

The Intersection of HADR and the Rohingya Refugee Crisis

BY KELSEY BRODERICK

Now that Indonesia and Malaysia have agreed to provide temporary refuge for Rohingya refugees, the recent humanitarian crisis is moving toward a longer term relief and resettlement operation. But the sequence of events leading up to the short-term relief operation demonstrated serious limitations in how regional actors respond to politically sensitive humanitarian challenges. The actions and words of Burma and the other ASEAN countries, as well as those of the United States, are important indicators of the current state of multilateral organizations, international law, and the support of human dignity. Most notably, the Rohingya refugee crisis should be used to shift the debate on the future of Humanitarian Assistance and Disaster Relief (HADR) exercises between the United States and its allies.

Background of the Crisis

The start of the Rohingya crisis can be traced far back into Burma's history. The Rohingyas are a Muslim minority numbering approximately 800,000 who live in Burma's Rakhine State, with another 32,000 registered (and approximately 100,000 unregistered) Rohingyas living across the border in two UN-run refugee camps in Cox Bazaar, Bangladesh.¹ The Rohingyas are denied citizenship under Burma's 1982 Citizenship Law, which states that citizenship is only for those who had permanently settled within the boundaries of present-day Burma before 1823. Within Burma, the Rohingyas are said to be

descendants of people encouraged to come over from Bangladesh when Burma was a British colony. However, there is historical evidence that Rohingya people existed in Rakhine state for centuries.²

After Burma achieved independence from British colonial control in 1948, the Rohingyas were given government identification cards and official documents. But this recognition was largely abolished under the military dictatorship of Nie Win starting with the 1974 Emergency Immigration Act and continuing through the 1982 Citizenship Law. Hundreds of thousands of Rohingyas people fled across the border to Bangladesh during crackdowns in 1978 and 1991. In 2012, conflicts between the Muslim Rohingyas and majority Buddhist Rakhine left over 200 people dead and displaced around 140,000 in Rakhine State. Currently, Rohingyas are routinely denied the opportunity to travel, receive education, own land, have more than two children, and marry anyone outside their ethnic group.³

In February 2015 this marginalization worsened as the Burmese government adopted a measure that required Rohingyas to give up their temporary identification cards in order to undergo a citizenship verification process by the local government. Those who gave up their cards were promised a receipt, which would allow them to enter the verification process. But many believe the opaque verification process may never happen or may have a standard of proof that is too high for most to meet.⁴ This

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fear harkens back to the 2013 census, where the government abruptly decided not to count anyone who called themselves Rohingya, despite earlier promises of inclusion. The UN Population Fund (UNFPA), which largely funded and provided technical assistance to the government in carrying out the census, expressed concerns but ultimately did nothing to correct the results.⁵ As it stands right now, the Burmese government will only refer to the group as ‘Bengalis,’ and has refused to attend international conferences that make reference to the term “Rohingya.”

Rohingya have been escaping from Burma for years to avoid not only religious and ethnic persecution but also the deplorable conditions and abject poverty they face in refugee and internally-displaced persons (IDP) camps, and within their own communities. Most go to Thailand and Malaysia to find jobs working as low-wage labor. Many of them travel under the auspices of human trafficking rings operating in the region—accepting offers of employment from traffickers only to end up being held for ransom or sold into prostitution and slavery. Others are kidnapped from their villages and held by traffickers until their families come forward to pay for their release. If their families are not able to ransom them, they essentially disappear when the boats leave the harbor.⁶

The Crisis Unfolds

A recent crackdown on human trafficking in Thailand prompted the captains of boats containing thousands of Rohingya refugees and Bangladeshi migrants to abandon ship and leave refugees and migrants stranded in the open ocean between Burma, Thailand, Malaysia and Indonesia.⁷ Over 6,000 were trapped in crowded wooden boats without access to food and clean water for over three

months. Instead of rescuing those trapped aboard the boats, Malaysia, Thailand, and Indonesia pushed the boats back out into the open water when the boats drifted into their respective territorial waters.⁸ Officials claimed that accepting the stranded survivors was not their responsibility and would simply encourage more immigrants to arrive. Thai Prime Minister General Prayuth Chan-ocha said, “If we take them all in, then anyone who wants to come will come freely. I am asking if Thailand will be able to take care of them all. Where will the budget come from? No one wants them. Everyone wants a transit country like us to take responsibility. Is it fair?”⁹

What should have been done when the plight of the boat people became known? How should the international community have responded to this disaster?

