

## Clarifying the Third Pillar of the Responsibility to Protect: Timely and Decisive Response

### Understanding the three pillars of RtoP

Secretary-General Ban Ki-moon established the three pillar framework for the Responsibility to Protect ('RtoP' or 'R2P') in his 2009 Report *Implementing Responsibility to Protect*, based on paragraphs 138 and 139 in the 2005 World Summit Outcome Document.

The first pillar of the RtoP framework identifies the State as the primary bearer of the responsibility to protect populations from mass atrocities, and the second pillar establishes the responsibility of the international community to assist States in protecting populations. The **third pillar defines the responsibility of the international community to take collective action in a timely and decisive manner**, on a case-by-case basis, and in accordance with the UN Charter. This pillar remains consistently misunderstood as solely sanctioning the use of force or authorizing unilateral military intervention.

Responses under the third pillar include pacific measures under Chapter VI of the UN Charter, collaboration with regional and sub-regional organizations under Chapter VIII and, should peaceful means prove inadequate, coercive measures under Chapter VII, with Security Council authorization or through the General Assembly in line with Articles 10-14 and the "Uniting for Peace" process.

Complementarity between all measures must be realized in the implementation of RtoP. Many of the measures outlined below are also within the mandate of the first two pillars, and must be thought of as available tools to be employed seamlessly in response to the threat of mass atrocities.

### Distinguishing between the third pillar and humanitarian intervention

The third pillar of RtoP must not be equated with humanitarian intervention. By endorsing RtoP, States recognized that sovereignty entails a responsibility to protect their populations, and that the international community also has a responsibility to protect when the state is unable or unwilling to prevent or halt mass atrocities. The issue should not be viewed from the perspective of a state's right to intervene, but from the perspective of the population in need of protection. **The international community has a wide range of options under the third pillar, including preventive diplomacy, fact-finding missions, economic sanctions and embargoes, and military operations such as no-fly zones, monitoring and civilian defense missions.** RtoP creates more, not fewer, rules about when and how an intervention may be conducted. Military measures are authorized solely by the Security Council and are to be employed when peaceful measures have proved inadequate. Humanitarian intervention - characterized as unauthorized coercive action (unilateral or multilateral) - has not been endorsed as a norm by Member States, and is not permitted under the third pillar of RtoP.

### Key actors in upholding RtoP: collaborative effort needed to implement the third pillar

Third pillar responses may be taken by a **range of actors**, independently or collaboratively as appropriate.

*Within the United Nations:*

- ❖ The **Secretary-General** is responsible for mobilizing political will and may disseminate early warning and recommendations from the **Joint Office of the Special Advisors for the Prevention of Genocide and the Responsibility to Protect** to UN bodies as appropriate.
- ❖ The **Security Council** authorizes peaceful and coercive measures to maintain peace and security.
- ❖ The **General Assembly** authorizes measures in accordance with Articles 10-14 of the Charter and the "Uniting for Peace" process and holds annual interactive dialogues to reflect on implementation and existing concerns.
- ❖ Other UN bodies such as the **Human Rights Council**, the **Peacebuilding Commission** and the **Economic and Social Council** may also work within their mandates to respond to the threat of atrocity crimes.
- ❖ Government groupings such as the informal '**Group of Friends**' of RtoP and the **Special Committee on Peace-keeping Operations (C-34)** can exercise considerable influence within the international community.

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*Outside of the United Nations:*

- ❖ **Regional and sub-regional organizations** can also issue sanctions, call for legal action, deploy fact-finding missions and, in some cases, deploy a military or civilian force.
- ❖ **Individual Member States** may exert diplomatic pressure and adopt bilateral sanctions.
- ❖ The **International Criminal Court (ICC)** works to prevent impunity and identify perpetrators of atrocity crimes.
- ❖ **Civil society** plays a significant advocacy role, sounds alarm bells when a crisis begins, investigates crimes, releases reports, and contributes to service delivery.

These actors comprise an international community responsible for preventing and halting the four atrocity crimes, and must work together in a timely manner to combine existing capacities to protect populations.

### **Range of measures under the third pillar**

- The Secretary-General, Security Council, General Assembly and Human Rights Council can appoint **fact-finding missions, commissions of inquiry, and rapporteurs** to investigate and report alleged international law violations.
- Regional and sub-regional organizations as well as the General Assembly can **establish and enforce existing membership criteria related to human rights violations and mass atrocity crimes**.
- **Early warning mechanisms and timely information sharing** within the UN and regional organizations help sound alarm bells that governments may be failing to uphold their responsibility to protect.
- International involvement in **preventive diplomacy** may include **dispatching eminent persons or appointing envoys to initiate dialogue and prepare for local, regional or UN mediation efforts**. The Good Offices of the UNSG, political missions, country teams and 'Groups of Friends' may be useful tools in preventive diplomacy.
- Incitement may be prevented by **intercepting media-distributed hate messages**. Hate speech, discrimination and human rights violations are frequent gateways to high-risk situations for populations.
- The international community can **remind that the incitement and commission of genocide, crimes against humanity, ethnic cleansing and war crimes could be referred to the ICC under the Rome Statute** by the UN Security Council, allowing for a preliminary examination to judge whether to open a case at the Court.
- **Targeted diplomatic sanctions, travel bans, asset freezes and trade and arms embargoes** may ensure that Member States respect and act in accordance with the provisions of the World Summit Outcome document regarding RtoP. Civil society may also **influence public and private investors to withdraw direct investment**.
- **Deployment of military, police and civilian personnel** by the UN, regional organizations or a coalition of Member States and authorized by the Security Council may be needed to halt atrocities, and should be pursued only if peaceful measures prove inadequate. Developing a UN standing, rapid-response military capacity may help halt ongoing crimes.

### **Consistent and non-selective implementation of the third pillar**

Though Responsibility to Protect principles have been endorsed, concerns exist about Security Council Member **selectivity and use of veto** in crises involving mass atrocity crimes, which lead to inconsistent implementation. Other concerns include **mobilizing political will** both in the UN and in regional and sub-regional organizations, the need to **develop effective collaboration** among relevant actors, and the **lack of specific guidelines for implementing the use of force** under the third pillar. As Member States and regional and sub-regional organizations learn from past experience, they develop best practices and employ tactical lessons in implementing all measures under the third pillar.

*The International Coalition for the Responsibility to Protect convenes and collaborates with civil society, Member States, and regional and sub-regional organizations to continue close scrutiny of the consistent implementation of the third pillar and develop effective methods to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity*