

The international community's Responsibility to Protect

Kavita Shukla

In the face of continuing grave violations of human rights by the Burmese government against its own civilians, it is imperative that the international community start to respond to Burma in terms of the Responsibility to Protect (R2P) principle.

Burma today has one of the worst forced migration crises in the world. More than 50 years of conflict and human rights violations have led to widespread forced migration: at least one million people internally and more than a million refugees to the neighbouring countries of Bangladesh, China, India, Malaysia and Thailand. Far from assisting and protecting those who have fled their homes, the Burmese government is the biggest perpetrator of human rights violations in the country. The ethnic minority population of Burma, particularly the at least half a million people displaced in the eastern part of the country, remain exceptionally vulnerable to violations of international humanitarian and human rights law. These grave violations continue to draw little attention from the outside world, despite an increasing momentum in recent years of the international community's collective 'responsibility to protect' civilians.

In ethnic minority areas where pockets of armed conflict continue, especially along the eastern border, government forces have been responsible for widespread persecution, torture, extrajudicial executions, forcible conscription of children, rape, demolition of places of worship and forced labour. Government forces have also carried out forced displacement of civilians in a counter-insurgency programme known as the 'Four Cuts', which aims to cut off the supplies of food, funds, recruits and information to the resistance groups.

The deliberate targeting, persecution and forced displacement of ethnic minority civilians by the Burmese government are not isolated or

sporadic events but widespread practice and an integral part of the Burmese government's strategy to maintain its control and as such are tantamount to crimes against humanity. To a lesser extent, human rights abuses are also being committed by ethnic armies fighting government forces. Hundreds of thousands of people have been left with no choice but to flee their

to IDPs within their jurisdiction. They also grant displaced persons the right to request and receive protection and assistance from national authorities. The Principles underline the right of international humanitarian organisations to offer services to support IDPs, and emphasise that a government should not arbitrarily withhold consent to such aid, especially when it is itself unable or unwilling to provide the needed assistance.

In the case of Burma, where the national authorities are largely responsible for the displacement, the IDP issue has acquired political



areas of origin in search of safety. Even in areas where armed conflict has come to an end, human rights violations by the army continue, causing ongoing displacement.

The Guiding Principles on Internal Displacement¹ – the international framework for protection of and assistance to IDPs – are founded on the concept of sovereignty as entailing responsibility. They affirm that national authorities have the primary duty and responsibility to provide assistance and protection

sensitivity. The government refuses to acknowledge the existence of IDPs and has no programmes to identify or assist them. International humanitarian agencies can provide some protection merely by their presence. In western Burma's Rakhine State, for example, where there are international aid agencies, there has been a reduction in violations. However, international humanitarian agencies are denied permission to reach IDPs and other vulnerable populations in the conflict and border zones of eastern Burma.

Villagers in flight,
October 2007.

The International Committee of the Red Cross was the only agency with independent access to these zones but since political changes led to the Burmese government – currently known as the State Peace and Development Council (SPDC)² – becoming even more isolationist in 2004, it too has been facing many new restrictions on access. The small amount of assistance that does reach this area arrives from community-based organisations in Thailand that undertake cross-border trips to reach the displaced population. This type of aid violates the principle of state sovereignty but remains the only way to reach this population.

In very few countries in the world has forced displacement on such a large scale elicited such a limited response from member states and agencies of the UN. Many members of the international community remain unaware of the scale of atrocities. Virtually all international efforts to resolve the country's political and human rights crises have focused on the conflict between the military regime and the pro-democracy forces. The conflict between the Burman-dominated central government and non-Burmans, which has triggered most of the displacement in Burma, has largely remained on the sidelines.

Despite most of the international community's frustration with the Burmese government, Burma's powerful neighbours and trade partners China and India generally back the SPDC. The Association of Southeast Asian Nations (ASEAN), a regional forum of which Burma is a member, also avoids holding the government accountable for its transgressions and tends to strongly support the concept of non-interference in the country's internal affairs.

Responsibility to Protect

Since the Rwandan genocide, the international community has started taking on greater responsibility in certain situations where sovereign governments are failing in their duty to provide for the security and wellbeing of their people. For decades, in accordance with the UN Charter's Article 2.7, which emphasises the principle of non-intervention in matters that would fall under the domestic jurisdiction of any

state, the international community had been reluctant even to speak about situations in which people were suffering appalling human rights violations in an environment of impunity for the perpetrators. In recent years, however, there has been an evolution from sovereignty as an absolute concept towards sovereignty as a responsibility to protect civilians and prevent grave violations and mass atrocities.

