ASEAN’s Rohingya Challenge

Can ASEAN fail to act and yet be a Community?

A human tragedy has been unfolding in the Bay of Bengal. Thousands of poor Rohingya and Bangladeshi refugees and job seekers have been the victims of xenophobia, cynical smugglers and incapable governance.

What has ASEAN done? So far very little. Yet this crisis is exactly the kind of non-traditional trans-national security challenge that ASEAN must cope with if it means seriously its ambition to form a peaceful “ASEAN Community” by December 2015.

Brief Points

- The exodus of refugees and job seekers from Myanmar and Bangladesh presents an acute challenge for ASEAN
- Four member countries are directly involved: Myanmar, Thailand, Malaysia, and Indonesia
- ASEAN lacks a capacity for handling trans-national security challenges
- A minister-level working group should be established

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A double tragedy

In May 2015, a double tragedy unfolded in the Bay of Bengal when Thai authorities discovered camps where refugees and migrants from Bangladesh and Myanmar had been held in transit, and been so badly treated that many had died. The disclosure led to a crisis when the smugglers absconded. Their clients had nowhere to go but sailed around without enough food or water, until they were allowed to land in Malaysia, Indonesia or Thailand. Meanwhile many died. This was the first – acute – tragedy.

The other is permanent. Many of the perhaps 1.3 million Rohingya, the majority of whom live in Myanmar without citizenship rights, while the remaining reside in Bangladesh or other countries, have so poor living conditions, or are so badly treated, that tens of thousands place their fate in the hands of smugglers. As long as this tragedy is allowed to persist, it will lead to new acute crises.

Crisis dimensions

On a local level, the crisis concerns the status of Muslim Rohingya in Myanmar’s Rakhine State, where the Buddhist Rakhine majority reject the term Rohingya and instead say Bengali. The Rakhine nationalist parties pursue a two-pronged struggle to revive the historical state of Arakan with autonomy from Naypyidaw, and prevent the Muslims in their state from having rights of citizenship.

At the national – or Union – level, the government of President Thein Sein and the main opposition leader, Aung San Suu Kyi, might have supported a motion to grant citizenship to Rohingya but instead say Bengali. The Rakhine nationalist parties pursue a two-pronged struggle to revive the historical state of Arakan with autonomy from Naypyidaw, and prevent the Muslims in their state from having rights of citizenship.

At a third level, there is a dispute between Myanmar and Bangladesh. Myanmar has often expelled Rohingya to its overpopulated Muslim neighbour, which also has a Rakhain minority (called Rakhaina there, not Rakhine). It is unclear how many Rohingya reside in Bangladesh. The issue is complicated by double identities and the fact that Rohingyas cross the border in both directions.

At the fourth level is the Association of Southeast Asian Nations (ASEAN): Four of its ten members are directly affected by the crisis: Myanmar, Thailand, Malaysia, and Indonesia. Some of their security officials have no doubt been implicated in the smuggling. Thailand and Malaysia carry a huge responsibility, not only for having tolerated illegal smuggling but also for making use of low paid immigrant labour from Myanmar and Bangladesh. As a South Asian country, Bangladesh is not a member of ASEAN but it shares responsibility for the fate of its own out-migrants as well as refugees from Myanmar when they pass through Bangladesh.

There is also a fifth level, the responsibility of the “international community”, primarily represented by the United Nations. The UNHCR takes responsibility for humanitarian aid to the internally displaced.

We shall here focus on ASEAN.

Risks

An already serious situation could get worse. The immediate risk is a continuation of the crisis at sea if more people see a chance to get to Malaysia and there is no improvement in Myanmar or Bangladesh. The smugglers will no doubt re-establish their business.

A second risk is that powerful circles in Myanmar, fearing that Aung San Suu Kyi’s National League for Democracy (NLD) will win a parliamentary majority in November, find a chance to provoke new anti-Muslim riots. This could place Aung San Suu Kyi in a conundrum: Should she take a principled human rights stand or join in an anti-Muslim outrage?

There is also a third risk. The plight of the persecuted Rohingya has drawn attention throughout the world, primarily in Muslim communities. Numerous NGOs undertake solidarity work and collect money for the Rohingya. Their struggle has not, however, in recent years been militarized and has only to a limited extent led to terrorist threats. This is part of the picture of Southeast Asia’s relative peace.

The majority of armed conflicts in the world today have a religious dimension, with most armed conflicts taking place in Muslim countries or between a government and insurgents with an Islamic orientation. Religious conflict is not, however, highly militarized in Southeast Asia, where Muslims generally ignore the calls for a global jihad. Indonesia, the world’s largest Muslim country, has been surprisingly peaceful since 2005, when its government made peace with the Free Aceh movement, creating an autonomous state governed by democratically elected former rebels. Malaysia has also avoided armed conflict and terrorism. Even the Muslim Malays in south Thailand, and the Moros in Mindanao, who are engaged in armed struggles, do not see their fight as part of a global jihad. They fight for local independence or autonomy. In 2014, the Moro Islamic Liberation Front (MILF) signed an agreement with the government of the Philippines, aiming to set up an autonomous Bangsamoro. Muslim Bangladesh and the huge Muslim community in India have also not been very much affected by jihadist extremism.

