governments to designate focal points in order to identify risks, coordinate and build national capacities, and give R2P a constant presence in policymaking. Participants stressed the importance of national and local ownership—emphasizing the need for inclusivity and transparency—of R2P processes in order for them to be sustainable, particularly in communities and states at risk and those that have emerged from conflict.

At a regional level, knowledge gaps remain on prevention tools and lessons from regional experiences. The Asia Pacific Centre for the Responsibility to Protect is working with Asian think tanks to provide a platform where stakeholders can share and access this knowledge. On ASEAN, many participants stressed that R2P advocates should respect and work through existing multilateral processes. Participants generally encouraged advocates to try to raise R2P on the agendas of multilateral organizations in the Asia-Pacific. The discussants envisioned ASEAN and other multilaterals as linking pillars one and two and serving as regional early warning systems.

Other issues that could be linked to R2P include natural disasters, terrorism, and border conflict. The increase of troop-contributing countries in Asia for peacekeeping operations could be an opening to raise the R2P issue. Some

participants were skeptical of automatic benefits of high economic growth in the Asian region, as in many cases this also came with inequality between groups and the curbing of group rights in order to benefit another group economically. There needs to be engagement with corporations regarding due diligence on exposure to mass atrocities risk. Also, the risks of climate change could exacerbate resource scarcity issues that add stress to some already contentious places.

The rise of China should be addressed. China has increasingly been involved in R2P situations such as Sudan and Myanmar. In Asia, China's presence will make it indispensable on many issues. A North Korea contingency remains a great threat to the region, which has a high risk of atrocities, and given China's proximity to and knowledge about the country compared to others, better coordination could prevent disaster.

Advocates of R2P perceive Asia as reticent to discuss it. In this consultation and in the region, the fallout from Libya seemed to be the elephant in the room. Overall, advocates need to educate the region on the three pillars of R2P, especially the preventive and capacity-building nature of pillars one and two. On pillar three, advocates need to clarify that military interventions are approved through preexisting international processes—that is, the of passing UN Security Council resolutions—therefore, concerns about R2P possessing its unique set of rules for international military interventions are misplaced and have more to do with military intervention in the international system as a whole.

For the United Nations, participants urged the secretary-general to start a program of work with enough momentum to continue beyond his term. This would signal to countries that R2P will persist in its evolution as an international norm. The United Nations has a critical, high-level, early warning role where regional early warning does not exist. Local advocates can latch onto UN messages to get governments to pay attention to emerging risks. Universal Peer Review for human rights was seen as beneficial, but participants cautioned that smaller countries could not take on too many processes and that the creation of processes needed to have capacity and resources come with them. Finally, participants urged each other to find ways to raise the political profile of Asian countries supportive of R2P, particularly in a region where many countries seek seats on the UN Security Council and are jockeying for leadership roles in a time of high economic growth.

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Pillars of the Responsibility to Protect

Derived from the Secretary-General's 2009 Report on Implementing the Responsibility to Protect

Pillar One

Each individual state has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means.

Pillar Two

The international community should, as appropriate, encourage and help states to exercise this responsibility and support the United Nations in establishing an early warning capability. We also commit ourselves, as necessary and appropriate, to helping states build their capacity to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity and to assisting those which are under stress before crisis and conflicts break out.

Pillar Three

The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian, and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the UN Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity.

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