

## Report on the General Assembly Plenary Debate on the Responsibility to Protect

15 September 2009

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The General Assembly debate on the Responsibility to Protect (RtoP or R2P) was a success for both advocates and victims working to prevent and halt genocide, war crimes, crimes against humanity and ethnic cleansing. Over a period of three days, governments demonstrated not only intense interest in the debate, but made a strong show of support for implementing their 2005 consensus commitment. In this report, we will provide context for the debate, areas of consensus and diversion among governments, an overview of concerns raised, and challenges facing the UN, governments and civil society in the coming months.

### I. Introduction

While civil society may have had modest expectations for the debate, the debate turned out to be a success. Over two and a half days of the debate, an astonishing 92 governments (and 2 observers) signed up and spoke during the plenary session.<sup>1</sup> Governments reached consensus on a number of issues, raised both helpful and unhelpful concerns, as well as concrete proposals for next steps, some coming from formerly skeptical Member States.

In the estimation of the International Coalition for the Responsibility to Protect (ICRtoP)<sup>2</sup>, many excellent statements were delivered, some of

### Timeline of Events

The United Nations General Assembly plenary debate on the Responsibility to Protect began in the afternoon of Thursday 23 July 2009 and continued the full days of Friday 24 July and Tuesday 28 July.

Earlier that week, on Tuesday 21 July, UN Secretary General Ban Ki-Moon presented to the General Assembly his January 2009 report entitled "Implementing the Responsibility to Protect" (A/63/677) followed by a brief question and answer period.

The President of the General Assembly also convened an informal thematic discussion on the morning of 23 July 2009. The informal thematic featured presentations from Gareth Evans, Noam Chomsky, Jean Bricmont and Ngugi wa Thiong'o and was followed by another short question and answer session.

<sup>1</sup> Several UN experts believed that scheduling 3 three-hour sessions for the RtoP debate would be sufficient for this type of a debate. However when 94 governments inscribed, the debate had to be extended and entire day- until Tuesday the following week.

<sup>2</sup> The International Coalition for the Responsibility to Protect (ICRtoP) was founded on 28 January 2009 by representatives of eight regional and international non-governmental organizations (NGOs). The Coalition Secretariat

which were incredibly poignant, such as from Ghana, Nigeria, Sierra Leone, Rwanda, Timor-Leste, Benin, Bosnia-Herzegovina, and Chile. We were especially surprised by a few governments who had in the past expressed concerns but provided very constructive remarks, including Indonesia, Brazil, Philippines, Algeria, South Africa, Japan and India. A handful of governments whose statements we expected to be critical were instead constructive, including China, Russia, Vietnam, and Myanmar/Burma. We were not surprised to hear negative and often unhelpful interventions from Cuba, Venezuela, Sudan, Pakistan, Nicaragua and Sri Lanka. These detractor governments failed in their efforts to convince other Member States that the purpose of the GA debate was to renegotiate the merits of RtoP. (See concerns section below.)

We believe that this considerable display of support from governments for the implementation of the Responsibility to Protect was due to the hard work and dedication of four sets of actors: the UN Secretariat, civil society organizations, the ad-hoc pro-RtoP government grouping [called the “Friends of RtoP”] and several individuals.

Special Adviser with a focus on the Responsibility to Protect Edward Luck engaged in countless hours of consultation to draft the January 2009 report of the Secretary-General (SG) “Implementing the Responsibility to Protect”. He gained widespread support from governments in both the global North and South as well as from across the ideological spectrum. Under the leadership of the Secretary-General and in partnership with the Special Adviser on the Prevention of Genocide Francis Deng, Special Adviser Edward Luck spent great effort responding to questions and concerns from governments before the debate, including consultations up until the day before the debate.

Civil society groups, including the International Coalition for the Responsibility to Protect (ICRtoP) and the Global Centre for the Responsibility to Protect (GCR2P), played an essential role in mobilizing contacts, allies and constituencies in advance of the debate. As early as January 2009, the Coalition was working to push governments to take an active role in the debate by encouraging NGOs to meet with government officials or to communicate with them indirectly. Three press conferences were organized in March and April in Mali, Ghana and Tanzania to alert the media and government representatives about the SG’s report and the forthcoming debate. The Coalition Steering Committee also sent a letter to Ambassadors, Heads of State and Foreign Ministries urging them to include key points in their GA presentation. In July, once the debate had been announced, a letter co-signed by 42 NGOs was sent to governments urging constructive engagement in the debate. The week of the debate, the Coalition organized an event with civil society groups to share perspectives on the norm, the SG’s report and expectations for the debate.



