Talking ASEAN on
Mainstreaming R2P and Atrocities Prevention in ASEAN: Relevance, Challenges, and Prospects
Introduction

Jakarta - On Monday, 14th August 2017, The Habibie Center held a Talking ASEAN public dialogue entitled “Mainstreaming R2P and Atrocities Prevention in ASEAN: Relevance, Challenges, and Prospects” at The Habibie Center Building in Jakarta. This edition of Talking ASEAN featured Dr. Noel Morada (Director, Regional Diplomacy and Capacity Building), Amalia Sutikarini (Lecturer, BINUS University), and Benhard Ruben Fritz Sumigar (Program Assistant, Policy Advocacy, Institute for Policy Research and Advocacy (ELSAM)) as resource persons with Rahimah Abdulrahim (Executive Director, The Habibie Center) as the moderator.

The objectives of this Talking ASEAN were to examine the ASEAN Member States’ commitment to the Responsibility to Protect (R2P) principle in conjunction with that of the United Nations. More specifically, the issue and scope of the R2P is still a contested issue and under scrutiny. The emergence of transboundary issues, mechanisms, and prospect of its implementations are addressed in this event.

The discussion report summarizes the key points of each speaker as well as the question and answer session that followed.
Presentation
Dr. Noel Morada
Director, Regional Diplomacy and Capacity Building, Asia Pacific Center for the Responsibility to Protect

The first speaker, Dr. Noel Morada, started off by introducing the Asia Pacific Center for the Responsibility to Protect. He explained that his work is to promote understanding around R2P, specifically in Southeast Asia. He stated that his aim in this public dialogue was to explain why R2P is relevant in the development of ASEAN. Dr. Noel gave a background explanation about the R2P, explaining that it developed in the 1990’s to examine the concepts of sovereignty and international obligations on states. In 2005, the UN General Assembly adopted the R2P, which covers 4 crimes (genocide, war crimes, crimes against humanity, and ethnic cleansing) and stated that the state has responsibility to protect populations. He highlighted the fact that populations meant more than citizens, but also migrant workers and such. He highlighted the redefinition of sovereignty in R2P, where it was no longer just a right but also carried duties and obligations.

Dr. Noel stated that R2P has a legal basis and is not just a doctrine. It aims to put many international conventions and laws under a unified principle. In 2009, the first UN dialogue on R2P was held where it was agreed that R2P revolves around 3 pillars: prevention, capacity building, and international responsibility. Prevention is key in implementing R2P at the international level, as opposed to interference. He further underlined that a HLP (High Level Panel) report from ASEAN Member States noted that the R2P was not contradictory with ASEAN values. Furthermore, Dr. Noel stated that R2P is relevant to ASEAN because of its multicultural and multiethnic populations, with conflicts that can spill over into other member states. While it is yet to be formally adopted in ASEAN documents, certain parts of it have been integrated. Dr. Noel reminded us that his work is to argue that R2P is not contradictory to sovereignty, but rather complementary.

To prevent the 4 crimes, the UN suggest that risk factors (causes) are examined. For ASEAN, these factors include issues such as development gaps, ethnic tensions, internal conflict, rise of extremism and governance issues. Dr. Noel highlighted the lack of implementation of R2P in individual ASEAN Member States. He also added that cultural sites should also be protected, showing the destruction of Palmyra by ISIS.

Amalia Sustikarni
Lecturer, BINUS University

The second speaker was Amalia Sustikarni. She restated that R2P is not just about intervention. Historically, she explained that the R2P was found as a response of the failing post-Cold War Humanitarian Interventionism and places the concept of Sovereignty as a Responsibility. She outlines the three steps of R2P: State responsibility, International Assistance, and International Intervention. ASEAN has issues with R2P because some members are still struggling with identity issues and from weak nation building. For these countries, the different historical backgrounds, the decolonization process and democratization process were not as advanced as others. To her, the challenges of ASEAN members are about trans-boundary issues and a disruptive era marked by the decline of Liberalism, the rise of populist movements, inequality and identity politics. Furthermore, some see R2P as contradictory to the ASEAN Way of non-interference. ASEAN has faced issues such as the Saffron Revolution, the Cyclone Nargis, and the Rohingya Crisis. It currently faces crisis in the Southern Philippines and Southern Thailand.

As a concept, R2P is between Liberalism and Realism by uniting human rights and state as the main actor. Amalia stated that for ASEAN to move forward, it needs societal and governmental engagement. A constructivist approach must be taken by societal level to introduce the notion of a collective responsibility. Ideas such as legitimacy and authority should be integrated to local ideas. On a governmental level, we need to reinvent Liberalism. For instance, she mentioned that we need to address the underlying problems of conflict (risk factors), then work on an Early Warning System, and finally an ASEAN peacekeeping force.
The third speaker was Benhard Ruben. He emphasized the relevance of R2P for Indonesia. For instance, the Indonesian Minister of Foreign Affairs stated that human right laws have become part of Indonesia’s identity. He went on to highlight that one of the social restoration value in Indonesia revolves around “Bhinneka Tunggal Ika” and noted that many events from 1965 are becoming more open for discussion. Aceh even has a trush and reconciliation commission. Furthermore, he notes that the 1945 Constitution mandates protection not just for citizens but for all people.

