



# Responsibility To Protect (R2p) At 20: The Failure To Protect The Rohingyas

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**Abstract.** 2025 marks the Responsibility to Protect (R2P) norm's 20<sup>th</sup> anniversary since its official inception at the 2005 World Summit. R2P is an international norm that recognises the internal and external responsibility of States to protect the population from the four atrocity crimes i.e. genocide, war crimes, ethnic cleansing and crimes against humanity. If a State 'manifestly fails' its primary responsibility to protect its population, then, the international community is prepared to take collective action in a timely and decisive manner to address such atrocity. Regardless of the said aspiration, this norm has failed to drive the intended response towards atrocity crises including the ongoing Rohingya crisis. The Rohingya people in Myanmar have faced systematic persecution for years and the humanitarian crisis that peaked in 2017 continues unabated as acknowledged in the United Nations Secretary-General's 2025 R2P report. Hence, the objective of this paper is to study the factors that contributed towards the failure of this norm in the context of this crisis at three different levels inclusive of domestic, international and regional level. In doing so, this paper utilises a doctrinal research method which analyses primary and secondary sources namely international legal and non-legal documents, domestic legislations and investigative reports. This paper will discuss the following points: the absence of domestic willingness and ability to protect the Rohingya's, the structural limitation of R2P due to veto and hidden veto, the post-Libya effect, ASEAN's conditional role and no R2P champion within the region. It is unfortunate that this paper concludes that the R2P norm would remain ineffective and keep failing to protect the Rohingya people unless drastic practical changes are taken. Therefore, it is hoped that this study would contribute to motivate and be useful for future works on the Rohingya crisis or the betterment of R2P norm's implementation.

**Keywords:** ASEAN, Myanmar, R2P, Responsibility to Protect, Rohingya Crisis.

## 1 Introduction

### 1.1 R2P Norm

20 years ago, the international community for the first time officially recognises what later became known as the Responsibility to Protect (R2P) during the 2005 World Summit [1]. R2P essentially is an international norm that confirms and acknowledges the internal and external responsibility of States to protect the population from the four atrocity crimes i.e. genocide, war crimes, ethnic cleansing and crimes against humanity.

The principle was laid out in paragraphs 138, 139 and 140 of the 2005 World Outcome Summit Document (2005 Document) and subsequently was reaffirmed in the United Nations (UN) General Assembly (GA) Resolution 60/1 [2].

The text of the 2005 Document reads as follows:

*138. Each individual state has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and act in accordance with it. The international community should as appropriate, encourage and help states to exercise this responsibility and support the United Nations in establishing an early warning system.*

*139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping states build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.*

*140. We fully support the mission of the special adviser of the Secretary-General on the prevention of genocide.*

The 2005 Document firstly recognises each State's own internal responsibility to protect its population from atrocity crimes whilst the international community should assist States to exercise that responsibility and to build the capacity to protect.

Subsequently, should the said State 'manifestly fails' its primary responsibility to protect its population, then, the international community is prepared to take collective action in a timely and decisive manner to address such atrocity. Any action to be taken, is however still subject to the mechanics of the UN Charter particularly the Security Council (SC).

To operationalise the three paragraphs of the 2005 Document, the then UN Secretary-General conceptualised a framework for R2P in the 2009 R2P Report [3]. The report gave birth to the 'three-pillars' R2P framework which include the following:

- Pillar 1 : The protection responsibilities of States.
- Pillar 2 : International assistance and capacity-building.
- Pillar 3 : Timely and decisive response.

Consequently, such simple acceptance of State's responsibility carries a significant implication towards the understanding of the principle of State's sovereignty. State's sovereignty is one of the fundamental principles of international law to the extent that it is recognised by the UN that it operates based on the principle of the sovereign equality of all UN Members as per Article 2(1) UN Charter. The importance of State's sovereignty later is recalled in the 1970 Friendly Relations Declaration namely by recognising that all States enjoy sovereign equality and such sovereign equality includes State's inherent right in full sovereignty.

