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ASEAN Politics: Playing Pass – Who Should Accept Responsibility for the Rohingya Refugees at Sea?

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Abstract

Hundreds have been left stranded off the seas in rickety boats near the shores of Malaysia, Thailand and Indonesia in recent months. Given the sheer humanitarian crisis that it has since sparked, no country was willing to give these ‘boat people’ any form of safe refuge or even extending a helping hand. Not least until it caught the attention of the international community, who were incensed by the apparent lack of political will amongst Southeast Asian countries to aid these marooned refugees, when Malaysia and Indonesia finally obliged to provide temporary shelter and aid to them until a more amicable solution is found. Member states within ASEAN began to shift most of the blame to Myanmar, where, apparently, a large number of these refugees seemed to have come from. Myanmar, on the other hand, has argued that there are also those who are economic refugees from poverty-stricken Bangladesh and are not necessarily ‘Rohingyas’ from within Myanmar. Shortly after the media storm the ‘boat people’ has created in the international community, Thailand admitted that most of those ‘boat people’ have been victims of human trafficking. Images of mass graves found in Malaysia and Thailand further highlighted the plight of some of these ‘boat people’, or refugees, who have found their way onto land, some trespassing the porous borders of Southeast Asia. There have been a myriad of debates about where these ‘boat people’ might have come from and how countries can help alleviate the predicament of these people. However, one thing is certain, something has to be done to resolve this humanitarian crisis that will most likely dominate discussions in future ASEAN summits or ministerial meetings. Who is to be blame? Whose responsibility is it anyway? These problems are not new, but the latest humanitarian crisis, however, has put the entire issue squarely onto the shoulders of ASEAN as an effective regional organisation. Established in November 2011, the ASEAN Coordinating Centre for Humanitarian Assistance on disaster management (AHA Centre) might finally be seeing its biggest challenge yet. The issue with the ‘boat people’ – and the ‘Rohingyas’ in Myanmar – has not only posed a huge humanitarian problem to ASEAN, but also underlined the role and the ineffectiveness of ASEAN in crisis management. This paper will, therefore,



aim to examine these problems that the ASEAN regional group faces. It also aims to provide possible political and security solutions that the ASEAN community can take to rectify this crisis.

SIM Global Education Introduction

In May 2015, rickety boats swamped with alleged economic and political refugees were abandoned in the high seas off the coast of Malaysia, Thailand and Indonesia. This took the international headlines by storm. While many of the refugees were from Bangladesh, the spotlight was on the substantial number of stateless Rohingyas fleeing political persecution from neighbouring Myanmar. The plight of these refugees was further compounded by an outright refusal amongst these targeted nations to offer any help. Instead, they were turned away, starving and suffering from dehydration, to figure a way out of their predicament. Complicating the matter, the captains of these boats and their human smugglers had made a quick dash to safety before the authorities caught up with them, leaving the refugees stranded in the middle of nowhere to fend for themselves. The appalling treatment of these refugees resulted in a swift rebuke from the United Nations, who urged leaders of the Association of Southeast Asian Nations (ASEAN) to take the necessary action in order to avoid a possible humanitarian disaster. The UN Secretary General Ban Ki-Moon reiterated that ASEAN has an obligation to rescue those stranded at sea.¹ After receiving much notoriety from the international community, Malaysia, Indonesia and Thailand finally decided that they would rescue these refugees albeit only providing them temporary relief until they can be resettled within a year. Indonesia has also since claimed that whilst most of the boat people were from Bangladesh, there are also only a substantial number who were Rohingya refugees from Myanmar.² Regardless of where they come from, there are those who strongly believe that the onus of responsibility of the international community as well as ASEAN is to ensure that appropriate humanitarian responses be given to these “boat people.” In addition, there is a need for ASEAN to swiftly identify those who are found to be illegal

¹ “UN tells South-east Asian countries not to turn away migrants”, The Straits Times, May 15 2015, <<http://www.straitstimes.com/asia/se-asia/un-tells-south-east-asian-countries-not-to-turn-away-migrants>>, accessed September 28, 2015

² “Indonesia believes most migrants at sea not Rohingya: Australia”, The Jakarta Post, May 23 2015, <<http://www.thejakartapost.com/news/2015/05/23/indonesia-believes-most-migrants-sea-not-rohingya-australia.html>>, accessed September 28, 2015



labourers from Bangladesh seeking economic opportunity and those who are Rohingya Muslims escaping from the hardships brought on by dire political circumstances in Myanmar.

It was also later revealed that numerous trafficking sites and make-shift refugee camps were found in Thailand and Malaysia. This further highlights the dilemma of these refugees. They can remain stranded on the high seas waiting for some form of humanitarian aid to arrive, or if they manage to reach land, they are forced into dangerous and unsanitary camps where their captors routinely abuse them.

