



## **“Early Warning, Assessment, and the Responsibility to Protect”: Informal Interactive Dialogue of the General Assembly held on 9 August 2010**

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### EXECUTIVE SUMMARY

On 9 August 2010, at the request of the president of the General Assembly (GA), UN member states participated in an informal interactive dialogue on the subject of early warning, assessment, and the responsibility to protect (R2P). The dialogue was informed by a July 2010 report of the Secretary-General (SG) on the same themes.<sup>1</sup> In a United Nations conference room that was filled to capacity, 42 member states, two regional organizations, and two civil society representatives discussed the SG’s report and opening remarks, as well as the presentations of five panelists, who included the SG’s advisers on the prevention of genocide and on the responsibility to protect.<sup>2</sup>

In his opening remarks, the SG reminded member states of their 2005 pledge to “support the United Nations in establishing an early warning capability.” While reporting some progress in this area, the SG identified lingering institutional weaknesses within the Secretariat and signaled his intention to address such gaps “including through a joint office” for his two special advisers, Francis Deng and Edward Luck.

The resoundingly positive tone of the discussion echoed the tenor of the GA’s first formal debate on R2P held in July 2009, revealing once again the support of governments, North and South, for the goal of preventing and halting genocide, ethnic cleansing, war crimes, and crimes against humanity (the four R2P crimes). Notably, constructive interventions from some member states, who were previously quite skeptical about R2P—India, Cuba, and Egypt—suggested that consensus on R2P within the membership is deepening.

Virtually all of those that spoke stressed the need to prevent atrocities and agreed that effective early warning is a necessary (if not always sufficient) condition for effective prevention and early action. More than half the delegations welcomed the SG’s report and thus endorsed ongoing changes to enhance the UN Secretariat’s early warning capacity. Equal numbers expressed support for the SG’s proposals to establish a joint office for his special advisers

on the prevention of genocide and R2P, and their role in convening colleagues in order to identify policy options for preventing mass crimes and protecting populations. Many member states, however, were keen to get more detail on how the joint office would function. A quarter of the statements noted the two overlapping mandates of genocide prevention and R2P.

Panelists and member states offered eloquent statements about how to strengthen early warning. Quite a few concurred that beyond the need to improve the management of information within the UN, enhanced capacity requires sound political judgment—including that of the SG. Several delegations asked questions about how member states could be involved in information gathering. Others noted the need for thinking about how to handle sensitive information. Others counseled that early warning cannot be done solely by the UN Secretariat and that changes are required at the national and regional levels. Many noted, however, that some regional and sub-regional organizations have already made adjustments in how they seek to warn of atrocities. Near unanimity among the speakers on the crucial role of civil society—whether in information gathering, providing analysis, or mobilizing response—was another striking aspect of the debate, attesting to another significant shift in international attitudes.

Certain regional trends were also apparent in the 2010 informal dialogue. The statements delivered by Latin American representatives once again demonstrated that this region is home to both some of the staunchest supporters and most outspoken detractors of R2P. In contrast, the emphasis in most of the statements by African delegations on the existing early warning structures at both the regional and sub-regional levels conveyed the message that the commitment to R2P is already a living reality in that continent. The remarks by eight delegations from Asia Pacific, including the positive intervention by India, underscored a constructive engagement from the region with R2P. Likewise, by endorsing the logic of building genocide prevention under the broader remit of R2P, the interventions by European delegations and by the European Union (EU) made clear their support for the SG’s call to institutionalize the collaboration between his two special advisers.

It was left to the same handful of member states as in the July 2009 GA debate on R2P to express strong objections—namely, Nicaragua, Iran, Pakistan, Sudan, and Venezuela. Even so, there was some notable movement in the spectrum of opposition, with a subtle shift in the Cuban position distancing it from outright opposition. While the statements delivered by Egypt and Cuba suggested the enlargement of the group of moderate opponents, the expanding number of

supporters, including both strong and moderate, indicated the consolidation of consensus.

#### Member States Participating in the 2010 Dialogue

<b>Americas</b>	Argentina, Brazil, Canada, Chile, Costa Rica, Cuba, El Salvador, Guatemala, Mexico, Nicaragua, Peru, Uruguay, USA and Venezuela
<b>Asia and the Pacific</b>	Australia, Bangladesh, China, India, Nepal, Pakistan, Republic of Korea and Solomon Islands
<b>Africa</b>	Benin, Botswana, Egypt, Ghana, Nigeria, Senegal, Sudan, Tanzania
<b>Europe</b>	Armenia, Bosnia, Czech Republic, France, Georgia, Germany, Italy, Netherlands, Switzerland and the UK
<b>Middle East</b>	Iran and Lebanon

An analysis of the positions of the 42 country delegations participating in the dialogue reveals that the five outright opponents represented approximately only 12 percent of the total. Once moderate opponents are included, this figure expands to 19 percent. Taking this figure as the baseline, the vast majority—34 member states, 81 percent of participants, were supporters. Within this group, 27 were strong advocates, constituting 64 percent of all member states that made statements. Worth underlining is the cross global composition of the majority; it clearly spans the North-South divide.<sup>3</sup>

#### Supporters and Opponents in the 2010 Dialogue

Category	Total Number	Percentage
Strong supporters	27	64.3%
Moderate supporters	7	16.6%
Moderate opponents	3	7.1%
Strong opponents	5	11.9%
Overall supporters	34	81%
Overall opponents	10	19%

*\* Figures based on statements made on 9 August.*

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The return of some of the themes discussed in the 2009 formal debate also suggested a greater degree of convergence around mass atrocity prevention and protection than was considered possible a few years ago. Whether in the discussion of sovereignty as responsibility, the role of regional organizations, and the equally important contribution of civil society, the substantive growth in consensus was also apparent. The presence of some unresolved issues and lingering concerns was also clear, particularly regarding the lack of clarity between the roles of the General Assembly and Security Council (SC) and selectivity, double standards, and misuse in the application of R2P. However, the expression of such concerns is also a sign of the growing reality of R2P.