Sovereignty as some scholars have expounded, is a two-directional concept. Firstly, sovereignty of one State is facing out to the rest of the world (the external aspect of sovereignty) and at the same time sovereignty of one State is facing inwards to its people (the internal aspect of sovereignty) [4]. Due to the external aspect of State's sovereignty, concepts such as the non-interference by foreign States arose. Simply, no State has the right to intervene in the affairs of any other State that falls within its domestic jurisdiction. This is in line with the affirmation in 1970 Friendly Relations Declaration.

With the adoption of the 2005 Document, it is arguable that the traditional understanding of State's sovereignty has indeed changed in the context of atrocity crimes. By accepting its responsibility to protect the population (as per Pillar 1), States no longer could shield away any atrocities occurring within their jurisdiction on the ground of sovereignty. From the perspective of internal sovereignty, States post-2005, acknowledge as part of its entitlement of sovereignty comes together the responsibility to protect the population from mass atrocities (Pillar 1). Whilst from the perspective of external sovereignty, other States also accepted that they have the responsibility to assist and to react to mass atrocities despite such atrocity had occurred in other State's jurisdiction (Pillar 2 and Pilar 3).

Yet, after twenty years of existence, this international norm keeps failing to achieve its aspiration which is to drive the intended response towards atrocity crimes including the ongoing Rohingya crisis. The Rohingya people has continuously suffered persecution and subjected to atrocity campaign, yet the international community has failed to resort to a positive action to help them.

## 1.2 The Atrocities Against the Rohingyas: An Ongoing Crisis

Myanmar, a country in the Southeast Asia region, is no stranger to atrocities. Academic work on the topic, such as the one produced by Haacke in 2016 has categorised atrocities in Myanmar into two [5]. The first category would be the armed conflict prosecuted by Myanmar's armed forces (Tatmadaw) against multiple ethnic nationalities within the country's borderland. Secondly, the atrocities against the Rohingya ethnic minority group occurring in the Rakhine state – a coastal state situated on the west of Myanmar which is also the home state for the Rohingya people. The atrocities that have haunted this ethnic group for so long are commonly known as the 'Rohingya crisis'.

The Rohingyas is a distinct Muslim ethnic minority group in Myanmar. It is the second largest ethnic group residing in the Rakhine state after the majority Rakhine ethnic group, with more than 1 million people living in Rakhine. They are different from the majority ethnic group in terms of religion, language and physical attributes.

Historically, the Rohingyas were subjected to systematic persecution for years. The UN Office of the High Commissioner for Human Rights observed that the '*discrimination against the Rohingya has been endemic for decades*' [6].

The crisis escalated to its height in 2017 following the re-emergence of violence in August, forcing the massive 2017 exodus to Bangladesh [7]. During the 2017 crisis, over 80 per cent of the Rohingya population in the Northern Rakhine state were exiled into neighbouring Bangladesh; more than 702,000 Rohingya women, men, and children were displaced from their home state [8].

Among other form of violence perpetuated against them includes extrajudicial killing by the armed forces, rapes and other sexual violence's against the Rohingya women and girls, torture on the men and boys and the campaign of burning Rohingya villages and houses. The UN Human Rights Commissioner described the situation in Rakhine state as 'a textbook example of ethnic cleansing' [9].

According to reports, the Tatmadaw imposed new movement restriction and blockages for aid on Rohingya camps and villages after the junta take over in February 2021 [10]. In the aftermath of the Cyclone Mocha in May 2023, the military junta blocked the humanitarian aid intended for the Rohingyas [11]. The atrocities continue unabated as acknowledged in the UN Secretary-General's 2025 R2P report.

## 2 Objective & Methodology

The clash between the norm's aspiration and the failure in real life situation motivates this paper to study the factors that contributed towards the failure of this norm at three different levels inclusive of domestic, international and regional level. In doing so, this paper utilises doctrinal research method which analyses primary and secondary sources namely international legal and non-legal documents, domestic legislations and investigative reports. This paper ultimately aims to discuss five points: the absence of domestic's willingness and ability to protect the Rohingyas's, the structural

limitation of R2P due to veto and hidden veto, the post-Libya effect, ASEAN's conditional role and no R2P champion within the region.

### **3 Findings And Discussion**

#### **3.1 Domestic Factor: The Absence of Domestic's Willingness and Ability to Protect the Rohingya**

States bear the internal responsibility to protect the population and are the primary actors for R2P. Only when a State has 'manifestly fails' that internal responsibility, then the international community should and could assist the failing State.