Politically persecuted and considered social outcasts by the Myanmar authorities as well as some local Buddhist groups, the Rohingya Muslims have found that the best option in their plight is to leave the country that they have called home. Moreover, although they have suffered economic discrimination and ethnic segregation in their home country, many of them for generations,


the [Myanmar] government has [also] claimed that they are, in fact, Bengalis. They have no rights and cannot even legally leave their area in the townships along the border... the military claims that these people are in effect illegal immigrants, and therefore they have no right to citizenship.³

The political rhetoric amongst the authorities in Myanmar has been that the Rohingya Muslims are not native to Myanmar, unlike the other recognised –and registered– ethnic groups living in the country. This has further complicated matters since under such terms, and having no citizenship, once they leave the country there is no possible way for them to be repatriated back to Myanmar. On May 29th 2015, Thailand hosted a regional conference to resolve this issue.⁴ Some saw this conference as a failure due to ASEAN's reluctance to overtly recognize the humanitarian crisis engulfing the region. In this way ASEAN was legitimising efforts to block the flow of refugees into the destination countries. There were delegates who were more positive, calling the conference “very constructive.”⁵ Nevertheless,

³ Steinberg, David I., *Burma/Myanmar: What Everyone Needs to Know*, second edition (New York: Oxford University Press, 2013), p. 109

⁴ Fredrikson, Terry, “Boat People Meet: Immediate help but long term problem unsolved”, *Bangkok Post*, May 30 2015, <<http://www.bangkokpost.com/learning/learning-fromnews/576619/thailand-hosts-boat-people-conference-today>>, accessed September 28, 2015

⁵ *ibid.*



Myanmar's continued refusal to engage in any talks where the word 'Rohingya' is used does not bode well for the country from which a substantial portion of these refugees originated.

Whose responsibility should it be?

Who is to blame? Whose responsibility is it anyway? What should, and could, ASEAN do to stem the flow of refugees and their systematic abuse? Should Myanmar be held responsible for this tragedy? These have been some of the questions asked about this humanitarian crisis. The most direct way would be to point to the source: the Myanmar government. The Myanmar authorities' refusal to recognise the Rohingya Muslims residing in its north-western state of Rakhine has culminated, over the years, in so many of these people scrambling into rickety boats and setting sail on the high seas to escape political persecution. The large number of Rohingya refugees rushing to cross illegally into nearby Muslim countries, especially Indonesia and Malaysia, has posed huge humanitarian problems not just to the destination countries and Thailand as a transit country, but also to ASEAN as the regional organisation.

But the Rohingyas are not alone. There are uncountable numbers of Bengalis who have been facing decades of poverty and economic hardship that have led many of them to turn to human smuggling rings in hopes of settling in neighbouring countries, with the promise of good-paying jobs, but for most, simply a new life. Human trafficking in this region, with its porous borders, has also highlighted the endemic problem of illegal labourers streaming in from these countries unfettered. Despite this earlier and wider context, the latest humanitarian crisis has put the entire issue squarely onto the shoulders of Myanmar and ASEAN. Thailand and Malaysia has also unearthed mass graves as some of the illegal migrant camps. Reports of rapes and abuses have also put a spotlight on a variety of other atrocities committed at these camps.

The Rohingya crisis has also underlined the ineffectiveness and the limitations of ASEAN as a regional organisation in dealing with such crises and preventing such incidents from occurring. ASEAN members have also vehemently refused to take responsibility and rejected these refugees, sending them back into the seas despite an outpouring of international condemnation and a genuine humanitarian crisis. ASEAN countries have always been "constrained by the modus operandi of the grouping, which emphasizes



consensus decision-making and non-interference in the internal affairs of its members.”⁶ It was only when the global outcry became too difficult to ignore that Indonesia and Malaysia said they would provide safe haven to these refugees and give them temporary relief for up to one year, before sending them back to wherever they came from.

Myanmar’s refusal to recognise the existence of the Rohingyas as an ethnic minority within the state makes the situation even more problematic:

[t]he Rohingya’s lack of citizenship lies at the heart of why they fled to Malaysia [and other countries]... [But] by denying them citizenship, Burma [also known as Myanmar] is violating international law. It is also forcing its neighbours to bear the burden of its actions.⁷

Myanmar’s continued refusal to grant any form of recognition to this group makes it a problem for its neighbours. There are, however, other factors that plague this matter and we need to look from a broader perspective at some of the structural problems that persist for the Rohingya in Myanmar.


In Perspective: Myanmar and Rohingya Muslims

The 1982 Citizenship Law in Myanmar has designated three main categories of citizens; namely, full citizens, associate citizens, and naturalised citizens. These are the colour-coded as pink, blue and green, respectively. Under Section (2) and Section (3) of the Burma Citizenship Law instituted in 1982, most of the Rohingyas do not fall into any of these categories, thereby transforming their status to that of illegal immigrants. This denial of citizenship has inevitably led to the deprivation of basic needs that a state can provide, as well as the demolition of mosques, forced labour, and forfeiture of landholdings, without any hope of compensation. Some of the Rohingyas have owned their land since the time of their forefathers.⁸

⁶ Pedersen, Morten B., *Promoting Human Rights in Burma: A Critique of Western Sanctions Policy* (Rowman & Littlefield Publishers, Inc., 2008), p. 66

⁷ “Malaysia/Burma: Living in Limbo: Burmese Rohingyas in Malaysia”, *Human Rights Watch*, August 2000, Vol. 12, No. 4, pp. 55 – 56

⁸ Ahmed, Imtiaz, ed., *The Plight of the Stateless Rohingyas: Responses of the State, Society and the International Community* (Bangladesh: The University Press Limited, 2010), pp. 16 – 17



Until there is a concerted effort by the Myanmar government toward some semblance of recognition of this group within its borders, “the Rohingya are [and will be] left in a state of legal limbo, without legal residency and its accompanying rights in any country.”⁹ This statelessness inadvertently makes it difficult for these political refugees to seek asylum or relocation in another country.

