Cyclones and Humanitarian Crises: Pushing the Limits of R2P in Southeast Asia

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Abstract
The devastating cyclone that hit Myanmar in May 2008 and the lack of immediate action on the part of the military junta to respond to the humanitarian crises triggered not only international dismay but renewed debates on the utility of the R2P. But given the lack of international consensus on the R2P on the one hand, and the urgency to act to provide humanitarian relief and protection on the other, this paper argues that it is about time that a R2P variant be explored—if indeed the ultimate objective of the R2P is the protection and promotion of human security. This paper therefore examines the idea of a R2P-Plus that is responsive to different kinds of human security threats, such as those caused by intentional state neglect in times of natural disasters, and sensitive to the political context in Asia. The notion of a R2P-Plus is aimed at finding convergence between the advocates of the strict interpretation of the R2P and those who argue for an R2P that is more attuned to the realities of Asia.

Keywords

Introduction: Locating R2P in Southeast Asia

Since the release of the Report on the Responsibility to Protect (R2P) by the International Commission on Intervention and State Sovereignty (ICISS) in 2001, responses to this initiative have been mixed in Asia. Launched against the background of the contentious intervention in Kosovo and soon after, the controversial American-led war in Iraq, R2P to a large extent fuelled concern by regional states that intervention could be advanced as a norm in international relations—regardless of the semantic craftsmanship in reframing the issues of sovereignty and intervention in terms of the ‘responsibility to protect’.
It is not therefore surprising that much of the debates on R2P in Asia in general, and particularly within ASEAN policy discourses, has called for a very cautious if not highly stringent application of R2P. Notwithstanding the closely intertwined linkages between the goal of promoting human security—a concept ostensibly advanced under ASEAN’s Security Community and R2P as an approach/means to that end, many ASEAN governments have remained critical of the R2P. Among the concerns cited include the issue of double standards, intervention being the prerogative of the strong against the weak, as well as the attendant problems and/or lack of reforms within the Security Council which is the preferred mechanism to decide on intervention. Moreover, while there appears to be an inchoate interest in the R2P among academics and civil society organisations in ASEAN, at least with regard to the intentions of the ICISS Report, consensus is yet to be found on how best to operationalise the concept. Thus, in juxtaposing the dominant regional principles of state sovereignty and non-interference in domestic affairs with the emerging trends indicating a growing interest in R2P in the region, especially among non-state actors, an interesting question to ask is whether possible avenues can be explored to operationalise R2P in Southeast Asia?

This line of enquiry is prompted by recent events in Southeast Asia which point to the revival of interest in the R2P. One of the most compelling events was the refusal of the military junta in Myanmar to allow humanitarian assistance into the country following the trail of devastation wrought by Cyclone Nargis in May 2008. The failure of the military junta government to come to the immediate aid of the victims of the disaster who faced severe threats to life as a result of injury, hunger, and diseases, among other things, led to calls for the invocation of the R2P from members of the international community within and outside the region. But no sooner had the calls been made to intervene in Myanmar, proponents of the R2P promptly drew boundaries around

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1 For more on these debates, see for example, Mely Caballero-Anthony and Amitav Acharya (eds.), UN Peace Operations and Asian Security (London and New York: Routledge, 2005), and Sorpong Peou (ed.), Human Security in East Asia (London and New York: Routledge, 2008).

2 Discussions on R2P have been a regular feature in the annual meeting of the ASEAN People’s Assembly. For more on this, see Mely Caballero-Anthony, Regional Security in Southeast Asia: Beyond the ASEAN Way (Singapore: Institute of Southeast Asian Studies, 2005); and ‘Southeast Asia’s Points of Convergence on International Intervention’ in Sorpong Peou (ed.), Human Security in East Asia (London and New York: Routledge, 2008), pp. 61-76. See also Noel Morada, ‘R2P Roadmap in Southeast Asia: challenges and prospects’, UNISCI Discussion Papers, May 2006, pp. 59-70.
what constitutes and justifies the application of ‘responsibility to protect’.\textsuperscript{3} Citing UN Security Council Resolution 1674, the responsibility to protect can be applied only to cases of genocide, war crimes, ethnic cleansing and crimes against humanity.\textsuperscript{4}

The swift attempt to draw a strict limit to what qualifies for a R2P-type intervention against the unexpected calls from within a largely conservative Southeast Asia to ‘intervene’ in Myanmar in the spirit of R2P once again reflects the vexed problem of when and how the international community should intervene in response to humanitarian crises.\textsuperscript{5} The devastation caused by Cyclone Nargis and the apathy showed by the country’s military junta in not coming to the aid of thousands of victims and refusing the entry of humanitarian assistance during the crucial period when relief was most needed resulted in a humanitarian crisis of massive proportions. As argued by many, the refusal to allow humanitarian assistance where it was most needed and neglecting the plight of helpless victims whose lives were threatened essentially constituted a crime against humanity.\textsuperscript{6} Amidst the urgency to act in an escalating humanitarian crisis, it appeared ironic that much time was spent on debating whether R2P could be applied to Myanmar.