This paper argues that Myanmar has failed the internal responsibility to protect the Rohingyas as evidenced by the atrocities happening in Rakhine. That said, it must be highlighted the 2005 Document does not provide further explanation on what constitutes as 'manifestly failing' despite such term being used as the qualifying threshold for the international community to exercise Pillar 3. The 2005 Document only indicates the consequence of the said manifest failure i.e. the shift of the responsibility from the failed State to the international community. Taking this into account, some scholars have commented that the term 'manifestly fails' is ambiguous and needs clarification [12].

This paper agrees that the term 'manifestly fails' must be further defined. For that purpose, this paper finds the concept proposed by the International Commission on Intervention and State Sovereignty (ICISS) which is 'unable or unwilling' to protect the population as appropriate in defining the term 'manifestly fails' due to its 'bidirectional causality' nature [13]. Primarily, the inability or the unwillingness of one State to exercise protection responsibility by itself is a failure, but at the same time the said inability or unwillingness to protect is also a factor causing such failure. In brief, it is a bidirectional causality.

Relevant to this paper is when the inability and/or unwillingness to protect serves as factors contributing towards the failure of R2P at domestic level. This paper argues there is an absence of domestic willingness and ability to protect the Rohingyas by the relevant players including the then civilian government, the military junta and even most of the society.

It is a matter of record that the Rohingyas are discriminated against due to demographic fears, economic concern, and cultural anxieties. The Rohingyas, being an ethnic minority, is different from the majority ethnic in Myanmar. They are naturally dark-skinned, do not speak Burmese, and Muslim. Due to these stark differences from the rest of population, they are not welcomed within the country.

The unwillingness and inability to protect the Rohingya is not something that Myanmar has tried to hide. At law, these people are not Myanmar's citizen. The 1982 Citizenship Law legally stripped off the Rohingyas from citizenship. The 1982

legislation was introduced by the then ruling Burma Socialist Programme Party government in repeal of the older 1948 statute.

Under the 1982 statute, the Rohingyas were deliberately excluded from Myanmar's 135 recognised indigenous group. The legislation only warrants full citizenship to the members of the main nationalities and ethnic groups that settled in any territories of Myanmar as their permanent home before 1823 (before the first Anglo-Burmese war) [14]. Other than that, the 1982 legislation accepts two other citizenship routes: the Associate citizenship and naturalised citizenship. Many Rohingyas Muslims in Rakhine, however, are unable to claim citizenship under both routes due to the challenges they faced in proving their status following documentation problem [15].

Effectively, the Rohingya ethnic group was rendered alien and stateless. Only 40,000 Rohingyas were estimated to be able to obtain citizenship under the law [16]. Myanmar has continuously denied the citizenship claimed by the Rohingya. They remain stateless and without the benefit of citizenship until today.

This paper contends that citizenship is the basic form of one's country could offer to protect the population residing in its territory. A bar from citizenship due to the enactment of legislation illustrates the absence of Myanmar's domestic willingness and ability to protect the Rohingya ethnic group.

### **3.2 International Factor: The Structural Limitation of R2P Norm**

The collective security system introduced under the UN framework, limits the rights to use force by States via the imposition of the general prohibition of the use of force as per Article 2(4) UN Charter and only save States' inherent right of individual or collective self-defence in pursuance of an armed attack constituted against them which is conditional upon SC's absence of action, as per Article 51 UN Charter. The UN framework instead shifts the authority and responsibility to authorise any use of force to the SC under its Article 42, if the Council has determined the existence of any threat to the peace, breach of the peace or act of aggression as per Article 39 and decides forceful measures are to be taken.

The 2005 Document recognises the primacy of the SC's power to authorise the use of force within the R2P framework i.e. Pillar 3 – Timely and decisive response, should a response in need of force is warranted; in other words when peaceful means are inadequate.