According to the R2P principle, sovereign states have primary responsibility for protecting their own people from genocide, war crimes, ethnic cleansing and crimes against humanity, and it is only when they are unwilling or unable to exercise that responsibility that responsibility shifts to the wider international community. The action required by R2P is overwhelmingly preventive and involves building state capacity, remedying grievances and ensuring the rule of law. If, however, prevention fails, R2P requires whatever economic, political, diplomatic, legal, security or, in the last resort, military measures as are necessary to prevent mass atrocity.³

At the World Summit in 2005, the world's governments agreed to the R2P principle and to take collective action, in a timely and decisive manner, through the Security Council on a case-by-case basis should national authorities fail to protect their populations from atrocity crimes. The 192 heads of state who signed the World Summit Outcome Document⁴ also recognised the Guiding Principles as an important international framework for the protection of IDPs and resolved to take effective measures to increase their protection.

Through its Resolution 1674 of April 2006, the Security Council acknowledged that the deliberate targeting of civilians and other protected persons and the commission of systematic, flagrant and widespread violations of international humanitarian and human rights law in situations of armed conflict may constitute a threat to international peace and security. The Security Council noted that it would be ready to consider such situations and, where necessary, to take appropriate steps.

Acting on R2P

However, the resolution has so far not been translated into real action, and there is still little agreement on how this principle should be applied. There also remain serious divisions within the Security Council between Western nations that view massive atrocities as a threat to international peace and security, and countries such as China and Russia which agreed to the World Summit Outcome Document and supported Resolution 1674 but which still promote the sovereignty argument above R2P.

In the case of Darfur, actions are increasingly being framed in terms of the responsibility to protect. Security Council Resolution 1706 was the first to cite and apply the R2P concept to a specific situation, while Resolution 1769 emphasised the importance of protecting civilians and humanitarian workers. Many sub-Saharan governments have strongly defended the R2P principle in the case of Darfur. Divisions in the Security Council, however, have hampered strong collective action on Darfur.⁵

The situation in Burma was not seen as falling within the purview of the Security Council until September 2006 when it was voted onto its formal agenda. This vote came after years of Burmese government refusal to abide by resolutions of the General Assembly and the Commission on Human Rights that called for national reconciliation and democratisation. Since 2004, the government had denied entry to the Special Envoy of the Secretary-General on Burma, and the Special Rapporteur on Burma had been denied access to the country since 2003. There was a sense that all efforts outside the Security Council had been exhausted.

The optimism which followed Burma reaching the agenda of the Security Council was short-lived, as permanent members Russia and China vetoed the first ever Burma resolution in January 2007 that, among other demands, called upon the government to stop all attacks on ethnic minorities and to offer unhindered access to humanitarian organisations. This was the Council's first multiple veto since 1989. In their statements, China and Russia argued that the situation in Burma was not a threat to peace and security in the

region, and that the Security Council was not the place to discuss the internal affairs of a state. Although China and Russia acknowledged that Burma was facing a serious human rights and humanitarian situation, they emphasised that the Human Rights Council, which has no binding powers, was the best venue for action on Burma. The vetoing countries made no reference to any collective responsibility to protect the population of Burma.

In September 2007, the largest pro-democracy demonstrations in two decades rocked Burma and the subsequent government crackdown made the country the focus of renewed international attention. Following intense diplomatic pressure, the SPDC allowed the Secretary-General's Special Adviser and the Special Rapporteur into the country in late 2007. After much wrangling, the Security Council passed a presidential statement deplored the violence against peaceful demonstrators and calling

for a genuine dialogue with all concerned parties and ethnic groups to achieve an inclusive national reconciliation. There was no mention of the protection of ethnic minority civilians who have experienced decades of violence and forcible displacement, and who may be continuing to experience extreme danger and hardship.

Although the crackdown on Burmese democracy activists appears to have diminished, government forces are continuing to target civilians in Burma's ethnic minority areas as part of their counter-insurgency tactics and are committing human rights violations with impunity. There is concern that as memories of the 'Saffron Revolution' fade and the Burmese government makes token gestures of permitting a political dialogue, the Security Council will once again view Burma as a low priority, more appropriate for other UN bodies to tackle. It is imperative that the Security Council start to see Burma in terms of the R2P scenario.

If the R2P concept can be brought up in the Security Council in the case of Darfur, there is every reason for it to be raised in connection with Burma. International divisions may make progress difficult but if Security Council members continue to ignore the international community's obligation to ensure the protection of civilians from mass atrocity crimes in Burma they will be setting a very poor precedent for a responsibility which all governments have agreed upon in principle.

Kavita Shukla (kshuklaus@yahoo.com) is a researcher on Burmese refugees and internally displaced persons.

1. www.brookings.edu/projects/idp/gp_page.aspx

2. Formerly known as the State Law and Order Restoration Council (SLORC).

3. Gareth Evans, 'The Limits of State Sovereignty: The Responsibility to Protect in the 21st Century', Neelam Tiruchelvam Memorial Lecture, International Centre for Ethnic Studies, Colombo, 29 July 2007.

4. <http://daccessdds.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement>

5. Roberta Cohen, 'Humanitarian Imperatives are Transforming Sovereignty', *Northwestern Journal of International Affairs*, Winter 2008, p6.