Yet, Ruben identified 5 main issues for R2P progression in Indonesia. First is the issue of the culture of impunity and lack of political will. Second is the issue of the lack of knowledge on R2P. Third is the issue of a weak legal framework. Fourth is the stigmatization suffered by victims and alleged violators. Fifth is the partiality in favor of majority groups.

Hence he advised for legislative reforms and greater public awareness. R2P should be integrated legally, human rights courts should be opened, public awareness created to embrace “western ideas”, and an independent body for scrutiny on government progress on R2P be established. Legislative reform needs to focus on ratifying and incorporating international instruments and utilizing the UN framework of Analysis for Atrocity Crimes to prevent mass atrocities in Indonesia.
Question and Answer
Comment No. 1
What is the feasibility of implementing R2P in ASEAN?

Dr. Noel: He compared Indonesia to a rice cake being cooked with fires from both sides and highlighted that the government and the state needs local champions who can operate on a social scale and examine if the government is doing its work properly. He mentioned that budgets for these issues need to be carefully considered by the state, and also education to raise awareness. Parliamentarians are also encouraged to bring up laws to protect women and minorities and implement international conventions to domestic laws. For instance, in the Philippines, the military is being educated on human rights laws and they are able to coordinate with civilians to suppress conflicts. He believes that engaging with the media is crucial. Some reports that they write can be impactful to the local communities. Technology allows rampant spread of hate speech.

Comment No. 2
When the R2P was first introduced in 2005, we realized that there were a lot of challenges. Now we have global and regional disturbances such as in Thailand and the Philippines. In Indonesia, we are not sure where we are. In a situation like this, do we need a new strategy?

Dr. Noel: Agrees with the challenges that we currently face. He states that the rise of Duterte came from the failures of previous administrations. Dr. Noel stated the need for documentation and accountability. Evidence needs to be gathered to prove parties guilty in the long run. In the case of the Philippines, many in the media are careless and do not provide anonymity. The strategy needs to change to adapt to current situations, but the current values must be kept.

Amalia: She points out that the current Indonesian government is not strong enough. A local emphasis must be placed to prevent the rise of populism. We can do more on fighting populism by engaging outside the cities. As a lecturer, she believes that encouraging logical thinking is necessary in university to combat post-truthism.

Ruben: The strategy should be engaging with local authorities to implement R2P. Areas such as Depok, NTT and Aceh are in need of help to integrate human rights. The other strategy should be to rein in commissions and approach them by incorporating their agendas to our goals.

Comment No. 3
Is R2P legally binding? In my opinion, R2P is ideal but quite difficult to implement. How do we make R2P more relevant in international communities?

Dr. Noel: R2P is a political norm, not legally binding, but it has legal principles such as the Rome Treaty, the Geneva Accord that are already in place. He recognized that the UN is not perfect and the power is not distributed equally. It seems easy to say that the UN is failing to act in Syria, but it is limited by its own structure. For instance, the UN Security Council members have their own agenda. To add, local governments may not be willing to be involved. Furthermore, non-state actors like ISIS can also commit atrocities. Countries are still not willing to fully obey the international laws, but the long term goal must be to remove sovereignty as a shield for non-interference. The importance of R2P as far as Indonesia is concerned is that it does not go against what Indonesia stands for. States cannot just fail and leave it at that, international involvement must be necessary at times.
ABOUT ASEAN STUDIES PROGRAM

The ASEAN Studies Program was established on February 24, 2010, to become a center of excellence on ASEAN related issues, which can assist in the development of the ASEAN Community by 2015. The Habibie Center through its ASEAN Studies Program, alongside other institutions working towards the same goal, hopes to contribute to the realization of a more people-oriented ASEAN that puts a high value on democracy and human rights.

The objective of the ASEAN Studies Program is not merely only to conduct research and discussion within academic and government circles, but also to strengthen public awareness by forming a strong network of civil society in the region that will be able to help spread the ASEAN message. With the establishment of ASEAN Studies Program, The Habibie Center aims to play its part within our capabilities to the ASEAN regional development.

ABOUT TALKING ASEAN

Talking ASEAN is a monthly public dialogue held at The Habibie Center in Jakarta. Covering a wide array of issues related to ASEAN, Talking ASEAN addresses topics of: Economic Integration, Socio-cultural, & Democracy, human rights and regional peace, among others. Featuring local and visiting experts, Talking ASEAN is one of a series of twelve dialogues regularly held each month and open to a target audience consisting of ASEAN officials, foreign ambassadors & diplomats, academics, university students, businesses, and the media.

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