Against this background, some scholars have argued that R2P norm does not create any new world order rather the norm only reiterates the existing laws and norms on the use of force [17]. Although this paper is critical about the success of R2P norm, nevertheless it is of the view that such school of thought is not holistic. On the one hand, it is undeniable that the Pillar 3 stemming from paragraph 139, does expand the legitimacy for the implementation of Chapter VII measures to include the 'R2P-atrocity' – genocide, war crimes, ethnic cleansing and crimes against humanity.

But, on the other hand the referral of R2P atrocities to the SC axiomatically plagues this norm by any problems associated with the body. Therefore, this paper argues that there is a structural limitation over the framework and that causes the failure of this norm.

In an ideal setting, the SC should have no problem to employ appropriate measures when the needs arose due to the fact the Council is bestowed with the power to act as per Article 42 UN Charter and the 2005 Document's recognition. Once the SC takes a decision, its resolutions are binding on all UN members as stipulated under Article 25 UN Charter. A decision is made at the SC based on the voting system provided under the Article 27 of the UN Charter.

The UN framework distinguishes two voting procedures for the SC – one on the 'procedural matters' governed under Article 27(2) UN Charter and 'all other matters' also known as the substantive matters governed under Article 27(3) UN Charter.

To start the discussion on the voting system, it must be firstly addressed that the present Charter and the SC's Rules of Procedure do not provide any definition on what constitutes 'procedural' and 'all other matters'. Both documents also do not set forth the authority, either the President of the SC or the Members of the SC, to decide on the distinction between the two [18]. Historically, the only guidance on this was set out in the 'Yalta Formula'. Nonetheless, the specification in Yalta Formula is not incorporated into the Charter [19]. The contemporary practice at the Council is the Council itself decides on the matter.

It is reasonable to argue that any R2P action to be authorised by the SC is a substantive matter especially action involving use of force. Therefore, relevant to our discussion on R2P norm is the voting on substantive matter as stipulated under Article 27(3) UN Charter. The provision introduces the 'qualified majority' voting system that requires a least a majority of nine (9) affirmative votes out of fifteen (15) members of the SC subject to the prerequisite condition - the qualified majority votes must obtained the concurrent vote of all Permanent Members. Article 27(3) UN Charter is based on the Yalta Formula'. The Yalta Formula replaces the complete unanimity voting system that had been previously practiced at the League of Nations with a 'qualified majority' voting system that only requires the concurrent vote of the Permanent Members [20].

The 'concurring votes' required under Article 27(3) UN Charter refers to the absence of negative vote by the five (5) Permanent Members of the Security Council (the P-5) [21]. In layman's terms, no P-5 objects the draft resolution and votes no. From a chronological standpoint, the sponsoring countries at the San Francisco Conference initially alluded 'concurring votes' to mean as the unanimity amongst the Permanent Member - all Permanent Members must vote yes for a decision to be taken [22]. However, that view was not upheld at the SC. Instead, it is accepted and being practised that 'concurring votes' mean the absence of objection i.e. no negative vote and to that effect it includes voluntary abstention by a Permanent Member [23]. This view is reaffirmed by the International Court of Justice's (ICJ) in its Advisory

## Opinion on Legal Consequences for States of the Continued Presence of South Africa in Namibia.

The application of ‘concurring votes’ under Article 27(3) UN Charter gives the P-5 a special voting power i.e. the veto [24]. ‘Veto’ is a loanword from Latin which means ‘I forbid’ [25]. Ironically, the UN Charter does not contain any explicit usage of the term ‘veto’ in its text. Veto is constituted when Permanent Members cast a negative vote against a draft resolution on substantive matter, to block the decision that otherwise would have passed from being implemented.

As argued, a decision to authorise R2P action is a substantive decision. Thus, it means that any R2P action is susceptible to the veto power. Against this structural design, this paper argues that R2P norm is conceived with a structural limitation that inhibits its success and eventually contributed towards its failure especially in the context of the Rohingya crisis.

In the past, veto was used to block R2P-mandated resolutions as indicative by the double veto of Russia and China against the 2011 Syrian draft resolution. Draft resolution S/2011/612 succeeded to obtain the nine majority votes yet failed due the Russian and Chinese negative votes [26]. Some scholars such as Trahan have pointed out that the Russian vetoes vis-à-vis Syria, not necessarily stems from its genuine rejection of R2P after the 2011 Libyan episode rather it is politically driven [27]. Even so, doctrinally this illustrates how vulnerable this norm and dependant it is towards the *realpolitik* of the SC. Once a Permanent Member cast its negative vote for whatsoever reason, R2P action would be defeated. In the context of the Rohingya crisis, a possible R2P action would only materialise if every one of the P-5 countries has no political interest to say no. This is not the case.