This article speaks to the revived contestation on R2P in light of the growing concerns about human security threats in Southeast Asia. The key questions that we want to examine in this article are: (1) whether a more nuanced approach to R2P can be considered to respond to the realities of the security


\textsuperscript{4} UN Security Council, S/RES/1674, 28 April 2006. Paragraph 139, in particular, cites that, ‘the international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapter VI and VIII of the Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity’.

\textsuperscript{5} Members of the Indonesian parliament for example have criticized the Indonesian government’s official stance opposing France’s call to invoke the R2P in Myanmar. One MP was quoted as calling for ASEAN to come with a clear Myanmar strategy and “opinion about how the junta is dealing with the problem”…further noting that ‘this was a now-or-never change to prove that ASEAN matters’, in ‘It’s time for ASEAN to act on Myanmar’, \textit{The Jakarta Post}, 13 May 2003. There were also strong statements from civil society organizations in the region, arguing that ASEAN has \textit{responsibility to protect} all the peoples of ASEAN, See also SAPA Statement on “Call for Immediate Action to Ensure Cyclone Nargis Survivors Get Aid”, 18 May 2008. (italics added: note however that the use of the phrase ‘responsibility to protect’ raises questions as to how the concept is used and/or whether it is used in its appropriate context).

challenges facing Southeast Asia, and (2) if so, what might be that nuanced form of R2P be? We explore these questions mindful of the fact that the R2P was conceived, not only with the sole purpose of reacting to humanitarian crises but also with the aim of preventing genocide and mass atrocities and rebuilding afterwards. Given the wide-ranging security issues confronting the region, including the risks and dangers brought on by natural disasters, we argue that it is about time that a R2P variant be explored, if the ultimate objective of the R2P is the protection of civilians and promotion of human security. Hence, what we propose in this paper is the idea of a R2P-Plus that is responsive to different kinds of human security threats, such as those caused by intentional state neglect in times of natural disasters, and sensitive to the political context in Asia. The notion of a R2P-Plus is aimed at finding convergence between the advocates of the strict interpretation of the R2P and those who argue for an R2P that is more attuned to the realities of Asia. Further, a R2P-Plus approach is one that is responsive to different types of humanitarian crises, allowing for humanitarian assistance without resorting to military action. In essence, R2P-Plus focuses on the preventive aspects of R2P which is geared no less to the protection of civilians from violence and state neglect than its reactive component.

Indeed, if one of the major challenges confronting the R2P, despite the appeal that it has among a number of state and non-state actors in the international arena, is in operationalising the idea given concerns about protecting state sovereignty and the principle of non-interference, then debates stemming from Cyclone Nargis present us with new impetus to explore how this concept can find more traction in the region. In this regard, it is worth noting at the outset that former UN Secretary General, Kofi Annan, had himself similarly sought alternative ways to advance the contentious issue of humanitarian intervention. In his 2000 speech at a seminar organised by the International Peace Academy, Annan raised the question of broadening the concept of humanitarian intervention to include actions along a ‘wide continuum (of responses) from the most pacific to the most coercive’. In attempting to widen and redefine the concept of intervention to mean ‘anything from dropping food to dropping of cluster bombs’ and in suggesting that the term ‘humanitarian’ be dropped or confined to non-forcible action, Kofi Annan had in

7 Kofi Annan, The Question of Intervention: Statements by the Secretary General (United Nations Department of Public Information, New York 1999).
effect opened up spaces for a wider range of options that could be undertaken to stop widespread and systemic human rights violations, and at the same time, encourage states to ‘act and act early to prevent them, stop them or seek justice for them’. The precedent set by Annan of broadening the definition of humanitarian intervention is significant to our discussions of exploring the idea of R2P-Plus.

This paper aims to explore these possibilities and proceeds as follows. Following the introduction, the first part reviews the attempt by some actors in the international community to argue for the application of R2P to the crisis in Myanmar, particularly in the aftermath of Cyclone Nargis. It examines the contestation about the relevance of R2P to crises caused by state neglect in the aftermath of a natural disaster. The second part proceeds to introduce the concept of R2P-Plus, locating this within the broader framework of human security. In this section, we elaborate on how the preventive aspect of R2P augurs well for Southeast Asia. The third part then examines the relevance of R2P-Plus for ASEAN, particularly in fitting this idea with ASEAN’s evolving mechanisms for crises management. The fourth and final part reflects on how R2P-Plus can also be made relevant to internal conflicts in the region, which would have important implications on human security and regional stability.

R2P and the Human Security Implications of Cyclone Nargis in Myanmar: Opening Spaces in Bounded Concepts

Soon after a cyclone hit the south of Myanmar on 2 May 2008, the country’s military junta restricted access to the worst-hit Irrawaddy delta region. Humanitarian organizations that were already present in the country were able to get small numbers of aid workers into the region but reported tightening restrictions, while other NGOs, UN agencies and states that offered assistance were hindered by slow visa approvals as the junta rejected offers of aid personnel and insisted on distributing the aid itself. Further, amidst growing international concern for the cyclone victims and sharp criticism of the junta’s reluctance to grant free humanitarian access, the junta went ahead with a planned constitutional referendum on 10 May 2008 and reinforced impressions that it was neglecting the grave humanitarian situation, hence sparking...
calls from members of the international community to invoke the Responsibility to Protect on Myanmar.