One particular issue to note with regards to Burmese identity in an emerging Myanmar is this false sense of a unified Burmese-ness. This

[n]ationalism reinforced by past colonial oppression has become a central factor in political legitimacy and affects all foreign relations and foreign assistance... There is a persistent (however erroneous) belief that Burmese (i.e. Burman) culture is under attack from foreigners, and only the military can save both the state and its (Burman) culture... The state generally considers indigenous minorities... as less cultured at best... [to the extent that] strong internal anti-Muslim prejudices continue to affect state politics and are generally prevalent, although they are most obvious in relation to the Rohingyas of Rakhine (Arakan).¹⁰

The larger problem is not simply just about the Bengali-Rohingya ethnic identity. Permeating Myanmar society, “there seems to be a general resentment against Muslims among a majority of ethnic Burmans. In all, there is an image of a social disorder at work, an image that has to be taken seriously even though other social and political problems are the main reasons behind the grievances.”¹¹ This has caused the issue to move beyond the ethnic divide and take on a more religious tone. However, there are some who attribute this divide to the 1960s under the military dictatorship of General Ne Win. It has been argued that “[w]hen Muslims and Buddhists were gaining understanding among each other in the late 1960s and early 1970s... it was... whispered that Arakan [Rakhine] would be swallowed up by the Muslims with the backing of the neighbouring Bangladesh, and the

⁹ “Malaysia/Burma: Living in Limbo: Burmese Rohingyas in Malaysia”, Human Rights Watch, August 2000, Vol. 12, No. 4, p. 5

¹⁰ Steinberg, David I., *Burma/Myanmar: What Everyone Needs to Know*, second edition (New York: Oxford University Press, 2013), p. 157

¹¹ Gravers, Mikael, and Flemming Ytzen, (eds.), *Burma Myanmar Where Now?* (Copenhagen: NIAS Press, 2014), pp. 311 – 312



international Islamic organizations... This aroused religious fervor all over the country.”¹² Such nationalistic rhetoric seems still to be used in present-day Myanmar as a means to instil fear amongst the general Buddhist public and to stoke an emotional reaction using religious and racial undertones.

Some in Myanmar have accused the Muslims of trying to displace Buddhism in the country.¹³ The rise of Buddhist extremist groups in recent years, such as the 969 Movement led by the monk Ashin Wirathu and MaBaTha (the Organisation for the Protection of Race and Religion) has further put the spotlight on the Muslim-Buddhist antagonism that has surfaced in Myanmar in recent years. Needless to say, the group that is most affected by this has been the Rohingyas in the State of Rakhine. Although “[m]ost Buddhists [there]... do not see the growth of the Muslim community as a political or security threat, [they do see them] as an economic, social and cultural problem,”¹⁴ pitting the minority Muslims against the majority Buddhists for scarce resources and social space within the country, especially within Rakhine State. This encroachment has further strengthened the Buddhist identity narrative in the country, placing politicians in a dilemma, especially those from the National League for Democracy (NLD), the party of Nobel Laureate Aung San Suu Kyi.

In the political realm, there have been some attempts to resolve the problem of the Rohingya Muslims. A plan to decide on whether to give citizenship ID cards to Muslims in Rakhine had initially been tabled by Speaker of the Pyithu Hluttaw (Lower House), Shwe Mann.¹⁵ This has since been shelved after his dramatic removal from the party leadership, although he narrowly managed to salvage his post as House Speaker. President Thein Sein has initially planned to give voting rights to the Muslims as a minority group. However, pressure from the military-dominated parliament and various Buddhist organisations made the President cancel this plan.¹⁶ In August


¹² Shwe Lu Maung, *Burma: Nationalism and Ideology – an analysis of society, culture and politics* (Bangladesh: The University Press Limited, 1989), p. 66

¹³ Walton, Matthew J., and Susan Hayward, *Contesting Buddhist Narratives: Democratization, Nationalism, and Communal Violence in Myanmar* (Honolulu, Hawaii: East-West Center, 2014), p. ix

¹⁴ Selth, Andrew, *Burma's Muslims: Terrorists or Terrorised?* (Canberra, Australia: Strategic and Defence Studies Centre, The Australian National University, 2003), p. 12

¹⁵ Cheesman, Nick, Monique Skidmore and Trevor Wilson, *Myanmar's Transition: Openings, Obstacles and Opportunities* (Singapore: Institute of Southeast Asian Studies, 2012), pp. 42 – 43

¹⁶ “Myanmar revokes Rohingya voting rights after protests”, BBC News, February 11 2015, <<http://www.bbc.com/news/world-asia-31421179>>, accessed September 28, 2015



2015, a piece of legislation curtailing religious conversion and polygamy was passed in parliament, clearly targeting the Muslim minority.¹⁷ Muslim identity has historically posed and continues to pose a serious challenge to an emerging Myanmar. One of the main issues that plague Myanmar society would be that

[t]he Muslims of Burma [have] found themselves locked in a... difficult position rising from the fact that the national movement in Burma was largely identical with the renaissance of the Buddhist religion in Burma, a process growing ever stronger especially since independence. The vast majority of the people of Burma are Buddhist and according to their concept there is identity in being Burmese and in being Buddhist... The Buddhists did not distinguish among the various groups of Muslims and tended to include them all, indiscriminately, in the term *kala*, “foreigners”, or “Indians”... hence the Muslim is a foreigner.¹⁸

It seems that the Buddhist-Muslim divide will continue unabated, with the stateless Rohingya Muslims being the hardest hit by these developments.