The overriding message was that preventing and halting mass atrocities is indeed one of the cardinal challenges of our time. At the end of an animated debate, panelist Andrea Bartoli spoke for many when he declared that the world was witnessing a dramatic movement in international relations toward mass atrocity prevention and the anti-genocidal state. Within that, as member states underscored, early warning is crucial, but would not on its own have stopped Rwanda - however without early warning, it is hard to see political will developing and the UN preventing such appalling events in the future.

Going forward, member states were unanimous that the GA should continue consideration of R2P with near universal support for another dialogue next year focused on regional organizations. In what was virtually the event's last word, panelist Bertie Ramcharan concluded by asking member states to help the SG's special advisers and the UN Secretariat by “giving them the resources that they need to help you.”

### SECTION ONE: OVERVIEW

On 9 August 2010, the president of the General Assembly convened member states for an informal interactive dialogue on the themes of early warning, assessment, and the responsibility to protect, which was informed by the Secretary-General's report *Early Warning, Assessment and the Responsibility to Protect* issued on 14 July 2010.

The session opened with a brief statement by Secretary-General Ban Ki-moon and was followed by presentations by five panelists: Dr. Francis Deng, special adviser for the prevention of genocide; Dr. Edward C. Luck, special adviser to the United Nations SG on the conceptual, political, and institutional development of the responsibility to protect; Professor Andrea Bartoli, director, Institute for Conflict Analysis and Resolution, George Mason University; Professor Muna Ndulo, professor of law and director of the Institute for African Development, Cornell University; and Professor Bertrand Ramcharan, first Swiss chair of human rights, Geneva Graduate Institute of International and Development Studies, and former UN High Commissioner for Human Rights ad interim.

In a brief but pointed statement, the SG welcomed the readiness of both “skeptics and enthusiasts” to continue the critical and constructive conversation started in 2009 on R2P. He reminded member states of their 2005 pledge to “support the United Nations in establishing an early warning capability” and emphasized the salience of early warning and assessment for an effective international strategy for preventing mass atrocity crimes. As laid down in his two reports, the SG reiterated the need for early and flexible responses—whether at the point of prevention or of protection—tailored to the fluid and distinctive circumstances of each case, based on an “early, nuanced and impartial understanding of the situation.”<sup>4</sup> The SG then referred to the illustrative cases of Guinea and Côte d'Ivoire and to the importance of joint diplomatic efforts, including those by global-regional partnerships. While flagging the UN's progress on early warning and assessment, in both his report and his statement, the SG identified lingering institutional weaknesses around mass atrocity prevention and protection. He signaled his intention to address such gaps by exploring ways of institutionalizing the ongoing collaboration between his two special advisers, Francis Deng and Edward Luck, “including through a joint office.” The SG closed his remarks by asking member states not to lose sight of the moral imperative that lay behind the more practical issues that were to be discussed during the informal interactive dialogue.

A total of 42 member states, two regional organizations, and two civil society organizations took the floor and responded to both the SG's report and the panelists' presentations. The high turnout again reaffirmed the importance that member states attach to R2P and demonstrated the GA's commitment to “continue its consideration of the responsibility to protect.”<sup>5</sup> The notably constructive tone of the discussion echoed the

tenor of the GA's July 2009 formal debate on R2P. Although the familiar dissenting voices were also heard from Iran, Nicaragua, Pakistan, Sudan, and Venezuela, this dynamic and productive dialogue again showed that the consensus around R2P is expanding and that perceptions about its legitimacy are also evolving. As stated by Germany and the Czech Republic in their respective statements, the support for “the political concept and emerging norm of the responsibility to protect is broad,” and the adoption by consensus of resolution 63/308 showed the “determination of the UN member states to move forward.” The lucid presentations by the five panelists were met with genuine enthusiasm by speakers from the North and South. The initial responses by Cuba, Costa Rica, India, Benin, the United States, Senegal, and the Netherlands swiftly took up many of the practical challenges facing effective early warning that had been addressed both in the SG's report and by the panelists. Virtually all those who spoke stressed the need to prevent mass atrocities and thus recognized the central role of early warning and assessment.

As in the GA's debate of July 2009, the 2010 informal interactive dialogue showed that the core tenets and aspirations of R2P are not fundamentally in dispute. The interactive dialogue's constructive tone was established from the outset with a memorable intervention by India's ambassador who immediately acknowledged the deficiencies of the UN in early warning and assessment. This view was later echoed by Brazil and Egypt who concurred on the urgent need to close the “gaps in the United Nations with respect to an early warning capability” so as to “turn information into effective measures in a balanced, impartial and comprehensive manner.” In another nuanced statement, China reaffirmed the understanding of R2P as encompassing the four crimes, while reminding the audience that the responses to crises should exhaust peaceful means and should remain governed by the UN Charter. As had been previously the case in 2009, it was left to a handful of member states to express their objections to the discussion. Nicaragua contested the parameters of R2P as presented in the SG's report and questioned both the agreement of member states on R2P and on its implementation; Sudan challenged the interpretation of the 2005 agreement offered in the SG's report; Iran claimed that the SG's report went “beyond what was agreed;” and Pakistan talked of the legacy of colonialism.

## 1.1 Regional Trends

The 2010 dialogue in the GA again underscored significant regional trends. Most of the eight statements made by African member states referred to early warning structures established at the regional, sub-regional, and continental level. Tanzania shared the experience of the Pact on Stability, Security and Development in the Great Lakes Region in Africa. Botswana spoke of systems in the Southern African Development Community (SADC). Nigeria highlighted action by the Economic Community of West African States (ECOWAS). In addition, the African Union (AU) underscored the significance of Article 4 (h) of the Constitutive Act

of the African Union, which grants the organization the right to intervene in grave circumstances of crimes against humanity.

From Asia Pacific, strikingly constructive and thoughtful remarks from India early in the dialogue planted themes that recurred throughout the session. Australia and the Republic of Korea expressed their support for strengthening early warning of mass atrocities and proposals in the SG's report. Others explored how the joint office would make a difference in practice. Bangladesh inquired about the way in which information gathering through an R2P lens could potentially impact upon the impartiality of its assessment. Pakistan, more openly skeptical, criticized the SG's failure to discuss the consequences of false alarms.

