

PERSPECTIVE

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Rakhine Crisis Challenges ASEAN's Non-Interference Principle

By Hoang Thi Ha and Ye Htut

EXECUTIVE SUMMARY

- The situation in Rakhine following three coordinated conflicts on 9 October is getting more complex and has had immediate spill-over effects on the wider region. ASEAN unity came under the spotlight as Malaysia and Myanmar become caught in a diplomatic row after Malaysian Prime Minister Najib Razak openly condemned the Myanmar government for “genocide”.
- ASEAN’s response has remained understandably muted, constrained by its own principle of non-interference. Although it has thus far focused on events as cases of irregular migration, there are fears that northern Rakhine is becoming a pocket of radicalisation, and that regional expressions in support of the Rohingya may further fan the fires of extremism.
- Framing the problem in a way that can effectively facilitate a regional approach to the problem is in itself a difficult challenge. Myanmar has for example rejected any use of the term ‘Rohingya’.
- Pressure is mounting on ASEAN to play a more proactive role, and it has been argued that a meaningful response by ASEAN now would lend credence to its ambition of becoming a caring Community that upholds basic human rights, tolerance, inclusivity, and shared responsibility in addressing transnational challenges.
- There are avenues for ASEAN to involve itself in the problem, especially in delivering humanitarian assistance, accessing the troubled areas for needs assessment, building border control capacity, and combating trafficking in persons, radicalisation and terrorism.

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INTRODUCTION

On 9 October, three Myanmar border guard posts in the township of Maungdaw came under attack with nine policemen being killed and loads of weapons and ammunitions being ferried away. The number of attackers, reportedly ranging from 200 to 800, displayed an unprecedented level of planning and marked a major escalation in violence. Investigations by the Myanmar government claimed that the attacks were organised by Aqa Mul Mujahidin (AMM) and Rohingya Solidarity Organisation (RSO) which received training and financial support from extremists in Bangladesh, Pakistan and some Middle Eastern countries.¹

Following the attacks, the Myanmar police and military launched a counter-insurgency operation in northern Rakhine, where 90% of the population are Muslims. The crackdown has caused around 20,000 Muslims to flee to Bangladesh in the last two months. There were accusations of extrajudicial killings and abuses by the Myanmar security forces, all of which were denied by the Myanmar government. The area is currently locked down and it is difficult to distinguish fact from fiction.

This precarious situation has a long history concerning the contested origin and status of the Rohingya community in Rakhine, many of whom are denied full citizenship and have been living on the margins of the country's socio-political life for decades. Mutual fear, distrust and resentment between the Muslims and the Buddhist communities in Rakhine run deep. The Rakhine people, also one of Myanmar's poorest minorities, see the Muslims as a threat to their identity, as well as a competitor for limited economic opportunities and political power.

For decades, the Muslims in Rakhine have identified themselves as 'Rohingya' with the belief that it would give them enough of an ethnic identity to qualify for indigenous group status and therefore citizenship by birth under the 1982 Citizenship Law. The term however is strongly rejected by the Myanmar government and the Rakhine, who see these Muslims as descendants of Bangladeshi migrants and insist on calling them 'Bengalis' as a token of their roots.² This terminology tussle has become a key obstacle to the naturalisation process for the Muslims in Rakhine.

Suppressed under military rule, inter-communal tensions between the Muslims and the Rakhine have escalated as the country embarks on its process of democratisation. The changing contexts both locally and nationally have advantaged the Rakhine and further marginalised the Muslims, driving bigger wedges between them and further charging sentiments on the ground. Four years after the first major flare-up of violence in 2012, the situation has become more complex and multi-faceted, and spill-over effects have impacted the ASEAN region.

¹ President Office of the Republic of the Union of Myanmar, Press release regarding the attacks on the Border Guard Police posts in Maungdaw Township, 13th October 2016.

² Other communities, including the Chinese, Indian and Nepali, who migrated *en masse* to Myanmar after the British conquered Myanmar in 1824, can become naturalised under the 1982 Citizenship Law. There is a concern that these communities will also contest for the ethnic status if the Rohingya is recognised as such.

