

Opinion – Myanmar, ASEAN and the Responsibility to Protect

Written by Simon Adams

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SIMON ADAMS, MAY 12 2021

In the four months since General Min Aung Hlaing launched his military coup, Myanmar has become ungovernable. Since 1 February over 780 people have been killed by the security forces and almost 5,000 have been detained. Several prominent pro-democracy activists have been tortured to death and the country's elected leaders remain in hiding or under arrest. The economy has flatlined, with nervous investors abandoning Myanmar and strikes crippling the public sector. The army, or Tatmadaw, has reignited its conflict with several ethnic armed groups and used airstrikes against civilian populations in outlying provinces. A number of senior diplomats have defected, including Ambassador Kyaw Moe Tun who gave the three-finger salute of the civil disobedience movement on the floor of the UN General Assembly. Targeted sanctions have been imposed by some foreign countries and the World Bank has suspended lending. And despite weeks of deadly repression, fresh protests still break out every day in urban neighborhoods, towns and villages across the country.

Given the chaos the coup has caused, the high-level summit convened by the Association of South-East Asian Nations (ASEAN) in Jakarta on 24 April provided a unique opportunity for regional leadership. For the junta, the summit was supposed to mark General Min Aung Hlaing's first official engagement as the new ruler of Myanmar. Instead, his hosts described him only as the country's military chief, a subtle indignity he did not appreciate. Nor did he apparently enjoy the diplomatic chiding he got from the leaders of Indonesia, Malaysia and Singapore, who respectfully beseeched him to stop murdering his people. He might have got ASEAN to delete the section of their joint statement that called for the release of detainees, but the General did not return to Naypyidaw with the acceptance he craves.

On the other hand, the summit was also an abject failure for ASEAN. The leaders of the region produced a "five-point consensus" plan to stop the killing and restore civilian rule, but it was unceremoniously rejected by the junta who said they could not agree to its implementation until "the situation returns to stability in the country." Underlining their disdain for ASEAN's entreaties, eight people were shot dead by the security forces the day after the summit.

However, stability cannot be created by decree and Myanmar is no longer the country it was before 1 February. But nor is it the country it was before the beginning of the transition to civilian-led government in 2011. The last decade has unleashed tremendous economic, social and political changes. This rising generation have experienced more freedom than their parents and for the first time in history, they are digitally connected with the rest of the world. The ubiquitous three-finger salute of the protesters is just one reflection that young people in Myanmar today not only identify with global culture but have also been inspired by their peers in Hong Kong, Thailand and elsewhere.

As "Gen Z" continue to lead the resistance to military rule, they are calling on the international community to not just condemn what is happening in their country, but to act. For example, on 5 March, as the UN Security Council was meeting in its solemn chamber in New York, people across Myanmar held protest vigils. Despite a strict night-time curfew, demonstrators came into the streets of Yangon and Mandalay to write "We Need R2P" and "R2P – Save Myanmar" in candlelight.

At other protests over the following weeks, thousands more protesters were photographed carrying placards with

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similar R2P – or “responsibility to protect” – messages. In Tamu town, in the far north-west near the border with India, lines of people marched in white t-shirts with “R2P” printed across them. In Hpa Kant, in Kachin State, people peacefully protested carrying roses and R2P signs. In Kon Chan Kone, young protesters used stencils to spray-paint, “We Need R2P, We Want Democracy” in the streets. Even the waterways were converted into improvised protest sites, with one photograph showing a pro-R2P message floating near serene rural fields. The fact that these messages were in English – a language that is only spoken by about 5 percent of Myanmar’s population – points to the fact that the protesters are pleading their case to a global audience.

The principle of R2P was adopted by the UN in 2005 and stipulates that the international community has a responsibility to protect people from crimes against humanity, war crimes, ethnic cleansing and genocide. It was an idea that sought to overcome the ignominy experienced after the genocide in Rwanda and at Srebrenica during the 1990s. R2P was a collective commitment to end the politics of indifference and inaction once and for all.

In its 15 years of existence, R2P has appeared in more than 90 UN Security Council resolutions, leading to peacekeeping missions being deployed to protect civilians in places like the Central African Republic or South Sudan. It also led to the controversial 2011 military intervention to halt atrocities in Libya and the far less controversial and more successful intervention in Côte d’Ivoire. The Chief Prosecutor of the International Criminal Court (ICC), Fatou Bensouda, has also described the ICC as “the legal arm of R2P.” Over the past two decades the ICC has played a crucial role in upholding the international community’s responsibility to protect by bringing notorious perpetrators of atrocity crimes to justice.

Contrary to popular misperception, R2P is not primarily about military intervention. R2P focuses on a range of measures – some consensual, some coercive – aimed at preventing or halting atrocities. And like all human rights norms, R2P is dependent upon political will for meaningful implementation.

The current crisis in Myanmar has its origins in the past failure of the international community to hold the Tatmadaw accountable for their crimes. Despite the beginning of a transition from military rule to civilian-led government in 2011, the Tatmadaw continued to wield tremendous power. They also continued to perpetrate atrocities.

Most notable in this regard was the 2017 genocide against the Rohingya population in Rakhine State. In 2018 a UN Fact-Finding Mission concluded that senior members of the military, including General Min Aung Hlaing, should be prosecuted for genocide as well as crimes against humanity and war crimes committed in Rakhine, Kachin and Shan states.