**International Reactions to Nargis**

The chief proponents of the invocation of R2P against Myanmar comprised government representatives, and former government officials and analysts in Europe and North America who argued that the government’s inaction, particularly during the first three weeks after the cyclone, amounted to neglect which would arguably constitute a crime against humanity – one of four crimes to which R2P is meant to apply. Four days after the cyclone struck, French Foreign Minister, Bernard Kouchner argued that the international community had a responsibility to impose – coercively if necessary – humanitarian relief on Myanmar because the government was acting negligently or even criminally. Kouchner’s call was supported by the European Union’s High Representative for the Common Foreign and Security Policy, Javier Solana, who declared to the media that the international community should ‘use all possible means to get aid through to victims of Myanmar’s cyclone’, even though the EU ministers had failed to reach a consensus on the call by the French. Lloyd Axworthy, former Canadian foreign minister, was in favour of invoking R2P because according to him ‘there is no difference between an innocent person being killed by machete or . . . dying in a cholera pandemic that could be avoided by proper international responses’. Further, University of Columbia professor, Michael Byers, recommended that Canada covertly air-drop humanitarian aid packages directly into the Irrawaddy Delta.

The possibility of forceful intervention was reiterated by French Ambassador to the UN, Jean-Maurice Ripert, who claimed that France ‘could send men’ to Myanmar as the French navy had been conducting ‘operations’ off the coast of Myanmar. However, when asked which of the four triggers Myanmar had breached to warrant invocation of R2P, Ripert was unable to respond directly and merely said France had a good understanding of R2P as the concept had

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14 Ibid.
been invented by Kouchner. These somewhat belligerent remarks that focused on the reactive aspect of R2P were echoed by media commentators from Australia, the UK and the US who agreed that the international community should intervene forcefully and live up to its responsibility to protect as proclaimed at the 2005 World Summit, with some analysts advocating direct intervention without Security Council approval as Council members China, Russia, Indonesia and South Africa were unlikely to authorise the use of force against Myanmar.

However, these grand pronouncements from the French and the others went far beyond what could have been considered a reasonable policy proposal and could well have been a case of political posturing as France’s strong response to Cyclone Nargis coincided with its campaign for a seat on the United Nations Human Rights Council and the UN’s assessment of France’s human rights record. Beneath the rhetoric, however, the French position was more modest. In reality, the French government asked only for Sir John Holmes, the UN’s Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, to brief the Security Council and proposed a resolution calling on Myanmar to allow unhindered humanitarian access.

The request for the Security Council briefing was rejected by several countries, with the Chinese representative drawing comparisons between Myanmar’s reaction to the cyclone and the French government’s admittedly poor response to the 2003 heat-wave that killed 11,000 more French citizens than preceding heat-wave incidents. Further, Kouchner’s proposal met with strong resistance from various countries who argued that the responsibility to protect simply did not apply to natural disasters. Beijing’s deputy permanent representative to the United Nations, Ambassador Liu Zhenmin, made it clear that the issue should not be politicised and China would oppose any involvement of the UN Security Council, while Sir Holmes described Kouchner’s call as unnecessarily confrontational. Although some in the US, such as US First Lady

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17 It should be noted that the R2P was conceived by the ICISS and commissioned by the Canadian government although Kouchner, the founder of Medicins sans Frontiers, has claimed to be the first advocate of the responsibility to react.
21 Inner City Press, 7 May 2008.
22 ‘China shows little desire to exert pressure on Burma’, Times Online, 9 May 2008.
Laura Bush, had strongly criticised the Myanmar junta for its lack of response in the aftermath of the cyclone, the US State Department did not pursue a case for intervention based on the R2P principle. Instead, the US attempted to engage Myanmar’s strategic partners such as ASEAN, China, and India, to convince the regime to accept assistance from the international community.\(^{24}\)

**Nargis and the Gaps in R2P**

Moving away from the politically and emotionally charged rhetoric, it is necessary to assess the validity of invoking R2P in relation to Myanmar by examining the R2P principle more closely. The key questions to ask are: 1) Did Myanmar’s inability to render aid and protection to the victims of the cyclone in the first three weeks of the disaster trigger the responsibility to protect? 2) Did Myanmar’s reluctance to allow the international community and humanitarian organisations entry into the country trigger the R2P?

A check on the principle of R2P as stated in the World Summit Outcome Document reveals quickly that the R2P does not apply to Myanmar because there is no clause that applies to cases of natural catastrophes. Although the ICISS had recommended in its report that a clause on natural catastrophes be included, the Outcome Document did not relate R2P to natural disasters. It is clear from Paragraphs 138 and 139 of the 2005 Outcome Document that member states could not come to an agreement on the inclusion of the clause. Hence while one might argue convincingly that the prevention of suffering and hardship that could result from poor preparedness and response to natural catastrophes is related in spirit to the principle of R2P, the fact remains that there is no legal basis to do so under current international law. Edward Luck, Special Adviser to the UN Secretary-General and the Asia-Pacific Centre for the Responsibility to Protect have noted that the R2P does not apply to Myanmar because placing restrictions on the delivery of aid does not constitute a *prima facie* breach of one of the four crimes that the Responsibility to Protect applies to: genocide, war crimes, crimes against humanity and ethnic cleansing.\(^{25}\)

However, advocates of applying R2P to Myanmar have also argued that the rejection of humanitarian assistance by the Myanmar government in the first two weeks of the disaster amounted to deliberate neglect and could constitute

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a ‘crime against humanity’ under the R2P principle. Again, a check of the legal definitions of ‘crime against humanity’ reveals that neglect in the case of natural disasters does not feature in the definitions, including the broadest definition under Article 7 of the Rome Statute that regards atrocities committed by the state against its people as a crime against humanity.