ASEAN Mismanagement: irresponsible or indifferent?

This crisis has sparked a furore over the track record – or lack thereof – of the humanitarian assistance afforded by nations within the ASEAN community. Yet, this is nothing new, as ASEAN nations have rarely responded to calls to tackle human rights issues, especially when “there is [more of a]... a deep-rooted ideological commitment among governments in the region to the idea of growth (and, by extension, economic integration) as the best path to security, stability, and socio-political reform.”¹⁹ Given the slant of the ASEAN rhetoric, it will be difficult to engage the regional grouping about complex humanitarian issues such as the refugee crisis.

¹⁷ “Myanmar’s president signs off on law seen as targeting Muslims”, *Straits Times*, August 31 2015, <<http://www.straitstimes.com/asia/se-asia/myanmars-president-signs-off-on-law-seen-as-targeting-muslims>>, accessed September 28, 2015

¹⁸ Yegar, Moshe, *The Muslims of Burma: A Study of a Minority Group* (Wiesbaden: Schriftenreihe Des Sudasien-Instituts Der Universitat Heidelberg, 1972), pp. 111 – 112

¹⁹ Pedersen, Morten B., *Promoting Human Rights in Burma: A Critique of Western Sanctions Policy* (USA: Rowman & Littlefield Publishers, Inc., 2008), p. 66



That said, there is also currently a struggle by the European Union (EU) to accommodate a large influx of refugees streaming across European borders en masse. Australia has also, in recent years, made a concerted effort to stop the influx of refugees making the transit from Indonesia into their country. Neither the EU nor Australia has so far provided a viable solution to the refugee crises that they face. Renowned American diplomat Richard Haas, for instance, has lamented on the poor record of the international community with regards to humanitarian intervention. He has argued that “failure to act when international intervention might have saved large numbers of innocent lives generated the idea of sovereignty as responsibility; namely, that sovereignty entails obligations as well as rights, and when governments fail to meet these obligations, either out of choice or a lack of capacity, they forfeit some of their rights.”²⁰


Nevertheless, there has been some progress made in ASEAN, with the creation of the ASEAN Intergovernmental Commission on Human Rights (AICHR) in 2009. In 2010 the Emergency Rapid Assessment Team (ERAT) was also established; it aims to tackle major regional disasters, particularly environmental disasters such as Cyclone Nargis in 2008. In 2011, the ASEAN Humanitarian Assistance (AHA) Centre for disaster management was formed. Although the aim of the AHA Centre is to “create a critical mass that would enable the regional bloc to launch a collective response more effectively when a major disaster strikes,”²¹ it does not seem to be well equipped to deal with a humanitarian situation such as the refugee crisis.

In recent years, there have been discussions over the role of the state to provide adequate humanitarian aid. Although the United Nations in 2005 had already defined the notion of the “Responsibility to Protect” or R2P, there is

no such consensus [that] exists on the right of the international community to intervene in internal situations... [and] even more, a number of governments are worried that R2P could be turned

²⁰ Haas, Richard, *Foreign Policy Begins at Home: The Case for Putting America’s House in Order* (New York: Basic Books, 2013), p. 58; see also Francis Deng et al., *Sovereignty as Responsibility: Conflict Management in Africa* (Washington DC: Brookings Institution, 1996)

²¹ Siswo, Sujadi, “ASEAN steps up disaster response training”, ChannelNewsAsia, July 1 2015, <<http://www.channelnewsasia.com/news/asiapacific/asean-steps-up-disaster/1952452.html>>, accessed September 28, 2015



on them, that their sovereignty could be “violated” by the international community under circumstances in which they might believe their own actions to be totally warranted or when they judge the situation does not justify R2P.²²

There is still a general disagreement over how the concept of R2P can be applied universally. This is an issue that has garnered a range of responses. Some support an altruistic move to ensure that humanitarian services be rendered to any community which needs help most urgently. On the other hand, there are those who will continue to question the legitimacy of such an act: under the guise of having a ‘responsibility to protect’ responding states may violate the sovereignty of a neighbouring state. Whatever stand one makes, we must understand that “if the invocation of R2P does not help in the immediate emergency... then the painfully forged consensus on the R2P norm will fracture without any material help being provided to the displaced and distressed.”²³ Despite the rhetoric clouding the noble intentions of R2P, eventually those who suffer most will be those who need it most. Given the uncertainty over what conditions might limit the application of R2P, many ASEAN nations are against a blanket adoption of this framework. After all,

[s]overeignty remains the bedrock of regional order, credited with establishing regional peace and security and facilitating the consolidation of states and regimes... In Southeast Asia, this means that RtoP [R2P] must be reconciled with the principle of noninterference and applied in a manner consistent with it.²⁴

Intervening in any internal conflict or humanitarian situation in Myanmar is a cause of concern to most member states in ASEAN. Such an intervention, however necessary in some circumstances, would be thought of as an infringement of the sovereignty of that country. This would also be seen as a shift away from ASEAN’s original promise of non-intervention. So, while the experience of ASEAN’s humanitarian intervention in the 2008

²² Haas, Richard, *Foreign Policy Begins at Home: The Case for Putting America’s House in Order* (New York: Basic Books, 2013), p. 59

²³ Thakur, Ramesh, *The Responsibility to Protect: Norms, Laws and the Use of Force in International Politics* (London and New York: Routledge, 2011), p. 153

²⁴ Bellamy, Alex J., and Mark Beeson, “The Responsibility to Protect in Southeast Asia: Can ASEAN Reconcile Humanitarianism and Sovereignty?” *Asian Security*, vol. 6, no. 3, 2010, p. 275



Cyclone Nargis disaster in Myanmar is commendable, albeit minute compared with that of other international aid agencies, it was a very measured compromise that ASEAN and Myanmar undertook.