Peripheral to the issue of an actual veto against a draft resolution, there lies too the problem of the so-called ‘hidden veto’. A hidden veto refers to the threat to veto posed by the P-5 to intercept any agenda from being tabled into resolution [28].

In relation to the Rohingya crisis, the hidden veto poses more problem than the actual use of veto. Until date there is no draft resolution mandating R2P action as a response towards the situation in Rakhine. Two of the Permanent Members, China and Russia have threatened to veto any action during the height of the crisis back in 2017-2018. In fact, both countries had voted against the fact-finding hearing by the Head of Human Rights Fact-finding Mission on Myanmar in October 2018 [29]. Aptly observing the impact of the hidden veto is none other than Myanmar press in its article, boasting that ‘Myanmar leaders do not need to sweat. They have a powerful friend: China.’ [30].

The repercussion of the Sino-Russian threat continues to shape the Council’s response towards the Rohingya crisis. In one resolution on Myanmar, the SC only expresses its concern on the return of the Rohingya refugees and Internally Displaced Person (IDP) and the risks of the issue to the region [31]. This is however, included in the preambular part and not in the operative part. This reflects the cautious

approach of the SC vis-à-vis Myanmar due to the presence of its allies, China and Russia.

The continuous failure on the SC's part to react towards the ongoing Rohingya crisis after so long is evidence of the structural defect of the R2P mechanism. The centrality of the SC as the unit to authorise action comes together with the inherent impediment of veto and hidden veto. If Myanmar could woo any P-5 members, then any effort to push forward R2P action will fail, as what has happened. To conclude this section, this paper highlights again that the structural limitation of the R2P norm has contributed to its failure in the context of the Rohingya crisis.

### **3.3 International Factor: The Post-Libya Effect**

Throughout the history of R2P, there was once a short-lived positive development back in 2011 when the SC decided to authorise the Resolutions 1970 and 1973 as a response towards the situation in Benghazi, Libya.

Influenced by the Arab Spring uprising in Tunisia and Egypt, Libyan citizens in Eastern Libya revolted against their President Muammar al-Qaddafi. Spontaneous demonstrations occurred on 15th February 2011 and subsequently followed by organised demonstrations two days later. The organised demonstration that took place in Benghazi escalated to a civil war. On the morning of 17th February 2011, President Qaddafi warned the residents of Benghazi that his soldiers would “be coming tonight, looking them in their closets and we will show no mercy” [32].

The SC acted rather swiftly. Only one month after the protest broke down in Libya, the SC adopted a resolution, Resolution 1973, by a vote of 10-0-5. The resolution authorises all necessary measures to protect civilians under the threat of attack in Libya including in Benghazi and to protect civilian populated areas. These measures however exclude a foreign occupation force of any form on any part of Libyan territory. In addition, the resolution imposes a no-fly-zone over Libyan airspace to help protect the civilians.

From R2P perspective, Resolution 1973 uses express R2P language in the preambular part; particularly the reiteration of Libyan authority's responsibility to protect the Libyan population. Granted that this mirrors the Pillar 1 and Pillar 2, however the scholastic opinion is divided whether the Resolution also reflects Pillar 3 and warrants Pillar 3 action. Critics of R2P have argued that there is no explicit reference of R2P military action in the operative part of the resolution meanwhile the second group of scholars embrace a more holistic view, weighing on the resolution's underlying rationale to effectuate the R2P norm even in the absence of R2P reference [33].

Regardless, Resolution 1973 was hailed as a success case for R2P. Commenting on Resolution 1973, the then Secretary-General Ban Ki-Moon optimistically remarked “resolution 1973 affirms ... the international community's determination to fulfil its responsibility to protect civilians from violence perpetrated upon them by their own government” [34].