In order to make a case for crime against humanity it is imperative to demonstrate that there was discriminatory, widespread and systematic violence or aggression – none of which can be convincingly proven in the case of Cyclone Nargis.

The lack of legitimacy aside, forceful delivery of aid without the consent of the junta was also thought likely to have proven counter-productive. Disaster relief experts have said that aid delivered without distribution support on the ground is unlikely to benefit the worst-affected people who might be injured and whose access to transportation routes, shelter and land had been destroyed, as air-dropped aid would require villagers to physically retrieve the packages. Furthermore, in the longer term, the disregard for Myanmar’s territorial boundaries and sovereignty would result in the junta becoming even more guarded and withdrawn from the international community, and cause actors such as ASEAN and other developing countries to perceive R2P as a threat to state sovereignty.

There is a tendency to make linkages between R2P and human security as the R2P seeks to ensure that states fulfil their basic responsibilities towards their people and commits the international community to the protection of civilians. While R2P is not totally divorced from the human security agenda, one should be careful not to associate all human security concerns under the rubric of R2P. R2P’s rigorous criteria – which include its limitation to the four crimes mentioned earlier - are necessary to avoid misuse and abuse by states to advance other political interests. One of the main intentions behind the conceptualisation of R2P by the ICISS was to avoid circumstances in which states used force unilaterally, as the US did in Iraq. Hence, indiscriminate invocation of R2P would defeat the concept’s original purpose, open the floodgates to criticism and prove to R2P critics that the concept is indeed a neo-imperialist tool.

As it is, many developing countries have developed what Gareth Evans calls ‘buyer’s remorse’ as seen from the tendency to avoid overt commitment to the

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26 Peter McKenna, 15 May 2008.
norm in sub-Saharan Africa and some increased scepticism in the Arab-Islamic and Latin American worlds, despite their agreeing to the R2P principle at the 2005 World Summit. This is precisely because of the fear that the R2P could be expanded beyond the agreement and become an excuse for states to interfere in what essentially are the domestic affairs of others, and for the strong to infringe on the sovereignty and territorial integrity of the weak. Hence, careless interpretation of R2P and talk of military intervention after Cyclone Nargis could have further weakened efforts to build the institutions necessary to better prevent and protect populations from genocide, war crimes, crimes against humanity, and ethnic cleansing, and to mobilise the political will to act in cases where these four crimes are committed. Hence, it is unlikely that the R2P principle as agreed upon at the 2005 World Summit can be expanded to accommodate the humanitarian problems caused by natural catastrophes, as doing so would likely jeopardise the development of R2P into an international norm and negate the progress that R2P has made over the past seven years.

Although we have established that the R2P is hardly applicable to Myanmar in relation to Cyclone Nargis, this does not necessarily imply that the junta responded to the crisis adequately. While some statements have implied that the three-week lapse had negligible impact on the number of casualties or deaths, it would be difficult to prove this conclusively as information gathering in the aftermath of the cyclone was patchy at best, due to the crisis situation and the focus on relief operations. What is apparent is that according to disaster and crisis management experts, timely rescue operations, the provision of basic essentials to affected villages, implementation of emergency sanitation and waste disposal systems, as well as proper handling of corpses to prevent the development of diseases, would have greatly assisted victims and alleviated unnecessary suffering. Hence, it would be safe to surmise that the three-week delay led to unnecessary suffering and hardship for the victims at the very least and, at the worst, contributed to a higher number of deaths and casualties. However, instead of debating the junta’s response to the cyclone as many analysts have done, we would suggest that the three-week lapse could have been avoided if ASEAN had a response mechanism in place for humanitarian assistance.

28 Gareth Evans, ‘The Responsibility to Protect: Meeting the Challenges’, lecture at the 10th Asia Pacific Programme for Senior Military Officers held by the S. Rajaratnam School of International Studies, Singapore, 5 August 2008.
Making a Case for Contextualising R2P: The R2P-Plus

If the R2P principle has limited applicability to current global demands, particularly in addressing natural catastrophes, and also faces the challenge of buyer’s remorse due to suspicions that it could be a tool of Western neo-imperialists, does it then imply that the R2P principle is irrelevant in cases of humanitarian neglect, and serves solely as a feel-good academic exercise as charged by one Australian analyst? How, in spite of its limitations, can the R2P principle be advanced in Asia and the rest of the developing world? We would argue that the proposed R2P-Plus concept which is devoid of the potential for armed intervention but provides capacity for humanitarian assistance in the case of natural catastrophes is a fitting way to advance the principle of R2P, as it goes beyond the divisive debates that have plagued the development and operationalisation of the principle due to fears that R2P is a ‘Trojan horse’ and a neo-imperialist tool from the West. What we would like to do in the next section is to propose a variant of the R2P that allows for humanitarian assistance and conflict prevention without any semblance of armed intervention – R2P-Plus – and explain how such a conception would reflect current global demands and augur well for the advancement of R2P on the whole.