The statements made by 12 Latin American countries again showed that this region is home to both some of the staunchest supporters and most outspoken detractors of R2P. While the majority, including Cuba, welcomed the interactive dialogue, Nicaragua and Venezuela made clear their objections. Costa Rica swiftly reminded the audience of the pledge made by member states at the 2005 World Summit, while Brazil referred to R2P as an instrument against the four crimes. Argentina emphasized the serious and systematic nature of mass atrocity crimes. Peru called for perpetrators to be made accountable. Mexico and Costa Rica extolled the SG's 2010 report as a good companion to his 2009 strategy and praised the role of civil society in the prevention of mass atrocities. The contribution of regional organizations was indeed widely endorsed. However, the lack of references to early warning regional capacities was also notable by comparison with Africa and Europe. Brazil was one of the 9 countries that mentioned the mandate of the joint office, hinting that a mandate would be needed from the GA while indicating its interest in learning more about how the joint office “would improve existing tools.”

For Europe, the European Union (EU) endorsed the logic of building genocide prevention under the broader remit of R2P and explicitly welcomed the call for a joint office and the envisaged expansion of the mandate of the SG's special adviser on the prevention of genocide to include war crimes, crimes against humanity, and ethnic cleansing.

As these regional trends indicate, the responsibility to protect is no longer in dispute for the vast majority of member states. However, as hinted by delegations in 2009, and again by Guatemala in 2010, the shift toward R2P's implementation will continue to raise questions. This, however, deserves to be seen as a positive development. Indeed, the dialogue in the GA again signaled the readiness of member states to uphold their commitment to prevent and halt mass atrocities. With this, a significant change in international attitudes toward the balance between this commitment and absolute sovereignty is underway.

In discussing early warning and assessment in relation to R2P, many of the themes addressed in the summer of 2009 again surfaced: the impor-



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tance of prevention and the respective roles of the GA and the Security Council, as well as those of member states, regional organizations, and civil society. Some lingering concerns were also evident, in particular the risk of selectivity and double standards and the fear of misuse and abuse to legitimize coercive intervention. Many of these qualms were duly addressed by the panelists, who concurred in seeing the SG’s strategy as providing safeguards against misuse and inappropriate application of R2P. Others were also concerned with the overriding risk of inaction.

### SECTION TWO: PRESENTATIONS BY PANELISTS

Echoing the themes of the 2009 debate, Special Adviser Edward Luck stressed the need to avoid an “overly mechanical, simplistic, or sequenced approach to early warning, assessment and action.” He urged the audience to recognize that the spirit of the exercise lies in early engagement for preventive purposes and thus in early understanding of unfolding realities. In his words, “early and constructive international engagement may make early warning unnecessary.” Under pillars one and two the name of the game should be “prevention, prevention, prevention.” However, since mass atrocity prevention and protection stretch beyond the domestic and international responsibilities of pillars one and two, he underlined the vital role that high quality, smart, and dynamic assessment—enriched by the perspectives coming from regional and sub-regional organizations, transnational civil society, and independent experts—should play in informing policy choices along the spectrum from prevention and capacity building to “timely and decisive response.” While noting that early warning is not an end in itself but rather a piece of a larger equation leading to early and effective action, Luck reminded the audience of the vital importance of sound judgment in decision making.

Referring to his mandate and the principle of sovereignty as responsibility, Francis Deng, special adviser for the prevention of genocide, shared with member states the details of the work of his office, including the development of a system of early warning information gathering and of a framework of analysis based on eight indicators aimed at assessing the risk of genocidal violence. He described his own approach to genocide as based on the demystification of this crime. This perspective focuses on identities in conflict and a concomitant emphasis on prevention which takes into account the need to constructively manage diversity and identity-related dynamics. Yet Deng underscored that genocide is not an “isolated crime,” but one that is almost always “preceded by crimes against humanity, ethnic cleansing and/or war crimes.” Deng thus presented a persuasive case for the complementarity between preventing genocide and R2P crimes and for a closer collaboration with the special adviser focusing on the responsibility to protect. While recognizing that the SG’s three pillar strategy outlined by the SG has informed and guided the work of his office, he envisages the broadening of the current analysis framework to encompass the precursors to all four R2P crimes.

Bertrand Ramcharan’s reflections on early warning and assessment centered on three main dimensions: ethical, political, and practical. In his view there is no question that preventing genocide and mass atrocity crimes is a universal ethical imperative. The political dimension is linked to the lingering concerns among some member states and requires us to recognize the need for confidence-building measures. In his view, when principle and politics meet, they should lead to cooperation and trust building. While the practical dimension may best be captured by pillar one and national protection systems, his detailed account of the contribution of observers and fact-finding missions to take the edge off the crises in South Africa and East Timor offered vivid examples of effective pillar-two action. Ramcharan also alluded to the role of sound judgment as another crucial if more intangible aspect of early warning and assessment. Although much of the discussion about sound judgment has referred to questions of assessment and policy action, in his view the role of judgment needs to be recognized as a more broadly vital ingredient in efforts to foster cooperation in relations within the Secretariat and between the UN and member states.

Andrea Bartoli’s presentation addressed early warning within the larger context of what he sees as three unfolding trends in international relations: toward a victim-centered approach; toward a self-restraining, non-genocidal state; and a movement toward increasing integration and international cooperation. While his presentation acknowledged the presence of old and new drivers of violence—organized crime, drug-trafficking, gangs, ideological extremism, and ethnic mobilization—it drew attention to the non-violent nature of recent processes of state transformation, and to the primary interest of the state in controlling genocidal trends. Turning to early warning and assessment, Bartoli emphasized that these two steps should be viewed as part of a single sequence. He also pointed to the critical role of sound and candid judgment in the decision making process. His presentation referred to past and ongoing efforts to bolster international and regional cooperation for the prevention of genocide, including the creation of the Office of the Special Adviser to the SG on the Prevention of Genocide and the pledge made by member states to support its mission in their 2005 commitment to the responsibility to protect. The 2006 Pact on Peace, Security, Democracy and Development in the Great Lakes Region and, in particular, the sub-regional architecture created by the Protocol for the Prevention and the Punishment of the Crime of Genocide, War Crimes, Crimes against Humanity and all forms of Discrimination were described as examples leading the way on genocide and mass atrocity prevention.