Myanmar's entry into ASEAN has never been an easy one. From the very beginning, there were questions about Myanmar's participation and the role it could play as part of this grouping. Yet, even when the United States and the European Union imposed economic sanctions on Myanmar for a variety of reasons –not least for its poor human rights record– ASEAN continued to support and include the country. ASEAN arguments for this engagement boil down to two strategic and tactical reasons:

Tactically, ASEAN believed that engaging Myanmar, rather than isolating it, would be the more effective approach to whatever problems Yangon posed for its people, for the region and for others in the international community, as well as to the region's broader and longer-term interests... [Hence] it was politically and strategically important for ASEAN to have Myanmar in its fold.²⁵

By having Myanmar as part of ASEAN, the Association hoped that any commitment and direct engagement with an isolated Myanmar would help the country reduce its 'hermit' attitude. Nevertheless, ASEAN had no intention to impose any forms of sanctions or punishment, or chastise any domestic wrongdoing that Myanmar's junta might commit. After all, membership in ASEAN was touted as guaranteeing respect for a country's sovereignty and a commitment to non-intervention in domestic affairs. This is especially so since "there is no way of compelling a country to change its behaviour if it does not want to... [t]here are no political or economic sanctions for unacceptable behavior within the framework of ASEAN."²⁶ Yet, after years of being part of ASEAN, it would seem that Myanmar's domestic problems have constantly been putting the regional organization into difficult situations. At the end of the day, the task is still for ASEAN to manage this situation. More than that, any 'affairs of the state' discussed in ASEAN always involve the concept of the "ASEAN way."

²⁵ Severino, Rodolfo C., *Southeast Asia in Search of an ASEAN Community: Insights from the former ASEAN Secretary-General* (Singapore: Institute of Southeast Asian Studies, 2006), pp. 134 – 135

²⁶ Than, Mya, *Myanmar in ASEAN: Regional Cooperation Experience* (Singapore: Institute of Southeast Asian Studies, 2005), p. 20



[t]he essence of the ASEAN Way is a desire to avoid losing face and is embodied in a decision-making process that favors a high degree of consultation and consensus. In short, the ASEAN Way is intended to avoid what are seen as the negative consequences of Western bargaining styles, which emphasize confrontation and legalism.²⁷

The strategy of ASEAN, then, is to continue to engage Myanmar in any decision-making, instead of putting the country in an embarrassing and difficult position that might cause it to become unnecessarily defensive.

Challenges from within: ASEAN and Myanmar

While the plight of the Rohingya refugees continues to plague the international community, especially the ASEAN region, there are also many challenges and limitations. Firstly, there is no willpower amongst the ASEAN member states to assist in the refugee crises. It would seem like a case of ‘not-in-my-backyard’ mentality or an ‘out of sight, out of mind’ scenario. To be fair, there are already inherent problems within these states to manage their own host of socio-political problems that, by accepting these refugees, will simply add to their existing problems of migration. For instance, whilst Singapore has the financial resources to assist, as an island-state it has obvious space constraints.²⁸ As such, it would be impossible for one of the richest countries in this region to receive and house any of the refugees. Over the years, Thailand’s porous borders have seen many other cases of illegal immigrants from its neighbours, such as the Karens from Myanmar. However, simply admitting the refugees would have created the notion that Thailand, with limited resources, was ‘welcoming’ them with open arms. Furthermore, Thailand continues to have a policy of ‘pushing back’ Rohingya boat people onto the high seas.²⁹ ASEAN states do not want to send the wrong impression that they are the solution to the many domestic problems that plague countries like Myanmar. Beyond having no strong resolve to alleviate the Rohingya refugee crisis, ASEAN’s focus has been on diplomacy, which can hardly solve the crisis at hand. Some also see this as a

²⁷ Bellamy, Alex J., and Mark Beeson, “The Responsibility to Protect in Southeast Asia: Can ASEAN Reconcile Humanitarianism and Sovereignty?”, *Asian Security*, vol. 6, no. 3, 2010, p. 270

²⁸ Low, Ignatius, “Softer Stance on Boat People”, *The Straits Times*, May 24 2015, <<http://www.straitstimes.com/opinion/soften-stance-on-boat-people>>, accessed September 28, 2015

²⁹ Liow, Joseph Chinyong, *Dictionary of the Modern Politics of Southeast Asia*, 4th ed (London and New York: Routledge, 2015), p. 324



failure of the regional community in forming a sense of collective action. For ASEAN,


[t]he record of cooperation in dealing with transnational problems has been spotty. The effectiveness of the cooperative mechanisms in place has been uneven. Regional cooperation has been held back by competing national interests, in some instances by mutual suspicion, and by an apparent lack of faith in the efficacy of regional action... [S]ome observers have pointed to the feebleness of ASEAN's institutions as an obstacle to ASEAN cooperation and a stronger commitment to regional interests. Because ASEAN has few binding agreements and lacks a regional authority to enforce compliance with them... closer ASEAN cooperation is almost totally dependent on national policy decisions and on the commitment of leaders to the region.³⁰

Unfortunately, national interests continue to play a substantial role in how and why ASEAN is so unwilling and incapable of tackling the refugee crisis. It will take a much stronger leadership within ASEAN to bring about some semblance of an ASEAN unity.