What is R2P-Plus?

R2P-Plus is our attempt at operationalising some of the ideas embedded in the R2P. Mindful of the constraints that R2P has faced since its launch, we agree with Gareth Evans’ point that it is only by addressing the valid criticisms of the concept’s detractors that R2P proponents can hope to operationalise the concept and allow the new norm to become fully consolidated. Hence, the idea of R2P-Plus focuses almost exclusively on the preventive aspect of R2P and removes the capacity for aggression or armed interference – retaining the objectives of R2P while omitting the reactive aspect of R2P which has, since 2007, hindered operationalisation of the principle and its development into an international norm and customary international law. By eliminating the potential for aggression, we blunt the arguments of those who accuse the R2P of being a neo-imperialist instrument. At the same time, the absence of aggression allows the emphasis to be placed on the core idea of the protection of

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30 Gareth Evans, ‘The Responsibility to Protect: Meeting the Challenges’.
civilians and the prevention of humanitarian crises or civil conflicts from escalating into full-blown international crises.

The focus on eliminating coercive measures from R2P-Plus is also aligned with the need to develop preventive capacities and shift the current focus of R2P from the response pillar to the preventive pillar. The current UN Secretary-General, Ban Ki-moon, has himself noted the lack of attention given to preventive measures and ways of helping states to meet their core R2P responsibilities, and has called for renewed emphasis on the first two pillars of R2P, whilst pointing to a range of non-coercive and coercive measures that can be taken under the response pillar. Focusing on prevention instead of reaction would demonstrate the full strength of the R2P principle, moving the scale of action beyond the use of military intervention to stop mass atrocities.

*Point of Convergence in R2P Debates*

In spite of the difference in approaches between the proponents and detractors of R2P in relation to Myanmar, the outpouring of offers of humanitarian assistance illustrates the international community’s concern for the cyclone victims and the Myanmar junta’s lack of capacity to respond quickly to a large-scale disaster. Hence, instead of widening the divide between both perspectives further, both sides could be brought together if focus is placed solely on the preventive aspect of R2P that uses non-coercive means to fulfil the responsibility to protect. Developing countries have supported the protection of civilians and have agreed to the principles of R2P, except the reactive element which they perceive as a threat to state sovereignty and a potential neo-imperialist instrument that could be manipulated by powerful states with political agendas. Hence, the non-threatening nature of R2P-Plus would make it easier to harness support from the developing world and would enable the operationalisation of R2P, moving it beyond the current divisive debates. Further, proponents of R2P such as Gareth Evans and Bernard Kouchner, whose core aim is the protection of civilians, have found it difficult to operationalise the principle because of resistance to the reactive element of R2P. Hence instead of stagnating in the ideological debate, promotion of R2P could be focused on the benign preventive pillar first to demonstrate to sceptics the utility of the principle for both states and peoples and to advance its development as an international norm.

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Preference for Non-Coercive R2P (R2P-Plus) in the Developing World

There appears to be a high chance that R2P-Plus could gain traction in the developing world, judging from the affirmation of the Protection of Civilians principle at the May 2008 Security Council meeting by the three Asia-Pacific members – China, Indonesia and Vietnam. China reiterated that the involvement of the international community in the responsibility to protect should be in compliance with the United Nations Charter and should not undermine state sovereignty and territorial integrity.\(^{32}\) Indonesia, in reference to the undertakings at the World Summit in 2005, maintained that the Security Council had an imperative duty to stand for the defenceless and those in need of protection in times of conflict, adding that ‘it is our shared responsibility to alleviate the suffering of victims wherever and whenever it occurs’.\(^{33}\) Similarly, Vietnam which had been highly sceptical of the R2P, acknowledged that states have the primary responsibility to protect their citizens, while the international community should encourage and assist states in developing protective capacities in a cooperative manner.\(^{34}\) The resolute stand of the three countries on non-forcible interference, engagement of regional organisations in the protection of civilians, and the prevention and peaceful resolution of conflict through negotiation and dialogue strongly indicates that a principle such as the R2P-Plus, which addresses the concerns and needs of the developing world, and advances R2P in a non-aggressive manner with full respect for state sovereignty and territorial integrity, is fitting with the demands of the international community.

Addressing the Problem of Natural Catastrophes

Recent occurrences of natural catastrophes such as the 2004 tsunami and the Cyclone Nargis, makes it clear that the international community can very much do with a mechanism that addresses the challenge posed by natural catastrophes. In this vein, a non-threatening R2P that retains the objective of protecting civilians while still according states the primary responsibility to protect, with assistance from the international community would fill the void caused by the exclusion of the clause on natural catastrophes in the 2005 Outcome Document. UN member states were unable to come to an agreement


\(^{33}\) Ibid., p. 12.