China defended Myanmar’s generals at the UN Security Council and privately threatened to veto any resolution authorizing international action. As a result, the Council’s only formal response to the Rohingya genocide was the adoption of a tepid Presidential Statement in November 2017. In response to the February coup, on 10 March the Council adopted another Presidential Statement that “stresses the need to uphold democratic institutions and processes, refrain from violence, fully respect human rights and fundamental freedoms.” But as the situation inside Myanmar has continued to worsen, the Council’s voice has grown frail. By the end of April, the Council was only able to agree on “press elements” for the media, outlining their general support for the ASEAN five-point consensus plan that the junta had already declared they would ignore.

Almost four months since the military seized power, the UN Security Council has still not adopted a single resolution on the coup, let alone imposed any measures that would be binding under international law. But diplomatic statements of concern will not be enough to end atrocities by the military. That will require action.

Some states have already implemented punitive measures. Australia, Canada, the United Kingdom and United States all imposed targeted sanctions on senior military officials in response to the Rohingya genocide and some have been expanded since the coup. The European Union has imposed sanctions on eleven senior military officers – including Min Aung Hlaing – and suspended development aid. The US, UK and EU have also sanctioned the massive military-controlled conglomerates, Myanmar Economic Holdings Limited (MEHL) and Myanmar Economic Corporation (MEC). South Korea has ended defense exchanges. New Zealand has cut all political and military ties

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and Norway has halted development assistance.

A number of international corporations, including Woodside Energy, Maersk Shipping, H&M and Bennetton, have also suspended operations or are divesting from Myanmar. The Woodside decision is especially significant as the energy industry provides US\$900 million a year to Myanmar – revenue that can fund the military's repression. Other foreign companies and governments should also sever ties with any businesses linked to MEHL and MEC. In addition to being an instrument of terror, the Tatmadaw is also a massive economic enterprise that enriches and corrupts its senior officers.

Given the junta's rejection of ASEAN's five-point consensus plan, the regional bloc should now intensify the pressure on Naypyidaw. General Min Aung Hlaing is relying on ASEAN's traditional "non-interference" doctrine to enable him to normalize relations after the blood dries in the streets, but ASEAN should absolutely refuse to trade with, or recognize, his illegitimate military regime. Otherwise, ASEAN faces the prospect of having a failed state as one of its members.

The World Bank is predicting that because of the coup, Myanmar's economy may shrink by 10 percent this year. Some financial analysts think that ongoing strikes and unrest may lead to a 60 percent decline in exports. Both the banking and health sectors are already on the point of collapse and the UN Development Program fears that extreme poverty is about to significantly expand for the first time in over a decade. With atrocities ongoing and deadly conflict with ethnic armed groups reigniting, refugees are already starting to flee across the border into Thailand, India and other neighboring states.

But all is not lost. Diplomatic action by key ASEAN states like Singapore, Malaysia or Indonesia could prevent further deterioration and reshape the political calculus of Myanmar's generals. At the very least, these influential states should push for Myanmar's suspension from ASEAN and diplomatically recognize the National Unity Government. India, the other regional superpower that shares a border with Myanmar and is currently serving on the UN Security Council, could also help lead international efforts to hold Myanmar's military accountable.

Without determined Asian leadership it is unclear what, if anything, the UN Security Council will do. Russia is content to ignore both the coup and the crackdown. But China's predicament is more difficult than it appears. Above all else, China desires peace and prosperity on its borders and the coup offers neither. This is precisely why Myanmar's ASEAN neighbors need to force Beijing to choose between protecting murderous generals who are endangering its interests or play the role of global powerbroker and help negotiate an end to military rule.

Regardless, the other members of the UN Security Council should immediately put forward a draft resolution to establish an arms embargo. On 5 May my organization joined Amnesty International, Human Rights Watch and 200 other NGOs from around the world to declare "Not One Bullet More." In our open letter to the Council, we argued that,

comprehensive UN arms embargo on Myanmar should bar the direct and indirect supply, sale, or transfer of all weapons, munitions, and other military-related equipment, including dual-use goods such as vehicles and communications and surveillance equipment, as well as the provision of training, intelligence, and other military assistance.

If China or Russia threaten to veto such action, they should be forced to do so in front of the eyes of the world and not permitted to privately defend Myanmar's generals without facing opprobrium themselves.

Almost four months since the coup, the bravery and resilience of the civil disobedience movement, combined with ongoing demands for international action, has sent a powerful signal to the rest of the world. The Global Centre's Jaclyn Streitfeld-Hall wrote on Twitter that,

for anyone who has ever thought that R2P was just an abstract term reserved for the UN in NY with no practical meaning for the people it's meant to protect, the signs, shirts, etcetera, emblazoned with R2P in Myanmar this month

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show otherwise. They know states have a responsibility.

There is no doubt that people in Myanmar are facing crimes against humanity. Inertia and timidity in response to the Tatmadaw's past atrocities created a climate of impunity that led to the coup. It is time to listen to those who are crying out for protection and finally hold Myanmar's generals accountable for their crimes. Or to quote one Myanmar protester who wrote to me during the first weeks of the crisis, 'Sir, I know that you all are doing your best, but please keep on pushing. I humbly request. Our lives are at stake'.

This article draws on insights from 'Myanmar's deadly coup and the responsibility to protect'.

About the author:

Dr. Simon Adams is Executive Director of the Global Centre for the Responsibility to Protect. He has worked extensively with governments and civil society organizations in South Africa, East Timor, Rwanda and elsewhere. He is the author of five books and numerous academic articles with a focus on international conflict.