Secondly, ASEAN has, by and large, stood by silently as member nations started to deflect responsibility. One of the reasons is that by accepting these refugees, wherever they might be coming from, sets a dangerous precedent that signals to human traffickers and political refugees alike that it is alright to cross the seas, endanger their own lives and the lives of others, in order to settle in another country. Although the ASEAN Human Rights Declaration was declared in November 2012, it

reflects the continued differences among the governments and the civil society in the understanding of human rights and approaches to its promotion... [Moreover] the Declaration imposes limitations on rights (such as those on national security grounds) that are too broad... [A]lso it fails to protect the rights of indigenous people and self-determination is not mentioned... [Furthermore] the issue of statelessness (or the right of every

³⁰ Severino, Rodolfo C., *Southeast Asia in Search of an ASEAN Community: Insights from the former ASEAN Secretary-General* (Singapore: Institute of Southeast Asian Studies, 2006), pp. 374 – 377



person to a citizenship) was... dropped from the final draft.³¹

Although Malaysia, Indonesia and Thailand have experience in handling such situations of illegals crossing into their territory, illegal trafficking continues to be a recurring problem that has been difficult to deal with. Soon after the boat people crisis, Malaysia³² and Thailand³³ unearthed makeshift graves filled with human remains of suspected illegal migrants who had perished and were unceremoniously buried. This led to both the Malaysian and Thai government tightening reins on people-smuggling and some of the checkpoints from which the illegal immigrants could have been transported. Reported incidents in these camps are certainly not for the faint-hearted. The heart-wrenching stories of how these illegal migrants have traverse across the ocean or land, only to face threats of execution, cramped space, and a badly managed and deteriorating living conditions, as well as rape,³⁴ is appalling. The UNHCR and Western countries have voiced their concerns, but there is little that they can do beyond the rhetoric. Another difficulty is identifying the refugees and their origins. Especially, how does one draw the line between a genuine political refugee seeking political asylum and a simple illegal labourer?

Thirdly, some argue that it is all in the name. 'Rohingya' is a politically charged term and Myanmar has already flatly rejected any association or recognition of those classified as such. Indonesia has also rejected claims that these boat people are Rohingyas, claiming that most of those stranded at sea are, in fact, illegal labourers from Bangladesh. Avoiding the term, however, does not do justice, or bring us any closer, to resolving such a dicey situation. The international community has condemned Myanmar for its lack of action to resolve the Rohingya issue. Nevertheless, it is one thing to pressure the Myanmar government to give due recognition to this group, but it is quite another if this becomes a springboard for yet another social and political problem that might beset this nation, something which Western pressures have done in the past. One must remember that the Rohingyas

³¹ Acharya, Amitav, 3rd ed., *Constructing a Security Community in Southeast Asia: ASEAN and the problem of regional order* (London and New York: Routledge, 2014), p. 245

³² "Malaysia police find 139 suspected migrant graves", BBC News, May 25 2015, <<http://www.bbc.com/news/world-asia-32872815>>, accessed September 28, 2015

³³ "Mass Graves Unearthed at human-trafficker camp in Songkhla", Bangkok Post, May 1 2015, <<http://www.bangkokpost.com/news/general/548439/mass-graves-unearthed-at-human-trafficker-camp-in-songkhla>>, accessed September 28, 2015

³⁴ "Woman in camps used as sex slaves by guards, say Rohingya migrants", The Malaysia Insider, June 1 2015, <<http://www.themalaysianinsider.com/malaysia/article/women-in-camp-used-as-sex-slaves-by-guards-say-rohingya-migrants>>, accessed September 28, 2015



have historically been ostracized by the other ethnic groups also, not only the larger Burman majority. The mass exodus of the Rohingyas might have, however, been overstated. As much as the situation with the Rohingya Muslims might sound dire, there is little evidence that they are fleeing the country en-masse despite the atrocious state of the human rights record. The result is one that Myanmar, a country still struggling from years of international economic deprivation, can ill afford. Myanmar has been plagued by countless incidents of ethnic conflict since independence, and it has for years been engaged in local wars against the other ethnic groups, for example the Karens in the South and the Shans in the north.


[E]ven after the military took over power and introduced a military regime, ethnic conflicts had never been resolved. Some minority groups also belong to different religions (Christianity, Hinduism and Islam) and the “Muslim problem” recently emerged when Rohingya wanted to improve their lot in Myanmar.³⁵

What the international community, or even ASEAN, needs to understand is the cultural animosity that is deeply ingrained in this society. This must be clear before anyone can even recommend a blanket recognition of the Rohingyas. Myanmar also has to realize that it has to play a role in diffusing the situation. It will need a collective effort to plan out a sustainable roadmap to ensure that the Rohingyas can be safely integrated into the larger Myanmar society.

Fourthly, one has to tackle the root of the problem. Myanmar has to take some responsibility in all that has happened. By continually withholding any semblance of recognition of this group of people in Myanmar, the government has become a central part of this problem. However, recognition would certainly open the floodgates of a huge cultural problem that Myanmar cannot deal with at this point. It is a Pandora’s box that when forced open will become a much larger social and political problem than it is now.