Muna Ndulo, like Bartoli, referred to early warning and assessment as two pieces of a single process in which sound judgment is paramount. Among the relevant signals that an effective early warning and assessment system should be able to pick up are: the allocation of public services and offices according to ethnic lines; the existence of ethnic-based tensions; gender-based indicators; the presence of private militias; the

record of human rights violations by the police and armed forces; and changing patterns of weapons acquisition. In his view, the effectiveness of an early warning and assessment system depends, in turn, on its access to developments on the ground, the availability of multiple sources of information, regular updates and reassessment, and access to appropriate technology and communications equipment. Yet Ndulo brought attention to a key dilemma underlying early warning and assessment—while early warning is largely a technical exercise, assessment and early response are intrinsically political. His presentation anticipated a recurrent theme in the dialogue: the lack of political will to acknowledge early warning signals and to act on them. Whether in Somalia, East Timor, or Kenya, early signals were ignored and were not always followed by action. As in previous and subsequent interventions, Ndulo paid tribute to the potential contribution of civil society organizations. This contribution, though, is not just of information gathering and accurate empirical analysis, but also of mobilizing the much-needed responses.

## **SECTION THREE: OVERVIEW OF THE INFORMAL INTERACTIVE DIALOGUE**

### **3.1 The Scope and Purpose of the 2005 Agreement on R2P**

While the informal dialogue focused on one particular aspect of R2P, namely early warning and assessment, a few member states reprised arguments and themes from the broader 2009 GA debate. Thus, the respective roles of the GA and the Security Council were again the cause for some disagreement among a few statements. The conversation also made clear the presence of some lingering concerns, particularly in relation to the risk of inconsistency and double standards, the misuse of R2P for unilateral intervention, as well as about the clarity on triggers for intervention and decision making procedures. Yet only a handful of delegations expressed doubts about the road map outlined by the SG for early warning and assessment.

The vast majority took both the 2005 consensus and the understanding of R2P as encompassing four crimes and three pillars as givens and smoothly moved on to questions of implementation, and more specifically to early warning. Delegation after delegation referred to the main themes outlined in the SG’s report and to the practical issues addressed by the panelists. Underlying the discussion of early warning and assessment ran a palpable current of concern, evident in numerous allusions, never to repeat the tragedies of the Holocaust, Srebrenica, Rwanda, or Kosovo. In the same vein, member states sought to underscore the nature of the violations that R2P seeks to prevent and halt.

The thrust of the responses by member states to the panelists revealed a deep understanding of tragic experiences that, as Costa Rica put it, “do not require the presence of armed conflict to occur,” but that cannot

either be seen as “normal conflicts.” Whether in peace or war, as stated by India and echoed by Argentina, “we are dealing with crimes that are deliberate, serious and systematic violations of human rights.” In line with this view, Armenia rightly noted that “genocide, war crimes and crimes against humanity do not just occur;” instigators first “propagate intolerance and hatred.” Recognizing that such atrocities also take place in the midst of war, Tanzania in turn highlighted the vulnerability of civilians trapped among warring factions and referred to the way in which actors should be made aware of the consequences of their actions. Peru then added that impunity should not be tolerated and that perpetrators should be held accountable for their crimes. Brazil referred to R2P as a “means to address the four crimes in a coordinated fashion.” Argentina, India, Nepal, and Senegal eloquently concurred that in the light of such crimes the international community, and more specifically the UN, should remain neither silent nor a passive bystander.

Although Cuba noted that R2P had not yet crystallized into a legally binding instrument, it did recognize—as did Benin, Lebanon, and Nepal—the need for a clear definition of the concept as well as of its limits. Importantly, Cuba endorsed the call for further consideration by the GA. Drawing on this, Costa Rica reminded the audience of the pledge made by member states to R2P as an evolving concept, which it hopes to see legally embedded. Guatemala in turn stated that “we have sufficiently advanced to now be able to codify the uses of the three pillars.” Edward Luck echoed this expectation of being able to codify R2P through practice in his response to the first set of statements by member states.

### **3.2 Deepening Areas of Consensus**

#### **Welcoming the Secretary-General’s Report**

More than 23 delegations welcomed and/or noted with appreciation the SG’s report. In Tanzania’s view, this document “deserves full support and attention by all people who care about the sanctity of life.” Costa Rica, Mexico, and the United States asserted that the 2010 report complements the SG’s previous report on implementing the responsibility to protect. The great majority then enthusiastically endorsed the discussion of early warning and assessment. Cuba celebrated the convening of the interactive dialogue given both the salience and complexity of a theme to which it grants “considerable relevance.” Benin, Germany, Guatemala and India, among others, acknowledged the information and assessment gaps and the challenges of coordination and policy response identified in the report. Pakistan, by contrast, offered a critique of the SG’s report, arguing that it had failed to give due weight to the risk and consequences of false alarms. Bangladesh inquired about the way in which information gathering through an R2P lens could potentially impact upon the impartiality of its assessment. Nicaragua alone objected to discussing the SG’s report.

## **Sovereignty**

As in 2009 many delegations reaffirmed a view of sovereignty that is clearly compatible with the tenets of R2P. Ghana judiciously reminded the audience of the way in which in the past the GA had questioned the principle of noninterference by declaring apartheid a crime against humanity. Benin expressed strong reservations against an absolute concept of sovereignty, and India added that “the responsibility to protect must lie in the context of state responsibility” while underlining that “sovereignty entails responsibility and the responsibility to protect the population is one of the foremost responsibilities of the state.” In a similar tenor, El Salvador underscored that the legitimacy of the state is intimately linked to its respect for the rule of law. Last but not least, the Republic of Korea portrayed R2P as an ally of national sovereignty.