The momentous achievement turned sour quickly as the NATO-led intervention ultimately ended up with a 'regime change' over Libya and the violent death of Qaddafi in October 2011. NATO was deemed to exceed their warranted mandate [35]. Consequently, the 'stretched activity' by NATO sparks negative reaction especially among Non-Western countries such as South Africa, which previously had voted in favour of Resolution 1973 i.e. in favour of R2P. South Africa commented that:

*"we are concerned that the implementation of these resolutions appears to go beyond their letter and spirit. It is important that, as international actors and external organizations provide constructive assistance, they should ... refrain from advancing political agendas that go beyond the protection of civilian mandates, including regime change"*[36].

The Libya incidence inadvertently shatters the unanimous support R2P enjoyed during the voting for Resolution 1973 and gives room for the argument that R2P is the latest form of western imperialism [37]. What is certain, the consensus among States on Pillar 3 deteriorated rather being improved post-Libya especially among Non-Western countries. In addition, it has also directly or indirectly influenced the SC's decision in later crisis. An example of this would be the defeated R2P draft resolution on Syria, draft resolution S/2011/612. After what had erupted in Libya, NATO broke down the trust of two members of the P-5, China and Russia and as a result both vetoed the draft resolution containing R2P mandate over Syria. Commenting on R2P, the Russian President affirmed that Russia would "block any similarly worded SC resolution on Syria" [38].

Even the advocate of R2P, Kofi Annan accepted Libya created problems for the norm. He acknowledged as follows:

*"Honestly, the way the "Responsibility to Protect" was used in Libya created a problem for the concept. The Russians and the Chinese believe they were tricked. They had agreed on a UN resolution, which was then transformed into a process of regime change, which wasn't the initial goal according to these countries. Whenever we talk about Syria, there's that elephant in the room"* [39].

The dynamics of the SC post-Libya continues to be difficult as there is greater tension among the members on issues pertaining to protection of civilians [40]. Surely this is not helpful for any prospective R2P action to save the Rohingyas from the never-ending atrocities. Unsupportive States especially the P-5 could easily misuse the 'Libyan trauma' to halt any potential R2P action.

As the conclusion, the Libya-effect does contribute towards the failure of R2P as an international norm and especially in the context of the Rohingyas crisis.

### 3.4 Regional Factor: ASEAN's Conditional Role

Within R2P framework, regional organisations and sub-regional organisations are recognised as R2P actors. However, the role for regional organisations is subject to the mechanism imposed under the UN Charter as the recognition in the Paragraph 139 incorporated the reference to Chapter VIII of the UN Charter. The reference to Chapter VIII indicates the application of Article 53 (1) and Article 54 UN Charter over regional R2P action. Apart from that, as discussed earlier, only the SC has the authority to authorise forceful actions even in the context of regional activity as provided under the Paragraph 139. In essence, this means the role of regional organisations as R2P actors are conditional.

The only regional association to derogate from this status quo i.e. regional R2P action is conditional upon the signage by the SC is the African Union (AU). In its Article 4(h) of the Constitutive Act of the AU, the Union reserves its right to intervene in a Member State in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity. All of which are R2P situations, and this reflects the Pillar 3. Nonetheless, the Union has never invoked this article as a legal basis for intervention [41].

Relevant to the Rohingya crisis is the Association of Southeast Asian Nations (ASEAN) simply because the crisis takes place in one of its Member States, Myanmar and the spillover of the atrocity crisis, the refugee crisis has impacted the neighbouring countries within the region.

ASEAN is Southeast Asia's regional organization. It is founded in 1967 to encourage and strengthen the economic and political cooperation, and for the purpose of regional peace and security by the five founding members: Indonesia, Malaysia, the Philippines, Singapore, and Thailand [51]. The membership expands as remaining countries in the region join the Association; Brunei in 1984, Vietnam in 1995, Laos and Myanmar (before known as Burma) in 1997, and finally Cambodia in 1999. At the time of this writing, ASEAN is officially membered by 10 states with different cultures, political systems and economic development. The upcoming 11<sup>th</sup> member of ASEAN would be Timor Leste once it has gained the full membership [43].