[I]n the end, Myanmar’s future will be shaped by its own past, its historical patterns, its own human and material contexts, its own beliefs; not someone else’s. Indeed, that Myanmar’s

³⁵ Suryadinata, Leo, *The Making of Southeast Asian Nations: State, Ethnicity, Indigenism and Citizenship* (Singapore: World Scientific Publishing Co. Pte Ltd, 2015), p. 182



priorities will remain mainly agrarian and domestic; its Government a centralized hybrid of mainly indigenous and foreign ideas and realities; and its society steadfastly devoted to Theravada Buddhism and native supernaturalism, are all safe bets. In short, for the foreseeable future Myanmar's past will continue to remain an indelible part of its present.³⁶

Once again, the religious –namely Buddhist– rhetoric will continue to chart Myanmar's socio-political development in the coming years. Unless there is a concerted effort by the international community to exert considerable pressure on the domestic community in Myanmar, there simply isn't going to be any social inclination by local groups to ensure that the Rohingya Muslims be properly integrated into the larger Myanmar society. As Katherine Southwick puts it,

[t]he Rohingya's statelessness and their lack of acceptance in Myanmar are at the root of the minority's plight. Statelessness and the perception that they do not belong have been used to rationalize various forms of marginalization and the denial of rights, services, and identity. Essentially, the Rohingya face a choice between persecution and untimely death in Myanmar, or insurmountable poverty and marginalization in other countries, assuming they survive the dangerous journeys.³⁷

There is also the phenomenon of political Buddhism where the language and symbols of Buddhism are used in the socio-political space to affect a particular identity within the larger community. There is an unjust fear that there will be a dilution of Buddhism if Islam were to spread in this country. But beyond a national concern, "[s]ome of the fears related to Muslims in Myanmar explicitly tap into the broader narrative of the global war on terror and claims about Islamic society more generally."³⁸ Nevertheless, "... in the long run, it seems that Myanmar needs to build a genuine

³⁶ Aung-Thwin, Michael, and Maitrii Aung-Thwin, *A History of Myanmar since Ancient Times: Traditions and Transformations* (London: Reaktion Books Ltd, 2012), p. 289

³⁷ Southwick, Katherine, "Preventing Mass Atrocities Against the Stateless Rohingya in Myanmar: A Call for Solutions", *Journal of International Affairs*, Spring/Summer 2015, Vol. 68 Issue 2, p. 142.

³⁸ Walton, Matthew J., and Susan Hayward, *Contesting Buddhist Narratives: Democratization, Nationalism, and Communal Violence in Myanmar* (Honolulu, Hawaii: East-West Center, 2014), p. 18




multi-ethnic nation rather than an ethno-nation”.³⁹ In the meantime, the Rohingya Muslims will continue to be the easiest target of this determined effort to stymie the spread of Islam to the rest of Myanmar.

Daw Aung San Suu Kyi: Challenges and Limitations

In trying to make sense of the Rohingya refugee crisis, there has been one person that has taken a rather muted response. This has led some to wonder why democratic icon and Nobel laureate Aung San Suu Kyi is so quiet on this front.⁴⁰ There are a few reasons. Firstly, by recognizing the plight of the Rohingyas, she would surely lose the strong support base from the large ethnic Burman population. In the meantime, she needs to honour the landslide of votes she won in the recent election. Of course in reality her influence will still be severely limited in the Myanmar parliament, or Hluttaw. The Myanmar military and its political affiliate, the USDP (Union Solidarity and Development Party) still holds considerable power in the Hluttaw. As an icon of Myanmar democracy, her shine might have dimmed over the past few years since being released from house arrest and eventually being elected into Parliament. A lacklustre performance over the years has also not helped maintain her image as a champion for human rights, equality and democracy in Myanmar. Two other issues have also dampened her chances of making further inroads in Myanmar’s political landscape. Firstly, in June 2015, the Hluttaw voted down a bill that would have effectively altered the Myanmar Constitution on who can be elected as President. The current Constitution states that the President should not have spouse or children that are citizens of another country. This effectively blocks any chance of Aung San Suu Kyi being the next President. In any case, the President is not voted via a popular vote, but rather by members of Parliament. Secondly, the dramatic purge of Thura Shwe Mann as the chairman of the USDP, albeit he narrowly secured his post as the Speaker of the House. Not only did Shwe Mann openly express his intention to be President, his closeness to Aung San Suu Kyi was also another important factor. Having lost his position as USDP chairman, his support for Aung San Suu Kyi has also been further stymied.

³⁹ Suryadinata, Leo, *The Making of Southeast Asian Nations: State, Ethnicity, Indigenism and Citizenship* (Singapore: World Scientific Publishing Co. Pte Ltd, 2015), p. 182

⁴⁰ Fisher, Jonah, “Aung San Suu Kyi: Where are you?”, BBC News, June 2 2015, <<http://www.bbc.com/news/world-asia-32974061>>, accessed September 28, 2015



Secondly, the military junta and other groups opposed to the NLD have accused Aung San Suu Kyi of being a sympathizer of Muslims and the rights of other religious and ethnic minority groups, some of which have yet to sign a comprehensive ceasefire with the current military-controlled government. This has placed her and her party in a difficult position, especially when the ‘Buddhist narrative’ has been used so frequently in Myanmar politics. In recent years, “the voices expressing either strong anti-Rohingya or pro-Rohingya sentiments are the loudest; those who strike a conciliatory or indecisive note, including Daw Aung San Suu Kyi, have been condemned by both sides... There seems to be no ‘middle way’ approach to the situation... one should not expect a quick-fix solution to Burma’s age-old problems.”⁴¹ To defend any of these minority groups, especially the Rohingya Muslims, in Myanmar is almost a ‘sure-death’ for her political career.