## **Bolstering Systems of Prevention and Protection**

The need to bolster national, regional, and international systems of prevention and protection was extensively discussed. As noted by India, averting such mass crimes can only be achieved by “strengthening the capacity of member states” and cannot be reduced to a “Secretariat-driven process.” Brazil in turn referred to the need to explore ways to “assist states to strengthen their national institutions and to reform outdated structures that need to reflect current realities.” Nigeria shared with the audience some of the efforts it has deployed at both the national and sub-regional levels, including “steps to strengthen democracy and the rule of law” and domestic “inter-faith and inter-cultural programs,” as well as the leading regional role it has played in the “peaceful resolution of conflicts within the West-African sub-region.” In a brief and insightful statement, Uruguay drew attention to the need to strengthen the Secretariat’s mediation capacity. From Armenia and Costa Rica to Benin, India, the Netherlands, Nigeria, and Senegal, the measures and capacities discussed touched on national, regional, and international initiatives, ranging from the effective enforcement of international instruments to protect human rights, to security sector reform and the curbing of impunity, to international monitoring of these efforts, including by visits of the special adviser on the prevention of genocide.

## **The role of Regional Organizations**

Much discussion was also devoted to the role of regional and sub-regional organizations in preventing and halting mass atrocities. The remarks by many delegations amply revealed how regional organizations and institutions, particularly in Africa but also in Europe, are already important players in early warning and assessment. Drawing on the examples mentioned in Bartoli’s presentation, Cuba recognized the meaningful role that regional organizations can play in this area. Chile and Guatemala reminded the audience that available avenues for action and responses are by no means reduced to the Security Council, and again encom-

pass regional and sub-regional bodies. The significant role that regional organizations have played in this area was again echoed in the reference made by the Netherlands to the contribution of the Organization for Security and Co-operation in Europe (OSCE) and more specifically of the high commissioner on national minorities to the reduction of tensions in Europe. Tanzania in turn shared the experience of the Pact on Stability, Security and Development in the Great Lakes Region in Africa and the way in which emergency summits can be convened on the basis of the early warning and assessment reports, which are transmitted to the Secretariat and from there to the Council of Ministers. The European Union alluded to the significant role that its new foreign policy structures are likely to play in its efforts to prevent and halt mass atrocity crimes. The EU also referred to its collaboration with other regional organizations and more specifically to its support of the Continental Early Warning System of the African Union granted within the terms of the Joint Africa-EU Strategy and Action Plan on Peace and Security. Botswana referred to the current trend to establish early warning systems in African sub-regional organizations, including in the SADC. Celebrating the wide interest in the role of regional and sub-regional organizations, the AU delegate highlighted their unique capacity to detect relevant signals early on and drew attention to the significance of article 4 (h) of the Constitutive Act of the AU, which grants this organization the right to intervene in pressing situations. In its statement not only did Nigeria refer to Article 4(h), but persuasively illustrated the way in which the ECOWAS had led the way ahead of the AU and the 2005 commitment on R2P. The Nigerian representative then highlighted how a number of interventions and diplomatic initiatives by ECOMOG—the armed monitoring group established by ECOWAS in the 1990s—“helped to decisively stop the carnage in certain countries in the sub-region and to rescue trapped populations.” The recognition extended by India to regional and sub-regional perspectives and sources of information for early warning was echoed by a significant number of delegations. Argentina, Botswana, Chile, China, Costa Rica, Cuba, the Czech Republic, France, Georgia, Germany, Guatemala, Mexico, Nepal, the Netherlands, Nigeria, Sudan, Tanzania, the United States, and Uruguay all positively validated the contribution of regional and sub-regional organizations. The majority of these delegations also expressed their support for the SG’s proposal to continue the dialogue on R2P by focusing on the role of regional and sub-regional organizations in implementing R2P.<sup>6</sup>

## **The Role of Civil Society**

The role of civil society received significant attention. In the context of early warning and assessment, the critical contribution made by civil society, human rights organizations as well as country and regional experts was widely acclaimed by both delegations and panelists, particularly when it comes to the gathering and circulating vital information. Armenia welcomed the call to more actively involve civil society and urged member states to deploy education programs to “overcome intolerance,

bigotry, and exclusion.” Armenia was joined by numerous delegations including Benin, Botswana, Costa Rica, India, Mexico, the Netherlands, Nigeria, and Senegal in its emphasis on the key role of civil society in the prevention of mass atrocities.

### 3.3 Unsettled Issues

#### The Role of the GA and the Security Council

In 2010 as in 2009, many delegations again returned to the theme of the respective roles of the General Assembly and the Security Council in R2P, with the majority clearly agreeing on the significance of continuing the conversation in the GA. From Brazil, Chile, Costa Rica, Cuba, Lebanon, to Pakistan, Sudan, and Uruguay, speaker after speaker once more affirmed that the GA was the appropriate forum for continuing the dialogue on R2P. A handful of delegations again expressed doubts about the mandate given to the SC. Along with Cuba, Egypt also referred to the competing jurisdictions of the GA and the SC and to the effect of the veto power on selectivity and double standards. As in 2009, Egypt reiterated the need to strike a balance between the roles of the GA and the SC in early warning and assessment. Egypt suggested placing the proposed early warning unit under the General Assembly, and Sudan, in turn, asserted that “judgment on collective action and where authorities are manifestly failing should rest within the GA.”

### 3.4 Lingering Concerns

#### Double Standards

As was the case in 2009, some delegations expressed their disquiet about the risk of selectivity and double standards in the implementation of R2P. Pakistan underscored the need to ensure that early warning and assessment are applied universally. Cuba and Sudan argued in turn that in the absence of Security Council reform selectivity and double standards would remain the norm. Costa Rica reminded the audience that the legitimacy of R2P will remain inexorably tied to its consistent, non-selective, and legal application (in accordance with the principles of international law).

#### R2P as a License for Unilateral Intervention?

Fears that R2P could be misused as a pretext for unilateral intervention and “fishing expeditions” were again expressed by India and Cuba. The need to “develop safeguards against misuse” was in turn raised by Georgia. In one of the very rare statements that raised the issue of the use of force, Iran asserted that while the international community should prevent atrocities, “by no means whatsoever may it permit the use of force under any pretext such as humanitarian intervention.”