In view of the recent upsurge of religious conflict in the Middle East, Africa and Europe, it is essential for ASEAN to prevent conflict between Buddhists and Muslims. In the interest of regional peace, ASEAN needs to overcome some of its inhibition against interfering with the internal affairs of its members, and develop a regional action plan to manage and resolve the crisis in the Bay of Bengal.

Zone of Peace

ASEAN was formed in 1967 by five states: Indonesia, Malaysia, the Philippines, Singapore, and Thailand. During 1963–65, Indonesia had waged war against the formation of the Malaysian Federation, which then included Singapore. ASEAN resulted from an effort to end the war.

In 1976, when Vietnam, Laos and Cambodia had come under communist rule, ASEAN’s first “concord” declared a Zone of Peace, Freedom and Neutrality (ZOPFAN) among its members. Brunei joined ASEAN in 1984. In

The zone of peace is almost there. ASEAN’s five original members have never gone to war against each other and there has only been some limited fighting at the Myanmar-Thai and Thai-Cambodian borders since Myanmar and Cambodia joined ASEAN. While civil wars raged in most Southeast Asian countries during the Cold War, only three have active conflicts today: The Philippines, Thailand and Myanmar. Myanmar tries to get a national ceasefire with all of its non-state armed groups, and the Philippines seek ratification of its peace deal with MILF.

In the period 1955–74, well over 70 per cent of deaths in armed conflict worldwide were in Southeast Asia (mainly but not only because of the Vietnam War). Since 1991, the region has had only 3.6 per cent of global battle deaths.

**ASEAN Community 2015**

Acting on the basis of its impressive record, ASEAN intends to form an ASEAN Community (AC15) by the end of 2015. It is much about economic integration but peace also remains in focus. Malaysia is ASEAN chair in 2015.

AC15 shall build on achievements under the 2007 ASEAN Charter, which emphasized, along with non-interference in the internal affairs of member states, also “reliance on peaceful settlement of disputes” and “principles of democracy, rule of law and good governance, respect for and protection of human rights and fundamental freedoms”.

When seeking to form AC15, ASEAN faces several challenges:

- act in unison when a member state is in dispute with an external country (such as Vietnam with China, the Philippines with China, and Myanmar with Bangladesh)
- find ways to reconcile member states when they have disputes with each other (as between Thailand and Cambodia over access to the temple Preah Vihear)
- navigate between the principle of non-interference and the need to act when a member state’s policies threaten the stability of other members or discredit the Southeast Asian community
- develop regional mechanisms and institutions of conflict resolution and management.

So far, ASEAN’s capacity has fallen short of the challenges.

**Weak capacity**

ASEAN decided in 1976 to create a High Council to deal with disputes or situations that could threaten regional “peace and harmony”. It took 25 years before the rules to govern the High Council were adopted, and it has not yet been established.

When the ASEAN members selected the Vietnamese career diplomat Le Luong Minh as Secretary General for the years 2013–17, they gave him a mandate to concentrate on building administrative capacity rather than policy-making. Some thought his predecessor, the Thai Muslim Surin Pitsuwan, was too political.

In 2013, when Indonesia was chair, an ASEAN Institute for Peace and Reconciliation (AIPR) was established in Jakarta, but with a limited mandate. It does research, documentation and training, but is not expected to come up with policy proposals.

ASEAN tends to leave matters aside when there is no consensus among its members, and to call on “the international community” in humanitarian crises.

ASEAN – notably Indonesia and Singapore – played a role in facilitating the Cambodian peace process 1989–91, but it was the UN that took upon itself to govern the war-ravaged country during the transition period to an elected government in 1993.

ASEAN played a backseat role in resolving the economic, social and political crises following the 1997 financial crisis.

Many ASEAN members have been able to resolve their maritime territorial disputes through bilateral negotiations, and disputes between Malaysia and Indonesia (over Sipadan/Ligitan 2002), and between Malaysia and Singapore (over Pedra Branca 2008) were resolved through international arbitration. ASEAN, however, played only an informal role in their resolution.

Five ASEAN countries contributed to the Aceh Monitoring Mission after the 2005 peace agreement between the Indonesian government and the Free Aceh Movement, but it was Martti Ahtisaari’s Conflict Mediation Initiative in Helsinki that facilitated the precedeing negotiations.

In 2008–11, ASEAN failed to prevent a border conflict between Cambodia and Thailand, so the ICJ and UN Security Council had to step in. When Indonesia received a UN mandate to send truce observers to the area, the Thai army blocked their arrival.

Malaysia served as mediator in peace talks between the government of the Philippines and MILF, leading to the 2014 agreement, and Malaysia has tried to help establish talks between the Malay Muslim insurgents in south Thailand and the Thai government, but this was not done under any ASEAN mandate.