Thirdly, even if she wants to give the long deserved recognition to these maligned groups, her powers in parliament are severely limited. Even though her party has won so resoundingly in the November election, she and the NLD will have to deal with the military’s hold on a large number of the total seats. Although Aung San Suu Kyi’s father, and Myanmar’s national hero, General Aung San once tried to advocate some form of federalism with the minorities⁴² of the country, his assassination in 1947 ended all hope that this would ever be achieved. By recognizing the Rohingyas and other ethnic and religious minorities in Myanmar, she would jeopardize her position as a defender of Burmese/Myanmar nationalism and national cohesion. Such recognition would imply that she is considering introducing some form of federalism into Myanmar, dividing the country along ethnic and religious lines. The military, however, has vociferously demonstrated that it “does not like the idea of a federal union and equates it with fragmentation.”⁴³ There is also some mistrust amongst some ethnic groups of her political will to champion their causes. This is apparent for two reasons. Firstly, a vote for Aung San Suu Kyi and her NLD would effectively end the collective action of these ethnic parties to advocate some form of ethnic representation in Myanmar society. This would diminish their influence within their own constituencies as well as their bargaining power in parliament. Secondly, some of these ethnic groups, especially in Rakhine state, view the NLD as

⁴¹ Gravers, Mikael, and Flemming Ytzen, eds., *Burma Myanmar Where Now?* (Copenhagen: NIAS Press, 2014), pp. 336 – 337

⁴² Steinberg, David I., *Burma/Myanmar: What Everyone Needs to Know*, second edition (New York: Oxford University Press, 2013), p. 43

⁴³ Gravers, Mikael, and Flemming Ytzen, eds., *Burma Myanmar Where Now?* (Copenhagen: NIAS Press, 2014), p. 419




a supporter of the Muslims, thereby overshadowing any support the NLD might provide the other ethnic, and majority groups.

Incarcerated for years as a political prisoner in her own country, Aung San Suu Kyi has built an image as the proud daughter of the great military leader General Aung San. The larger Myanmar society has, in return, come to accept that image. She will need to handle this situation very carefully. However, her silence on this matter does not bode well for ethnic and religious minorities in Myanmar.

Conclusion

There have been some expectations of what ASEAN is capable of doing or what this organization could do. After almost five decades, progress in ASEAN as an effective organization that is able to deal with larger regional issues is still lacking. Some have argued that the concept of non-interference has thwarted many well-intentioned efforts by the grouping to do more, especially in the areas of humanitarian crisis management. Nationalism and sovereignty reigns highly on the agenda of member states. Any reference to how ASEAN member states govern their own turf is often met with a swift rebuke. ASEAN began as a platform for states in Southeast Asia to discuss any matters or threats, and also act as a bulwark against any dominant states and, perhaps, hegemony. Besides a strong focus on economic growth within the region and in the global context, ASEAN becoming a regional force that is on par with comparable actors such as the European Union seems to have a long way to go. The cultural diversity in this vast region is obstructing a common identity, and the political systems in ASEAN member states range from one-party dominant to military rule; from newly democratized states to failed democracies. Resolving a crisis such as the Rohingya refugee flood would need the regional organization to see beyond its own interests.

In conclusion, what needs to be done is, firstly, to get these people, refugees or not, to safely as soon as possible. ASEAN would need to implement a comprehensive task force to handle that. ASEAN countries would need to further collaborate and cooperate with each other in deploying their naval forces to serve as a deterrent. Secondly, ASEAN needs to find a viable solution and a collective will to want to resolve this problem instead of simply passing the buck. The problem should not simply lie with one particular nation, but with all ASEAN. This will show the true test of the co-



operation and effectiveness of this regional organization. Thirdly, ASEAN would also need to implement a systematic process to assist these refugees and also to prevent them from fleeing again. In that aspect, what needs to be done is to properly identify whether these people are genuinely fleeing from political persecution or are they simply illegal labourers looking for better economic prospects. There should be a quicker and easier method for identifying these groups in order to understand their predicament and assimilate them into new societies. Fourthly, what needs to be dealt with is the problem of people smuggling in this region, where borders are so porous and human smuggling rings can find easy access for their operations. The numerous cases of illegal smuggling rings and human traffickers are a serious situation that ASEAN – and not just a few countries – need to tackle head on. Whether it is ASEAN or between countries in this region, there should be a task force to monitor the activities of such human traffickers. Last, but not least, Myanmar needs to accept the reality of the Rohingyas in the country. Myanmar and its people need to move forward if they want to open up their market and be part of a globalized world. There must be more acceptance and understanding between the Rohingyas and the rest of the larger Myanmar society. However, to be fair, the rest of the world should also realize that this long animosity has been ingrained in Myanmar society for hundreds of years. Hence, to demand immediate and radical change of a society that is built around the belief that Muslims are not part of the larger ‘Buddhist’ Myanmar society would be an uphill task. What the international community is asking of Myanmar is that the country change its attitude and certain aspects of the society to embrace the Rohingyas – but this cannot be done overnight.



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