\(^{34}\) Ibid., p. 13.
on including natural catastrophes as part of the R2P, together with the four mass atrocity crimes primarily because the association of natural disasters with mass atrocity crimes is somewhat awkward and made more controversial by the similar range of measures that would be applicable. R2P is strictly focused on mass atrocity crimes, and rightly so because the four atrocity crimes could require, in the most extreme cases, forcible military intervention to put an end to them. The notion that forcible intervention could be taken against states hit by a natural disaster was difficult to accept and easily conceived by supporters of ‘Westphalian sovereignty’ to be an affront to state sovereignty, regardless that the use of force would be a last resort. R2P-Plus on the other hand, concentrates on natural catastrophes and conflict situations that are arguably of a lighter scale as it need not involve widespread and motivated physical violence, but covers situations that might be similarly dire in the extent of human suffering. Therefore, R2P-Plus, which focuses only on addressing natural catastrophes and preventing conflicts in a non-coercive manner and with the co-operation of the states involved, could fill the void in R2P.

**Operationalisation through Regional Organisations**

The R2P-Plus concept could boost the involvement of regional organisations in the operationalisation of R2P in the Asia-Pacific region, where the principle has much potential for development given the broad support for its basic principles. As noted by the Asia-Pacific Centre for the Responsibility to Protect, the Asia-Pacific region is replete with regional organisations and arrangements such as ASEAN, ASEAN Plus Three, the ASEAN Regional Forum, APEC, and the Pacific Islands Forums, which are well-placed to play a leading role. The involvement of regional organisations would likely help to develop R2P-Plus as a norm as states have proven to be more receptive towards assistance and engagement by their neighbours or strategic partners in times of political instability and humanitarian disasters. Edward Luck, Special Adviser to the UN Secretary-General, has noted that neighbours can play an instrumental role in the prevention of R2P violations and in early warning. Further, the relative success and preference for regional engagement in ASEAN during times of crises illustrates the influential role that regional organisations

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play. Instances include ASEAN’s involvement in the 1979 Vietnam-Cambodian war, Indonesia’s request for a peacekeeping force led by ASEAN in the East Timor conflict in 1999, as well as the recent inroads made by ASEAN and the Chinese government in persuading the Myanmar junta to allow humanitarian organisations greater access to the disaster-stricken areas following Cyclone Nargis. Furthermore, the UN Security Council could confer legitimacy upon regional organisations by giving them the mandate to intervene non-forcibly.

**R2P-Plus for ASEAN: Prospects and Challenges**

The UN Secretary General has rightly highlighted the need for ‘an early and flexible response, tailored to the specific needs of each situation’.\(^{38}\) We agree with his view but would like to add that the preventive measures and response for R2P should also be region-specific by taking into account the concerns that states have raised with regards to R2P. R2P in its present form, and with the current divisive debates focused on ‘reaction/armed intervention’, has limited utility for ASEAN. While the principle of non-interference is evolving towards constructive engagement, ASEAN is still unlikely to adopt coercive methods to halt systematic and widespread violence in a member state with or without consent of the state as it lacks the political will and capacity to intervene militarily. Does this then imply that R2P has little relevance and chance of operability for ASEAN, a region ripe with separatist conflicts and the all too regular occurrence of natural catastrophes and humanitarian emergencies? We would argue otherwise. If the focus on R2P is turned towards humanitarian assistance in the form of crisis prevention, crisis management and responses to humanitarian disasters, the prospects of applying R2P in ASEAN would become significantly better. By focusing on the preventive aspect and not the reactive aspect of R2P, R2P-Plus fits snugly with the strategic interests of ASEAN states, and their traditional ASEAN way of interaction which revolves around diplomacy and minimal interference in each other’s domestic affairs.

As noted by participants in regional R2P workshops, the promotion of R2P principles should not be imposed externally.\(^{39}\) Rather, the region should develop its own set of norms and principles parallel to R2P in accordance to the personality of the region – in this case one which continues to guard its sovereignty and resist external or Western influences as a result of the colonial

\(^{38}\) Ibid., p. 1.

experience. The proposed R2P-Plus is non-threatening, focused on prevention and can guide the development of the ASEAN human rights body and dispute settlement mechanisms by providing an umbrella framework of non-coercive methods to prevent conflicts, respond to humanitarian needs and mediate in existing conflicts to prevent escalation into a full-blown crisis that would cause widespread suffering and political instability.