It has been unthinkable for ASEAN to do anything to help Thailand overcome its factional struggles, which paralyzed several elected governments, impaired its ASEAN chairmanship in 2008–9, and led to military coups in 2006 and 2014.

**Myanmar in ASEAN**

The one member country where ASEAN has dared to interfere is Myanmar. Already at the time when it became member in 1997, other members tried to persuade it to do what was needed to get rid of Western sanctions. There was consensus in ASEAN that Myanmar should be integrated economically in the region. This led to a kind of good cop/bad cop tactic, with the US and EU exerting pressure through sanctions, while ASEAN, Japan – and China – urged Myanmar to reform. In conjunction with pressure from young members of Myanmar’s leading military families – often Singapore-educated – this helped prompt General Than Shwe’s military junta to get on
with a long-held plan to ensure a transition to constitutional rule, release political prisoners, institute basic freedoms, and have free elections. There is no doubt that the impressions Myanmar’s leaders received from ASEAN’s many summits and meetings played a key role in inducing them to open up.

When it was Myanmar’s turn to serve as chair in 2006, it was bypassed. Only in 2014 had it reformed itself enough to be acceptable. Its chairmanship was successful, and helped Myanmar build capacity for handling regional and foreign policy.

This created channels through which it should now be possible for the ASEAN Chair and Secretariat to cooperate with Myanmar in making its people understand that many Rohingya have lived in Myanmar so long that they must have citizenship rights. They must also have the right to use their chosen name for their identity.

A key problem is that it requires political courage for politicians to tell this to their constituencies in an election year. Unlikely, it may not be easier after the elections, when a situation of political stalemate may ensue between Aung San Suu Kyi’s NLD, which is likely to win a majority of the elected members of parliament, and an opposing camp consisting of non-NLD elected MPs and the 25 per cent who are appointed – in accordance with the 2008 constitution – by the Commander-in-chief. The NLD and the Union Solidarity and Development Party (USDP), which now dominates the parliament – will probably maintain their refusal to grant Rohingya citizenship as long as being engaged in a rivalry for popular support, unless attitudes change under the impression of regional and international efforts.

What can ASEAN do?

The acute May crisis was resolved when Malaysia and Indonesia let the refugees and migrants land on their soil. This followed a two-day crisis meeting between Thailand, Malaysia and Indonesia’s foreign ministers on 20 May.

A “Special Meeting on Irregular Migration in the Indian Ocean” was held in Bangkok on 29 May, with 17 nations represented. Myanmar sent a delegation on the condition that the word “Rohingya” not be used. The meeting is said to have been constructive but it remains unclear what came out of it.

ASEAN may consider forming a minister-level working group with a mandate to address the refugee tragedy as a trans-national issue of long-standing concern to the whole of South East Asia. The working group should include ministers from the main countries involved, including Bangladesh, and representatives of the Muslim, Buddhist and Christian faiths.

An immediate task is to institute a systematic monitoring of living conditions of both Rakhine and Rohingya both in Myanmar and Bangladesh, in camps as well as residential areas. Monitors should be mandated to provide accurate reports on threats or incidents.

In order to defeat human smuggling, generous quotas should be established for orderly migration from Rakhine State and Bangladesh to Malaysia, Thailand and Indonesia, with enforcement of labour protection laws and minimum salaries.

An information campaign may be organized to overcome rumours and prejudice. Information should be disseminated on how Muslim Rohingya and Buddhist Rakhine live peacefully together in some places.

ASEAN should continue its good work in bringing religious leaders together in inter-religious dialogue.

Public institutions (police, schools, hospitals) should be ordered to protect Rohingya minority rights in areas dominated by the Rakhine and vice versa.

A political power sharing arrangement might be designed for Rakhine State (perhaps inspired by Malaysia) to ensure Rohingya representation in institutions of governance, while reassuring Rakhine concerns for maintaining their majority status.

On the basis of results from Myanmar’s 2014 national census (the results of which were made public in May 2015, except for data on religion and ethnicity), an economic development plan should be made for Rakhine state, with emphasis on local business but also aid and development finance investments from donor countries and transnational companies. Projects enhancing inter-ethnic cooperation should be prioritised. Companies, NGOs and donors should be trained in conflict sensitivity and the principles of Do No Harm.

The impact of hope

One reason why Southeast Asia, and also Bangladesh and India, have avoided violent religious upheaval of the kind that has afflicted the Middle East, Afghanistan and Pakistan, could be that the inhabitants of the Asian economic growth zone have greater hope for their future than people in the stalled or resource extractive Middle Eastern economies.

Future expectations are important for peace. Both the Rohingya and the Rakhine must get their share in the ASEAN Community’s hope of a better future.

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THE PROJECT

Stein Tønnesson undertakes a project at PRIO on ASEAN and ‘Thailand’s missing peace’ and another on ‘Elections and Violence in Myanmar’, both in cooperation with Senior Researcher Marte Nilsen. This policy brief is an output from the ASEAN and Thailand project, informed also by the project on Myanmar.

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