### Triage and Decision Making Procedures

As in 2009, a small number of states again raised the issue of clarity on triggers for intervention and decision making procedures. Cuba and Iran were among the few delegations that again asked about the scope for application. Cuba and Guatemala also asked who would decide, and on what basis, a given course of action. As in 2009 Chile offered an answer by emphasizing that R2P “starts at the national level” and that under pillar one the state itself has the power to mobilize most of the components of R2P. Equally important was the general call to base UN action on international law, including the UN Charter.

## SECTION FOUR: LEADING THE WAY ON EARLY WARNING AND ASSESSMENT

With the exception of a few delegations, the vast majority of member states reaffirmed their commitment to “support the United Nations in establishing an early warning capability.”<sup>7</sup> In the words of the Republic of Korea, the UN as the “most respected and impartial multilateral decision making body” cannot afford *not* to play a prominent role on early warning and assessment.

As delegations turned to the practical questions of early warning and assessment, speaker after speaker referred to the lessons drawn from past failures and recent events—including those in Kyrgyzstan—as a leading motivation for international actors to develop the appropriate capacities in order to live up to their individual and collective responsibilities.

Many delegations referred to the challenges of horizontal coordination and information sharing faced by the UN and the Secretariat in their efforts to avert genocidal and mass atrocity situations. The call to mainstream R2P and to sensitize relevant UN departments and agencies to these themes was also endorsed in many statements. While the need to tailor the advice and the response to the particular circumstances of each case was generally acknowledged, as the Costa Rican ambassador noted, in the light of massive violations of human rights the relevant question is not whether the international community should act, but in what manner and when.

### 4.1 Early Warning and R2P

As in 2009, dialogue participants repeatedly brought up prevention as a key aspect of R2P. The vision outlined by Costa Rica, seeing prevention as “the best form of protection,” was widely endorsed. In the context of the discussion on early warning and assessment, a significant number of delegations—including the AU, Botswana, Costa Rica, the Czech Republic, the EU, France, Guatemala, Mexico, Nepal, and Tanzania—shared the view that early warning and assessment are instrumental in saving lives and that effective early warning is essential if there is to be any hope



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of effective prevention. As the EU representative stated, the “analysis and expeditious communication of information on situations that could lead to R2P crimes are essential for the adoption of timely preventive measures.” Mexico made a similar case when it mentioned that without “early warning and assessment” it would be difficult to maximize and realize the full potential of peaceful and diplomatic means. Georgia and Switzerland highlighted the significant role that fact-finding missions and monitoring teams can play in early warning and preventive diplomacy. Australia, in turn, asked about the way in which the envisaged internal procedures, particularly the meetings of the under-secretary-generals, are expected to “assist with the prevention of mass atrocities and not just the UN’s response to them.” Others, including Nigeria, echoed the SG’s view that early warning and early action both increase the chances of, and offer the best route to, successful and effective response.

### **4.2 Rising to the Challenge of Mass Atrocity Prevention and Response: What to Know, When to Act**

#### **Management of Information**

The issue of information gathering and information management received wide attention. Francis Deng claimed that information gathering within the UN system had significantly improved, but called attention to the persistent challenges in the handling of sensitive information both within the UN system and between the UN system and member states. Several delegations—including Armenia, Botswana, Canada, Costa Rica, El Salvador, France, Guatemala, Nepal, the Republic of Korea, the United States, and Uruguay—emphasized the need to improve the gathering, flow, and sharing of information within the UN. References to the challenges of information management were not restricted to the UN. In the view of the Netherlands, the SG’s report on Srebrenica illustrated the reluctance of member states to share sensitive information at pressing moments with the UN. The Dutch statement then considered some of the ways in which the UN and member states can respond to this challenge: by immediately “regularizing the two-way flow of information, ideas and insights between the UN and regional and sub-regional organizations on matters related to R2P,” and by considering “some kind of formal or informal mechanisms for a continuing conversation...with independent sources.”

#### **Turning Information into Action**

Many member states—including Armenia, Germany, India, Lebanon, the Netherlands, and the United Kingdom—also pointed to the challenge of turning information into action. A number of speakers agreed on the significant point that the problem of inaction cannot simply be explained in terms of partial and/or imperfect information. As stated by Germany and echoed by France, “there is a wealth of information from different

sources, from within and from outside the UN system”: “the challenge for R2P is not really the information.” This view was echoed in statements by Armenia, Brazil, the Czech Republic, Uruguay, and the United States among others. While member states recognized that, at times, the availability of information had not proved sufficient to drive policy, some delegations—including Brazil, Canada, and Nigeria—also pointed to deficits in analytical inquiry and judgment as a critical factor in past failures. In his response to India, echoing the conclusions of the independent inquiry into UN action in Rwanda, Bertrand Ramcharan maintained that the tragedy of the 1994 genocide had been the result of a “systemic failure.” By contrast, both the lack of crucial information and the reluctance of some member states to share vital information were mentioned as key factors in determining the dreadful fate of thousands of men in Srebrenica.

#### **Responding to Crises: The Role of Political Will**

Armenia and the Solomon Islands captured a further relevant and more troubling aspect to the question of turning information into action. Drawing on its own history, Armenia called attention to the fact that “an abundance of information” and pleas for help have not been sufficient to trigger early response. Reiterating the view that early warning may be a technical exercise but that action is, fundamentally, a political undertaking, the Solomon Islands reminded the audience of how in 1998, at the edge of what it described as a “pre-crisis stress,” the government had issued a call for assistance that took four years to be heard. When the signals were finally acknowledged, the crisis had escalated into a conflict. Following a similar line of reasoning, Botswana urged member states to consider the involvement of civil society and of the media in mobilizing a response.

#### **The Role of Sound Judgment**

The crucially important role of sound judgment in decision making, first mentioned by Edward Luck, was taken up by both panelists and delegations. Many concurred that sound judgment is a key ingredient in helping transform information analysis into action. The relevance of prudential judgment was underscored at various points, from decisions about the sharing and handling of information, to the engaging of the Security Council. As many reminded the audience, for no one is the question of judgment more critical than the SG. As expressed by Botswana, in the “Secretary-General the UN has a formidable mechanism to alert member states to impending crises.”