IMPLICATIONS FOR ASEAN

Unity under stress

The surging violence in Rakhine has ramifications on ASEAN unity. Malaysia's Prime Minister Najib Razak for example has publicly condemned the Myanmar government with accusations of "genocide" and questioned Aung San Suu Kyi's leadership credentials. His criticism was followed by calls from Malaysia's Youth and Sports Minister, Khairy Jamaluddin, to review Myanmar's membership in ASEAN.

Muslim solidarity certainly played a part in Malaysia's response. During closed-door ASEAN meetings, Malaysia and Indonesia have always been the most vocal in urging Myanmar to resolve the Rohingya problem. Malaysia has also galvanised international support for the Rohingya through the Organisation of Islamic Cooperation (OIC), with its former Foreign Minister Syed Hamid Albar being appointed in 2014 as the OIC Special Envoy on Myanmar.

To be sure, Najib's recent open criticism of Myanmar was also designed to shore up his own domestic political standing. Faced with the challenge of a general election and beleaguered by the 1MDB corruption scandal, he has played up the religion card to great intensity in the hope that bolstering his Islamic credentials will solidify and expand support for him among Muslims in Malaysia. Myanmar reacted strongly to Najib's move and has banned its citizens from working in Malaysia. This discord jeopardises ASEAN's unity.

Exodus to neighbouring countries

Since 2012, hundreds of thousands of Rohingya have fled to neighbouring countries. Between January 2014 and May 2015, 88,000 refugees from Myanmar-Bangladesh borderlands, most of whom were Rohingya, took boats across the Bay of Bengal transiting Thailand to reach Indonesia and Malaysia.³ Many of them were victims of unscrupulous people-trafficking networks.

Unwelcoming in the beginning, Indonesia and Malaysia eventually agreed in May 2015 to allow around 7,000 of these to come ashore and provided them with temporary shelter pending repatriation or resettlement within a year. As of October 2016, 90% of 150,669 refugees and asylum-seekers living in Malaysia are from Myanmar, of whom 54,856 are Rohingya.⁴ In Indonesia, there remained over 300 Rohingya as of February 2016.⁵

The influx of these refugees put the neighbouring countries in a dilemma. Not being signees of the 1951 Convention relating to the Status of Refugees, their agreement to temporarily shelter the migrants therefore came with a condition that the international community must urgently share this burden and provide necessary support, including financial assistance.

³ Eleanor Albert, "The Rohingya Migrant Crisis", Backgrounder for Council on Foreign Relations, 9 December 2016.

⁴ "Malaysia Steps up Anti-Myanmar Rhetoric", *The Bangkok Post*, 3 December 2016.

⁵ UNHCR Factsheet on Indonesia, February 2016 (<http://www.unhcr.org/50001bda9.pdf>)

Fomenting radicalism and terrorism

The travails of the Rohingya, especially in the wake of the reported torching of buildings in Wa Peik in the last month,⁶ have caught the imagination of Muslims worldwide and made it a fertile ground for a new front of jihadism. Northern Rakhine may therefore be on the verge of becoming another pocket of radicalisation in Southeast Asia. The coordinated border attacks in Maungdaw could be a foretaste of a new violence threshold to come. A few days after the attacks, an unverified video of militants appeared, showing a banner calling on “all Rohingya around the world to prepare for jihad and join their fight”⁷. There have been media reports of Rohingya militants being recruited from refugee camps in Cox’s Bazar of Bangladesh for training in Pakistan since 2012, who are currently operational in remote border areas of Bangladesh.⁸

Pro-Rohingya sentiments are also energising extremist elements in Indonesia and Malaysia at a time when religious tensions and the trend towards Islamic orthodoxy are running high in these countries. Since 2012, there have been protest marches and demonstrations in Indonesia in support of the Rohingya, as well as calls for revenge. In May 2013 and November 2016, police foiled two attempts by Indonesian Muslim militants to bomb the Myanmar Embassy in Jakarta. In Malaysia, Najib’s rousing speech denouncing Myanmar’s apathetic response to the plight of the Rohingya people at the Solidarity Assembly for Rohingya on 4 December may also have the unintended consequence of galvanising jihadist sentiments in Malaysia.