All members of ASEAN were present at the 2005 World Summit and adopted the 2005 World Document. On that account, this paper suggests that ASEAN is indeed a R2P actor since all its members acknowledges such concept. Now, according to the R2P framework, ASEAN as a regional body, by default does not possess the authority to initiate R2P action, unless it is assigned to by the SC. Thus, from that perspective ASEAN's role vis-à-vis R2P is supportive and conditional. This is in line with Haugenik's view suggesting that "the responsibility of regional organisations is conditional; they are like sub-contractors for the UN, and they cannot act without SC's approval" [44]. Again, there exists a structural limitation that impede ASEAN's role from being an effective R2P even if they have the interest to do so. Unfortunately, unlike the AU, ASEAN does not incorporate any explicit R2P language in its Charter.

Thus, the question whether ASEAN would perform the function as a R2P actor remains unlikely and conditioned to the assignment by the SC.

### **3.5 Regional Factor: No R2P Champion Within the Region**

Finally, this paper argues that there is no R2P champion within the region that decelerates the localisation of R2P norm within ASEAN and eventually contributes towards the failure of the international norm within the region.

All ASEAN members participated in the 2005 World Summit and the pronouncement of R2P. It is imperative to note; however, their participation is not indicative of their support. Scholar David Capie constructed a typology of ASEAN countries' reception of R2P norm. He categorised the countries into four: R2P advocates, R2P engaged, R2P fence-sitters, and R2P opponent [45].

The advocates are those who embraced R2P norm then reaffirmed their commitment in translating the norm from words to deeds [46]. Only one member is listed under this category, the Philippines. The irony is that the Philippine's support is highly inconsistent and gradually declined after the initial acceptance. In the regional context, even the 'advocate' is not fully committed to the R2P norm.

The second category is the R2P engaged. This group refers to the countries that supported R2P at the Summit and was willing to affirm the norm, but at the same time is very cautious about their support. Consequently, they are likely to support and equally oppose R2P. Singapore, being the only ASEAN country involved in the Group of Friends of R2P is categorised as the R2P engaged [47].

Next, is the 'fence-sitters' or the sceptics of the R2P. This includes Brunei, Cambodia, Laos, Malaysia, Thailand and Vietnam. An example of the scepticism is the Malaysian's concern of the abuse of R2P norm. In the 2009 R2P debate, the Malaysian representative described the post-2005 development as a "series of illogical steps". He expressed the concerns about the inherent ambiguities in R2P [48]. In relation to the Rohingya crisis, Malaysia is one of the vocal ASEAN states engaging the issue [49]. Nonetheless, Malaysia has never approached the crisis from the lenses of R2P. Rather it is framed under a humanitarian perspective. Finally, the R2P opponent; states that reject the application of this norm such as Myanmar itself.

Based on the typology, it can be concluded ASEAN has no member that truly champions the R2P norm. Even though all ASEAN members were part of the 2005 Summit, the support for R2P is generally for Pillar 1 and Pillar 2, and not on the operative part of Pillar 3. As noted by a Singaporean advocacy group "there is almost no support for the reactive – in particular the coercive military – component of the third pillar of the r2p." [60]. The impact of the absence is not only the individual states of ASEAN but ASEAN as a regional organisation does not engage in the Rohingya atrocity crises from R2P.

## 4 Conclusion

It has been two decades since the inception of the R2P norm in 2005 and yet the norm is still of limited use in practice as reflective from the chosen case study of the Rohingya crisis. This paper has studied five factors at three levels that contributed towards the failure of this norm. It is unfortunate that this paper concludes the R2P norm would remain ineffective and continues to fail to protect the Rohingya people unless drastic practical changes are taken. This echoes the observation by Grey, “the universal acceptance in principle of a ‘responsibility to protect’ in the World Summit Outcome Document could not guarantee action” [61].

On that note, it is hoped that this study would contribute to motivate and be useful for future works on the betterment of R2P norm’s implementation and/or the Rohingya crisis. One the former, this paper suggests one might explore the option to replace the R2P norm with other alternative frameworks, if any, or to explore the strategy to improve the problematic aspect of the R2P norm itself. A relevant example would be the reformation of the SC’s veto entitlement over Pillar 3 action. On the latter, the promise of ‘never again’ must be honoured or else the Rohingya in Rakhine will be another Rwanda in our lifetime.

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