### **4.3 Institutional Innovations: The Joint Office and the Convening Mechanisms**

A handful of delegations, including Iran and Pakistan, objected to a proposal that in their view “goes beyond the common understanding of the responsibility to protect and what was agreed by our heads of state.”

According to Pakistan, unless unresolved questions, including double standards, are addressed, it would be premature to institutionalize the collaboration between the two advisers and join the mandates. For their part, Nicaragua, Sudan, and Venezuela questioned the authority to proceed with the plan outlined in the SG’s report. Nicaragua and Venezuela shared the view that the SG lacks legislative power to implement the changes proposed in paragraph 18 of his report.<sup>8</sup> Sudan, in turn, argued that the “only mandate that is agreeable” is that embodied in paragraph 140 of the World Summit Document, which relates to the office of the special adviser for the prevention of genocide.<sup>9</sup>

In contrast to this minority view, the great majority of those who participated in the dialogue made clear their readiness to move forward. In their statements, Guatemala, the Republic of Korea, and Germany referred to the broad agreement to make R2P “operational.” Moreover, the majority of delegations—including Armenia, Australia, Canada, Chile, Costa Rica, the Czech Republic, Egypt, France, Germany, Ghana, Guatemala, Italy, Lebanon, the Netherlands, Nepal, Nigeria, Peru, the Republic of Korea, the United Kingdom, and Uruguay—indicated their support for the SG’s proposal to “institutionalize the collaboration between the two Special Advisers” and for a joint office.<sup>10</sup>

The United Kingdom briefly delved into the reasons that validate the plan for the joint office: “to ensure that information is drawn together, to allow the Secretary-General and his Under Secretary-Generals to assess it and to work out the appropriate response.” Armenia and Lebanon unequivocally endorsed the need for a “clear and reliable focal point” to bring together and assess information regarding the four crimes and to “make recommendations in cases of imminent risk of R2P four crimes.” By referring to the experience in Guinea in 2009, France urged that the response should not wait until a situation reaches the level of mass atrocities and that UN action must aspire to be as flexible as possible. Australia, together with Uruguay, considered both the proposal for a joint office and for a convening mechanism “to be sensible approaches.” Similarly, in Nigeria’s opinion a “well conceptualized and executed joint office will lead to improved performance of the UN in regard to the R2P.” Guatemala concurred, noting that such a joint office—together with the “new internal procedures” described in the SG’s report to expedite the process by which the UN considers its responses—are vital for ongoing efforts to closely monitor the pulse of situations that could result in genocide, war crimes, ethnic cleansing, or crimes against humanity. Ghana’s statement went one step further, persuasively arguing that the joint office should also be seen as a catalyst for mobilizing political will and action.

Delegations and panelists equally endorsed the logic of building genocide prevention under the broader remit of R2P. With the exception of two delegations, Nicaragua and Sudan, a significant majority of member states (more than 20) signaled their strong support for the joint office. Significant interest in its future evolution was also expressed. Armenia,

Benin, the Netherlands, Germany, Guatemala, and the European Union explicitly welcomed the call for a joint office and the envisaged expansion of the mandate of the SG’s special adviser on the prevention of genocide to include war crimes, crimes against humanity, and ethnic cleansing. On the basis of the agreed consensus on R2P as encompassing four crimes, Sudan in turn asked the panelists to comment on the suitability of an R2P office that could encompass four departments to cover genocide and the other three crimes.

### **The Relationship between the Two Mandates**

The relationship between the two mandates was also addressed by a number of delegations. Armenia and Lebanon reminded member states of their commitment to “two overlapping mandates: that of Genocide Prevention stemming from the Security Council and the Responsibility to Protect originating from the General Assembly at the World Summit in 2005.” In line with this view, Italy suggested that the two special advisers “play distinct but complementary roles.” For its part Brazil expressed pointed interest in learning more about how a joint office, based on mandates conferred by different UN organs, would work and asked how the proposed joint office and decision making process “would improve existing tools.”

Benin and India both suggested that the rationale for the joint office stems from the recognition that conflict prevention is not synonymous with mass atrocity prevention. As a focal point and catalyst, the proposed UN joint office is expected to bring the prevention of mass atrocities to the fore in discussions of early warning and assessment. In the panelists’ view, such institutional innovation, together with the proposed convening authority, is necessary for the warnings to have a chance of being heard.

Some of the key challenges of early warning and assessment were soon identified in a powerfully argued statement by India, who joined many other delegations in their praise for the road map offered by the SG’s report, which provided member states with a sense of purpose and direction. Yet, in addressing the past tragedies of Rwanda and Srebrenica, India questioned whether the institutional adjustments outlined by the SG in paragraph 18 on the convening mechanism were sufficiently comprehensive to enable the international community to meet such critical challenges. While recognizing the limitations of the existing early warning architecture, India’s call to supplement the SG’s proposal with the participation of member states was endorsed by a number of delegations, including France, Germany, the Netherlands, the United Kingdom, and the Solomon Islands. In the latter’s view, “early warning” will only work if the “gap between the member states and the UN is closed.” The participation of member states in early warning was more broadly supported by a number of states, including Botswana, Canada, Chile, El Salvador, Guatemala, and Nepal. The panelists also referred to the role of member states as “frontal and central.” In their view, it is precisely through con-

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tinued consideration that the modalities of the request to bring member states and civil society “into the filter” of early warning and assessment can be explored and assessed.

### **SECTION FIVE: PANELISTS’ CONCLUDING REMARKS**

The panelists excelled in responding to many of the questions raised in a spirited interactive dialogue. Andrea Bartoli conceded that assessment is bound to be a fundamentally political exercise but argued that the shift to an “anti-genocidal” mentality makes possible the effective analysis of the facts. Muna Ndulo drew attention to the solid consensus around the role that regional organizations are expected to play in the prevention of mass atrocity crimes.