There is also fear that the Islamic State in Iraq and Syria (ISIS), with a shrinking foothold in the Middle East, may look to Southeast Asia for its next base. A warning came recently from Malaysia Defence Minister Hishammuddin Hussein when he called for increased ASEAN cooperation to neutralise any such attempt by ISIS.⁹ Apart from the support it enjoys from terrorist and extremist groups in the region, ISIS could well exploit the Rohingya problem both as a source for new recruits as well as fodder for its message of Muslim victimhood and claim the need for an Islamic Caliphate in the region. With these region-wide implications, it is no longer rational for Myanmar to insulate the situation in Rakhine as a purely internal security issue.

Reputational cost for ASEAN

Beyond its political and security implications, the Rohingya issue has dealt a reputational blow to the credibility of the ASEAN Community that was launched last year. The notion of a caring and sharing community rings hollow in the absence of a meaningful response to this latest humanitarian challenge. There has been growing external criticism and internal frustration over ASEAN inability to deal with the problem.

⁶ <http://www.bbc.com/news/world-asia-38298334>

⁷ <https://www.youtube.com/watch?v=Zy7bI-fRVbU>

⁸ <http://indiatoday.intoday.in/story/pakistan-terror-outfits-rohingya-militants-bangladesh-myanmar-jet-lashkar-taiba/1/798903.html>.

⁹ “ISIS may set up terror base in Asean region, warns Malaysia's defence minister”, *The Straits Times*, 17 December 2016.

ASEAN'S RESPONSE: 2009-2016

ASEAN's response to the Rohingya problem has been limited in scope. While relevant statements emphasise the need to address the root causes of the problem, ASEAN, bound by the non-interference principle, has refrained from openly admonishing Myanmar or proactively tackling the problem head-on. Furthermore, due to Myanmar's denunciation of the term 'Rohingya', framing the problem itself for a regional approach is a big challenge. ASEAN's approach has thus far focused on tackling the issue under the rubric of irregular migration.

The problem featured for the first time on ASEAN's agenda during the 14th ASEAN Summit in 2009 under Thailand's Chairmanship, in one paragraph in the Chairman's Statement. It referred to "illegal migrants in the Indian Ocean" instead of "Rohingya", and tasked the ASEAN Secretary-General to coordinate with the Myanmar government to obtain relevant statistics about these migrants. The latter point would have been noteworthy if it had been followed through. However, the Chairman's Statement is not a negotiated document and Thailand obviously had used the Chair's prerogative in inserting this point—and to no known practical effect. The then-Secretary-General, Dr. Surin Pitsuwan, tried to follow up but failed in the absence of political will and consensus among ASEAN member governments.

Last year when a humanitarian crisis unfolded as tens of thousands of Rohingya and Bangladeshi migrants were stranded at sea, and mass graves were uncovered in southern Thailand and northern Malaysia, the trafficking in persons became a top ASEAN priority. Malaysia, the ASEAN Chair for 2015 and one of the most affected countries, played a proactive leadership role. It convened a special ASEAN ministerial meeting on transnational crime (AMMTC) in July 2015 to discuss regional solutions to the problem, and search for a balanced approach between humanitarian response and law enforcement. ASEAN remained focused on the matter throughout 2015 with the establishment of a trust fund to provide emergency humanitarian support for victims, and the inclusion of people-smuggling in the AMMTC's portfolio.

These developments provided impetus for the signing of the ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP) in November last year. Three ASEAN member countries have ratified the Convention, including Thailand, a major transit point for maritime migration from Myanmar and Bangladesh. Having been criticised for reported connections between Thai authorities and people traffickers, the Thai government has increased anti-trafficking law enforcement efforts and initiated prosecution of cases of abuse of illegal migrants.

Unlike Malaysia, Indonesia took the path of quiet diplomacy, with a meeting between its Foreign Minister Retno Marsudi and Aung San Suu Kyi on 6 December. Following this, Myanmar called for an ASEAN foreign ministers retreat in Yangon on 19 December to discuss recent developments in Rakhine. This retreat, the first of its kind, failed to reach any agreement that would present ASEAN with an effective role to play. Suggestions such as establishing an ASEAN eminent persons group to lead a fact-finding mission or utilising ASEAN disaster relief mechanisms to address humanitarian needs were brushed aside.