There are existing mechanisms that can be consolidated under a common umbrella of R2P-Plus which could enable organised and efficient action by ASEAN in response to a potential conflict or natural catastrophe. The adoption of R2P-Plus can be incorporated within the ASEAN Security Community, one of three pillars that ASEAN aims to create by 2020 to foster regional integration. Amongst the five strategic priorities for the Security Community – political development, norms-setting, conflict prevention, conflict resolution, and post-conflict peace building – the latter three are in line with R2P. Therefore, what R2P-Plus can do is to build on the region’s existing efforts, provide structure to the new human rights body and dispute settlement mechanisms, while maintaining the ASEAN way of intervention that carefully balances concerns for state sovereignty, the need to respond to humanitarian problems, and the core national interests of member states. In addition, ASEAN engagement with its strategic partners would also assist in capacity building. In applying R2P-Plus to ASEAN, the implementation framework can be guided by the three essential conditions of conflict prevention laid out by the ICISS – the development of an early warning capability, preventive toolbox and political will. We will discuss briefly how these conditions can be met.\(^{40}\)

**Early Warning Capability**

One of the first necessary steps in implementing R2P-Plus in ASEAN is to establish regional early warning capabilities. Given the political and socio-economic disparity between ASEAN countries, domestic structures and capacities for monitoring are not likely to suffice but the gaps could be supplemented by civil society actors working on the ground. In the medium term, ASEAN could utilise the ASEAN Peoples’ Assembly (APA) network and identify civil society actors that have adequate monitoring capacities and are

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willing to share information with national governments as well as the ASEAN human rights and dispute settlement bodies. The broader aim would be for ASEAN to establish a regional network of NGOs, think tanks, and academics that would gather information and build up the region’s early warning capability, which would in turn allow ASEAN to react quickly to prevent a crisis from escalating. One such instance was the rapid deployment of Australian and Malaysian peacekeeping troops to Timor-Leste during the Indonesia-Timor Leste crisis in 1999. In the long term, ASEAN and its strategic partners such as China, India, Japan, South Korea, and Australia, could help ASEAN states to develop effective domestic early warning capabilities through technical assistance targeted at improving the rule of law, the structure and functions of government ministries, and the security forces. In this regard, ASEAN member states could study and develop a regional arrangement with its strategic partners based on the Framework for the Ten Year Capacity-Building Programme at the United Nations and the African Union, as well as the European Union’s African Peace Facility.

**Preventive Toolbox**

The proposed ASEAN human rights body could be guided by R2P-Plus and be focused on conflict prevention and humanitarian crises. The body can be composed of representatives from the government, academia and civil society from all 10 member states and who also possess conflict prevention and resolution expertise. The body would ideally have the mandate and resources to carry out a monitoring role, including the investigation of specific human rights situations that could potentially trigger a crisis, and report its findings to the ASEAN Secretariat and at the Summit meeting. If necessary, ASEAN envoys could be dispatched to mediate and monitor a conflict situation under the ASEAN Troika – an arrangement where Foreign Ministers of the present, past and future ASEAN chairs are sent to countries to address urgent regional political and security issues. The body should also set up a conflict mediation and conflict resolution expert panel to advise on dispute settlement procedures and assist countries in preventing the escalation of conflicts. The goal here would be to resolve conflicts through regional cooperation if possible, and in the event of failure, to ensure that the involved parties submit the conflict to international jurisdiction at the International Court of Justice to avoid the escalation or militarisation of disputes. In terms of peace operations, apart from the existing peacekeeping training centre, a more comprehensive regional peace-making and peace-building facility could be set up to train government
officials and security personnel on the range of conflict resolution measures that are available and do not entail the use of force.\footnote{For more on this, see Mely Caballero-Anthony, ‘Re-thinking Peace Operations in East Asia: Problems and Prospects’, in Donald C. F. Daniel, Patricia Taft and Sharon Wiharta (eds.), \textit{Peace Operations: Trends, Progress and Prospects} (Georgetown University Press, 2008).}

With regards to the challenge of natural catastrophes, the response mechanisms established post-Nargis could be reinforced and further institutionalised. Disaster response mechanisms such as the ASEAN Emergency Rapid Assessment Team (ERAT) coordinated by the ASEAN Committee on Disaster Management, the ASEAN Humanitarian Task Force, and the advisory group to the Humanitarian Task Force consisting of representatives from direct neighbouring countries, United Nations, the Red Cross and Red Crescent Movement, the World Bank, the Asian Development Bank and international non-government organisations, could be brought under a common R2P-Plus structure for effective coordination and deployment, and to minimise the ad-hoc nature of disaster response. Further, the ERAT could be reinforced by a rapid deployment force comprising emergency response teams from member states and experts with specific knowledge in coordination, water and sanitation, health, logistics and food. The relatively successful Tripartite Core Group comprising representatives from ASEAN, UN and the Myanmar government, has proven to be a good working mechanism for coordination, facilitation and the monitoring of international assistance going into the cyclone-hit areas and should be replicated for future responses.

\textit{Generating Political Will}

In order to generate the political will to address a conflict situation or natural catastrophe, it is important for ASEAN and interested parties to convince member states and the affected state of the need to act. Action under the R2P-Plus framework would entail the following: strong leadership; a good understanding of the problem at hand and the ability to generate multi-faceted arguments based on morality, national interest, economics and domestic politics; institutional processes that are capable of translating knowledge and concern into relevant action; and a sense of confidence that timely reaction would make a positive difference while procrastination or inaction would upset the region’s progress towards security, economic and social integration. In doing so, there is a need to impress upon ASEAN states that the security of one’s neighbours impacts on one’s own security. With the growing efficiency of
communications, and growing concerns about transnational and cross-border problems such as irregular migration and transnational crime, the international environment requires states to respond to regional crises and provide humanitarian assistance to minimise cross border and regional implications. The three most recent crises in ASEAN – the Saffron Revolution and Cyclone Nargis in Myanmar, and the Thai-Cambodian border dispute – demonstrate how the national interests of individual states are intertwined with the region and being shaped by external forces. As a participant at the 43rd Conference on the United Nations of the Next Decade in June 2008 articulated, ‘regional neighbours will naturally intervene in the affected state’s affairs’ but the question is ‘how, when and to what ultimate end those regional interventions will occur’.