Edward Luck shared the view of the role of the Secretariat as one aimed at serving member states, and referred to a unique mandate given by heads of states sitting as the GA. He endorsed the calls for the universal application of R2P, as well as pleas by China and Georgia for its narrow but deep implementation confined to the four crimes. Luck in turn celebrated the expectation of a movement toward ownership of R2P by both member states and regional organizations. Incisively, he touched upon many of the practical issues raised by member states.

He explained how the office of the special adviser for the prevention of genocide is already addressing some of the questions mentioned by France, Peru, and others, including: sexual violence, specialized training, instilling R2P perspectives throughout the UN system, and coordinating with regional organizations, including the OSCE high commissioner on national minorities, on the situation in Kyrgyzstan. Luck concurred with Switzerland that fact-finding missions under Article 34 of the Charter can play a critical role, and how both the SG and the GA have much to contribute. He shared with Chile, Germany, India, and the United Kingdom the sense of the complexity of gathering, assessing, and sharing information and of the urgent need to excel at each stage. Similarly, he gave due recognition to the challenge of tackling the relationship between information assessment and response and to the need for member states and the Secretariat to more closely cooperate. In response to Australia’s question on improving prevention, Luck pointed to the clear focus of the joint office and the convening mechanism devoted to emergency situations as the basis for reasonable optimism for an earlier, more coherent and consistent UN response. Looking forward, he mentioned that the financial implications of these institutional changes were soon to be submitted to the Advisory Committee on Administrative and Budgetary Questions (ACABQ) and the General Assembly’s Fifth Committee on Administrative and Budgetary Questions, and he welcomed the agreement to discuss the role of regional and sub-regional organizations in advancing and upholding R2P.

Turning to the broader narrative on R2P, Francis Deng affirmed that establishing and implementing R2P is an ongoing process that, as some had pointed out, runs in parallel to efforts to develop confidence and trust. Deng and Bertrand Ramcharan shared the view that the interactive dialogue, as was the case with the 2009 formal debate, was a consequential event in confidence building. In an inspiring overview of the interactive session, Ramcharan indeed argued that the dialogue had again confirmed the commitment of member states to universal human rights and their determined opposition to human rights violations. While the session had underscored the strong expectation of member states to see UN action based on international law—including the UN Charter—it had also revealed a deep desire to continue the dialogue on R2P in the GA. Setting aside the issue of the labels of the advisers, Ramcharan emphasized that what matters is that both Francis Deng and Edward Luck are effectively using the good offices of the SG. In his opinion, the dialogue had offered substantial evidence of the willingness of member states to support the plan to strengthen the Secretariat so as to give full expression to R2P. Ramcharan concluded by asking member states to help the special advisers and the Secretariat by “giving them the resources that they need to help you.”

As with the 2009 formal debate on implementing R2P, the 2010 dialogue on early warning and assessment brought to light the momentous support among member states to prevent and halt mass atrocity crimes. The lively and engaged discussion of the challenges underlying early warning and assessment was without doubt a significant step toward making R2P a working reality.

### NOTES

<sup>1</sup> Report of the Secretary-General, *Early Warning, Assessment, and the Responsibility to Protect*, UN document A/64/864, July 14, 2010.

<sup>2</sup> The panelists: Dr. Francis Deng, Special Adviser for the Prevention of Genocide; Dr. Edward C Luck, Special Adviser to the United Nations SG on the conceptual, political, and institutional development of R2P; Professor Andrea Bartoli, Director, Institute for Conflict Analysis and Resolution, George Mason University; Professor Muna Ndulo, Professor of Law and Director of the Institute for African Development, Cornell University; and Professor Bertrand Ramcharan, First Swiss Chair of Human Rights, Geneva Graduate Institute of International and Development Studies and former UN High Commissioner for Human Rights ad interim.

<sup>3</sup> These estimates do not consider the strong expression of support coming from the African Union and the European Union.

<sup>4</sup> See Report of the Secretary General, *Implementing the Responsibility to Protect*, UN document A/63/677, January 12, 2009 and Report of the Secretary General, *Early Warning, Assessment, and the Responsibility to Protect*, UN document A/64/864, July 14, 2010.

<sup>5</sup> Mrs. Byrganym Aitimova, permanent representative of Kazakhstan to the United Nations, presided over the discussion in place of H.E. Dr. Ali Abdussalam Treki (from Libya), who presided over the 64th session of the UN General Assembly. The extraordinary high turnout prompted Mrs. Aitimova to revise the original schedule and extend the session well into the late afternoon.

<sup>6</sup> Report of the Secretary General, *Early Warning, Assessment, and the Responsibility to Protect*, UN document A/64/864, July 14, 2010, para. 14.

<sup>7</sup> "World Summit Outcome Document," UN document A/60/L.1, September 15, 2005, para. 138.

<sup>8</sup> In paragraph 18 the SG refers to the procedures to be followed by the special advisers once they had concluded that "a situation could result in genocide, war crimes, ethnic cleansing or crimes against humanity." At that point the special advisers are expected to provide early warning to the SG and, through him, to the Security Council and other relevant intergovernmental bodies. If the situation carries on, and if national authorities are "manifestly failing to protect their populations from these crimes" the SG will invoke "new internal procedures to expedite and regularize the process by which the United Nations considers its response." See Report of the Secretary General, "Early Warning, Assessment and the Responsibility to Protect," UN document, A/64/864, July 14, 2010, para. 18.

<sup>9</sup> Paragraph 140 of the World Summit Outcome Document expresses the commitment of member states to "fully support the mission of the Special Adviser of the Secretary-General on the Prevention of Genocide." "World Summit Outcome Document," UN document A/60/L.1, September 15, 2005, para. 140.

<sup>10</sup> Report of the Secretary General, "Early Warning, Assessment and the Responsibility to Protect," UN document, A/64/864, July 14, 2010, para. 17.

### ABOUT THE CENTRE

The Global Centre for the Responsibility to Protect was established in February 2008 as a catalyst to promote and apply the norm of the "responsibility to protect" populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. Through its programs, events and publications, the Centre is a resource and a forum for governments, international institutions and non-governmental organizations on prevention and early action to prevent and halt mass atrocities.