With boats drifting in international waters, ASEAN also had a chance to respond to the crisis. Almost all of the members of ASEAN have signed the United Nations Convention on the Law of the Sea, which states that every state shall require the master of a ship flying its flag to proceed with all possible speed to the rescue of persons in distress, if informed of their need for assistance, in so far as such action may reasonably be expected of him.¹⁰ And in 2007, ASEAN put forth the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, which calls for states to promote the “full potential and dignity of migrant workers.” However, this agreement only requires states to follow their own domestic laws and policies. Furthermore, the 2012 ASEAN Human Rights Declaration argues that “the realization of human rights must be considered in the regional and national context,” wording which reaffirms ASEAN’s commitment to a regional agreement on non-interference.¹¹ In

addition, only three countries in Southeast Asia (Cambodia, the Philippines, and Timor-Leste) have signed the UN Convention on Refugees—an agreement that disallows ocean ‘pushbacks.’¹²

Despite ASEAN’s lack of a response, increasing international pressure led Malaysia and Indonesia to eventually agree to stop pushing the boats back and provide safe harbor for thousands of refugees each. But they were quick to stress that this assistance was only temporary and that the entire international community should conduct a resettlement and repatriation process for the refugees within one year.¹³ Thailand also agreed to stop pushing back boats, but did not go as far as to volunteer to accept refugees. In addition, Thailand convened a conference with regional leaders on May 29th in Thailand to both craft a regional response and address the underlying causes of the migrant crisis. Officials from Burma were present at the conference, but only after they were assured the term ‘Rohingya’ would not be used and they would not be blamed for causing the crisis.¹⁴

American Response to the Crisis

After reports of the negative consequences of Thailand’s crackdown on trafficking—first the discovery of mass graves in Thailand then the stranding of migrants at sea—came to light in early-May, the U.S. State Department deputy spokesperson Jeff Rathke said, “we urge the countries of the region to work together to save lives at sea,” a statement which places the responsibility for the boat people squarely on the shoulders of countries in the region.¹⁵ In a press conference held the next day, Rathke continued this line of argument, saying, “This is an emergency that we believe needs to be addressed with appropriate speed and

resolve through a regionally coordinated effort to save the lives of the thousands of vulnerable migrants and asylum seekers.” When asked whether the United States was doing anything more than just pointing at the region, Rathke responded, “Well, we’re not asking countries to do things when we’re not doing something ourselves. We have been putting resources into this effort. As we’ve talked about earlier this week, since Fiscal Year 2014 and into this fiscal year we’ve provided \$109 million in humanitarian assistance for vulnerable Burmese. That includes Rohingya, and that money has gone to programs in Burma and in the region.”¹⁶

On May 20th, with international attention mounting, State Department spokeswoman Marie Harf held another press conference where she unveiled a potentially more prominent role for the United States. She stated that the United States was prepared to take a leading role in organizing a multi-country effort to resettle the most vulnerable refugees, but added that the United States “obviously can’t take this all on ourselves.”¹⁷ After Indonesia and Malaysia agreed to take in the refugees temporarily, the United States pledged \$3 million in assistance.¹⁸

If the United States wants to maintain a position of power and importance in Asia, as per the rebalance, it should be ready to step up to the plate when a disaster, natural and man-made, occurs.

Deputy Secretary of State Anthony Blinken also pledged to bring up the Rohingya issue on his already-scheduled visit to Burma. His stated goal was to pressure the government to improve conditions for the Rohingya and cooperate with Bangladesh and other regional actors to help those adrift in the sea. “The only sustainable solution to the

problem,” he said, “is changing the conditions that let them put their lives at risk at the first place.”¹⁹

Moving Forward and Looking Back

There will undoubtedly be a long road ahead for ASEAN and the international community as they try to convince the Burmese government to rethink its policy toward the Rohingya. But these countries also need to address their relative responses to a humanitarian crisis that caused a large group of people a significant amount of trauma and even led to the deaths of many. What should have been done when the plight of the boat people became known? How should the international community have responded to this disaster?

Humanitarian Assistance and Disaster Relief

One clear solution would have been to employ the capabilities regional countries have built up in decades of regional Humanitarian Assistance and Disaster Relief (HADR) exercises. The United States has always placed a strong emphasis on HADR in the region and has been conducting multilateral HADR exercises in the Asia Pacific since the cold war. Notably, the United States Navy has been conducting HADR efforts with Thailand, Indonesia, and Malaysia for decades and recently agreed to conduct HADR exercises with the Philippines under the 2014 Enhanced Defense Cooperation Agreement.²⁰ The Rim of the Pacific (RIMPAC) Exercises also include a major component of HADR training and practice. RIMPAC is the world’s largest international maritime exercise and RIMPAC 2014 included 22 nations.²¹ Even though HADR is not a core function of the Navy, many of the attributes of the Navy, including ship capability and international reach, are well suited to respond to rapidly to

humanitarian crises with relief supplies and personnel. The Navy conducts reactive HADR in the wake of disasters and calamitous events and contributes to proactive humanitarian assistance by leading partner capacity-building and mutual training.²² “We’ve been responding to disasters from the beginning of our time,” the Navy’s official website reads, “and it’s kind of the rule of the sea; if someone is in trouble, you help and then you figure it out, and you sort out the differences later.”²³ Since 1989 the United States Pacific Command (PACOM) has played a leading role in nearly every major disaster in Southeast Asia. When Typhoon Haiyan hit the Philippines, the United States responded in two days with troops, relief aid, and supplies.²⁴

ASEAN has also conducted its own disaster relief exercises (DiRex) since 2009 in keeping with the 2005 ASEAN Agreement on Disaster Management and Emergency Response mechanism—an agreement that affirms ASEAN’s commitment to the United Nation’s Hyogo Framework of Action, which calls for “building the resilience of nations and communities to disaster.”²⁵ The United States has committed to help ASEAN build up its capacity by supporting the ASEAN Coordinating Center for Humanitarian Assistance on Disaster Management and by participating in the ASEAN Regional Forum’s Second Disaster Exercise in Indonesia.²⁶ Assistance and training generally refers to improving a country’s ability to conduct search and rescue, evacuations, medical aid, and humanitarian supply deliveries.²⁷

ASEAN, with support from the U.S. Navy, would have been well positioned to put their HADR exercises into practice to assist the victims, as they were required to under international law.

Was the Boat Crisis a Humanitarian Disaster?

HADR exercises have traditionally been aimed at responding to and preparing for natural disasters. But ultimately, the purpose of HADR is to provide assistance to those in dire need of help after a crisis, whether it is natural or manmade. More than 6,000 trafficked people floating in the ocean without access to food and water arguably constitutes just such a crisis. ASEAN, with support from the U.S. Navy, would have been well positioned to put their HADR exercises into practice to assist the victims, as they were required to under international law.

One of the major arguments coming from nations nearby the crisis was that they should not be required to bear the burden individually. This argument may be valid, but it also forms the logic underlying the creation of multilateral organizations. The purpose of these types of organizations is to solve cross-border issues with an emphasis on international values and law. ASEAN should be at the front of a response to a crisis in its own backyard. And the United States, as a leading provider of training and support to ASEAN and its humanitarian response capabilities, should have been at the forefront of this effort as well. If the United States wants to maintain a position of power and importance in Asia, as per the rebalance, it should be ready to step up to the plate when a disaster, natural and man-made, occurs.

The United States also had an opportunity to strengthen HADR partnerships with non-ASEAN countries in the region during the crisis. Because the boat people were stranded in international waters, the United States could have worked in conjunction with Japan and Taiwan—two nations with growing HADR capabilities and resources.²⁸

Conclusion

Future US participation in and support for bilateral or multilateral HADR exercises should be contingent upon the expectation that HADR capabilities being developed will be used in all humanitarian crises. Resolving the underlying issues that led the Rohingya to take flight and addressing the structural political challenges of ASEAN's policy of noninterference are not problems that will be solved easily. But these complex long-term difficulties should not be used as an excuse by ASEAN or the United States to avoid doing whatever they can to respond quickly and save innocent lives at sea.

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