Moving the Idea of R2P-Plus Forward

With the recent resumption of hostilities between the Moro Islamic Liberation Front (MILF) separatist group and government troops in the southern Philippines, as well as the ongoing Muslim separatist conflict in southern Thailand, one might ask whether R2P-Plus and ASEAN have a role in internal conflicts in Southeast Asia, and if so, what sort of role would it play?

Following the aborted agreement that stopped the Philippines government from allowing the MILF to assume control over large areas of disputed lands, the separatists occupied twenty-two villages in the North Cotabato Province, and engaged government troops in intense fighting. The fighting caused villages, chapels, schools and houses of civilians to be destroyed and displaced thousands of villagers. According to the National Disaster Coordinating Council, 160,000 people had been displaced, with 100,000 living in poor conditions at evacuation centres. Further, the security of the villagers has been threatened by improvised explosive devices left in public areas, and unexploded ammunition and land mines laid by the separatists. The UN Secretary-General has expressed concern over the humanitarian crisis and appealed for restraint, the protection of all civilians as well as access for speedy humanitarian assistance to the affected population. While it is uncertain whether there is a

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44 Ibid.
case for R2P, there may be a need to further examine the conflict as *prima facie* evidence indicates a long history of humanitarian suffering caused by fighting between the separatists and government troops. Despite efforts by both sides to negotiate a permanent political settlement, and a ceasefire agreement in 2003, villagers have had to contend with sporadic fighting that threatened their security and upset their means of livelihood.

With regards to Thailand, although the media spotlight has been trained on Bangkok where the government is under tremendous political pressure, the Muslim separatist conflict in the south has been ongoing and has affected the security and livelihoods of the people. Beginning in the 1960s, the sporadic violence has worsened since 2004. Apart from the security forces, teachers and government workers have been targeted in attacks, and bombs have also been regularly planted in markets, cafes, government buildings and other public locations. By the end of April 2007, 2200 people had been killed and 3654 injured. While soldiers and members of the security forces regularly topped the casualty lists, in the first six months of 2007, farmers formed the highest number of victims, with traders ranked third, and factory workers ranked fifth. Although Thai officials have so far resisted assistance from ASEAN, the Organization of the Islamic Conferences (OIC), and UN agencies in resolving the conflict, likely for fear that such interference could lead to Aceh-style autonomy status for southern Thailand, there remains a need for ASEAN and the United Nations to raise the issue with the government.

Although the violence in southern Thailand and southern Philippines has not crossed the boundary into the four atrocity crimes listed under R2P, the separatist conflicts have clearly evolved into long-term humanitarian crises and seemingly intractable conflicts. While clearly not on the same scale as the Cambodian, Rwandan or Kosovo-style atrocity crimes, there is a possibility that the conflicts could deteriorate to that extent. It appears that both situations could do with preventive action that would possibly entail the assistance of ASEAN and the international community. However, in-depth research is required to examine the applicability of R2P-Plus and R2P principles to the two conflicts and the utility of the R2P-Plus regional framework, particularly the human rights body and the dispute settlement mechanisms in bringing about a political settlement.

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Conclusion

The myriad list of security challenges facing Southeast Asia make it imperative for policy makers, security practitioners, analysts, and scholars to explore innovative ways to operationalise the R2P and attempt to contextualise it in response to threats to human security in the region. Attempts at exploring a region-specific R2P approach would allow, among other things, the delivery of expeditious humanitarian assistance in times of humanitarian emergencies and crises. It is in trying to find a more realistic R2P approach that we have argued in this paper for a variant of R2P—R2P-Plus.

As ASEAN member states move to ratify the ASEAN Charter, adopted at the 13th ASEAN Summit in 2007, which codified its key principles and purposes, including adherence to democratic values, human rights and fundamental freedoms,\(^47\) this could be an opportune time to push for the realisation of the three responsibilities outlined in the R2P: responsibility to protect, to react and to rebuild—at least in the context of Southeast Asia. Finally, as the regional community expects the blueprint of the ASEAN Security Community (ASC) to be unveiled in November 2008, which is aimed at providing ASEAN with the much-needed mechanisms to deal with inter and intra-state conflicts, humanitarian emergencies and other types of crises situations, it may also do well for the regional community to examine the different types and options of intervention. At the very least, a second-best variant of the R2P—R2P-Plus—could present a more acceptable base and allow for a careful navigation around the tensions created by state sovereignty, the principle of non-interference, and the compelling need to respond to humanitarian crises.

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\(^47\) These three elements are found in three separate places in the Charter: the Preamble, the Purposes and its Principles. See the ASEAN Charter.