While Myanmar promised to grant necessary humanitarian access, it remained ambivalent about when and how ASEAN could participate.¹⁰

By convening the retreat, Myanmar intended to keep ASEAN foreign ministers appraised of the situation and urged ASEAN countries to give Myanmar time and space to address the problem. It had no desire to build any new mechanism involving ASEAN at this time, pending the work of the Advisory Commission on Rakhine State led by former UN Secretary-General Kofi Annan, which is due to submit its final report and recommendations in the second half of 2017.

WHAT CAN ASEAN DO?

Be that as it may, ASEAN is well advised to continue seeking a solution to the situation in Rakhine and mitigating its regional implications. It is well positioned to exercise some leverage thanks to its principle of non-confrontational persuasion and its history of constructive engagement with Myanmar when the country was internationally isolated. The following are some possible avenues it can pursue:

- *Persuade Myanmar to allow access by ASEAN representative(s) to the troubled areas, focusing on needs assessment for humanitarian assistance:* With conflicting narratives from the Myanmar government and Rohingya groups inflaming resentment, an objective evaluation of the situation by ASEAN is a good first step towards reconciliation.
- *Play an active role in delivering humanitarian assistance:* Although the Rakhine problem is different in essence from the natural disasters that ASEAN normally encounters, ASEAN's experience, expertise and institutions can be of great assistance. Given the fact that international donor agencies are often met with suspicion and inhospitality by the local Rakhine community¹¹, ASEAN may be well placed to bridge the gap between Myanmar and the international community and facilitate effective distribution of assistance. ASEAN did play this unique role after Cyclone Nargis hit Myanmar in 2008. This humanitarian partnership not only helped save lives but also built trust with the Myanmar government.¹²
- *Intensify efforts to combat people smuggling and trafficking in persons:* ASEAN should keep up the momentum gained last year, and continue preventing people-

¹⁰ Press release: State Counsellor briefed ASEAN Foreign Ministers on Recent Developments in Rakhine State, 19 December 2016.

¹¹ According to the Inquiry Commission on the Sectarian Violence in Rakhine State: Final Report 23 April 2013, only 20% of the Rakhine trust international non-governmental organisations because 90% of their projects in Rohingya villages.

¹² ASEAN's success in this mission is two-fold: (i) convincing the Myanmar government to open up to international humanitarian assistance through a sustained institutional arrangement; and (iii) infusing a sense of confidence and comfort within the Myanmar governing in interactions with the world.

trafficking networks from exploiting the situation in Rakhine. ASEAN members should accelerate their ratification of ACTIP to enable its early enforcement and criminalise TIP-related activities.

- *Enhance regional cooperation in border management and promote anti-radicalism among Muslims in Myanmar and elsewhere:* ASEAN cooperation on border management should be geared towards enhancing Myanmar's border control capacity. Myanmar should also be an emerging focus in ASEAN's anti-radicalism and anti-terrorism efforts, through sharing intelligence and exchanging de-radicalisation best practices among member states and with external partners.
- *Encourage new initiatives for peaceful coexistence between Rakhine and Rohingya communities:* a sense of compromise should be inculcated to bridge the two apparently irreconcilable positions regarding the term 'Rohingya'. One proposed solution is to use 'Rohingya' as a name for a community (like the Chinese, Indian and Nepali). This needs to be a package deal that requires compromises from all sides: (i) the Rohingya should renounce their quest for ethnic indigenous status and only seek citizenship; (ii) the Myanmar government should accept that Muslims in Rakhine have a right to self-identity and accelerate a proper and transparent process for their naturalisation.

CONCLUSION

The October armed attacks in Rakhine and subsequent developments have taken on new dynamics that have region-wide security ramifications and that affect ASEAN unity and credibility. It is increasingly untenable for ASEAN to insulate itself from this unfolding crisis behind the shield of non-interference.

The foreign ministers retreat in Yangon was a disappointment in the sense that no specific role or follow-up action for ASEAN was conceived that could help alleviate the problem. However, engaging Myanmar on this matter was a commendable effort. The situation in Rakhine, once a taboo subject in ASEAN contexts, has at least now precipitated an ASEAN foreign ministers meeting that will serve as a platform for further discussions and negotiations on the issue.

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