Jacqueline Murekatete, Monica Serrano, Gareth Evans and Thelma Ekiyor at GCR2P press conference

Civil society also participated in the UN’s intergovernmental discussions on RtoP. Thelma Ekiyor, Chair of the Coalition and Executive Director of the West Africa Civil Society Institute, spoke at the GA’s informal thematic debate, during which she reinforced the idea that RtoP is not a Western norm. In addition, several Coalition Steering Committee members met with governments from their respective regions while in New York, which led Nigeria and Ghana to reference the Coalition and the efforts of civil society in their statements during the debate. Finally, the Coalition’s Steering

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is hosted by WFM-Institute for Global Policy, which integrated its Responsibility to Protect-Engaging Civil Society (R2PCS) project into the Coalition initiative. See [www.responsibilitytoprotect.org](http://www.responsibilitytoprotect.org)

Committee members participated in a press conference at the United Nations organized by GCR2P,<sup>3</sup> conducted several media interviews and wrote op-eds to local papers.<sup>4</sup>

In addition, numerous meetings organized by the informal Friends of RtoP, co-chaired by the governments of Canada and Rwanda, ensured that supportive governments were engaged in the process of the debate and were prepared to offer constructive remarks in their statements.

Finally, eminent persons such as Desmond Tutu, Gareth Evans, Kofi Annan, Lloyd Axworthy and others found many opportunities to speak out on RtoP—at events in capitals around the world—to keep momentum and interest in the norm. Days and weeks before the debate, several of these experts released opinion pieces to prominent news sources (see Annex C for a complete list of media articles on the debate).

## **II. Going into the debate: civil society apprehensions and expectations**

Several months before the debate commenced, civil society organizations expressed concerns about the possible tone and outcome of the debate. As the process of setting a date and format for the debate began, led by the Office of the President of the General Assembly, we faced a number of obstacles that could have negatively impacted the outcome. Our primary concern, however, was that a debate could provide the opportunity for skeptical governments to re-negotiate the norm and possibly result in a resolution that watered down or added caveats to the 2005 World Summit agreement.

While it was clear that over the past four years a few governments opposed to the Responsibility to Protect had increasingly sought to thwart any progress in implementing the norm, it also appeared that the President of the General Assembly (PGA), Father Miguel d'Escoto Brockman (former Foreign Minister of Nicaragua), would support these few detractor governments in undermining the debate on RtoP.

Following the release of the Secretary General's report "Implementing the Responsibility to Protect" in January 2009, a number of Member States, Special Adviser Edward Luck, and a few civil society organizations attempted to work with the Office of the PGA to secure a date for the debate. These efforts were largely ignored by the Office and information regarding the debate was insufficient and non-committal. When the PGA finally announced that the debate would take place during the third week of July he gave only two weeks notice of the debate and failed to consult with the Special Adviser Edward Luck and the Secretary-General to ensure their availability to participate.<sup>5</sup> Civil society groups feared that many governments, especially strong supporters of the norm, would not be present during this vacation period to participate meaningfully in the debate.

A further cause for alarm arose the Friday before the debate, when the PGA released a "concept paper" outlining his personal opinions on the norm (see Annex B). The concept paper, which many groups believed was an insult to the Secretary-General (SG), who had produced a well-thought out and consultative report, was blatantly unhelpful in moving along the discussion on implementing the norm. As the New York Times reported on 22 July, "His 'Concept Note' suggested that responsibility to protect was redecorated colonialism, and that the true means to eliminate genocide and similar scourges included world financial reform, [and] Security Council reform...". Some civil society groups suspected that former Indian Ambassador Nirupam Sen was the author of the concept paper. Ambassador Sen, who was appointed on 2 April 2009 as the PGA's Special Adviser on the Responsibility to Protect<sup>6</sup> was outspokenly opposed to the Responsibility to Protect during the 2005 World Summit discussion and, not surprisingly, played a similar role in this debate.

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<sup>3</sup> For more on GCR2P activities and publications in the run up to the debate, as well as their excellent assessment of the debate, please see: [www.globalcentrer2p.org](http://www.globalcentrer2p.org).

<sup>4</sup> See 27 July 2009 ICRtoP press release: Civil Society groups welcome governments' commitment to prevent and end mass atrocities and 29 July 2009 ICRtoP release: GA debate on Responsibility to Protect concludes with calls for implementation of the norm available at <http://www.responsibilitytoprotect.org/index.php/about-coalition/our-work>

<sup>5</sup> The Secretary-General ended up being out of town for the debate and presented his report to the GA two days before the debate took place, on 21 July 2009.

<sup>6</sup> Ambassador Sen also served as Special Adviser to the PGA on two other issues: world financial and economic crisis and revitalization of the General Assembly.

A final cause for concern was in relation to the informal thematic discussion that the PGA scheduled prior to the general debate. The panel featured three opponents of the norm (including a self-proclaimed anarchist, a theoretical physicist and a literary activist) and only one proponent of the norm who had actually worked on developing the Responsibility to Protect and had extensive practical experience in working to prevent and halt mass atrocity crimes. While some civil society organizations chose to ignore the politics behind the thematic discussion, others vocally expressed concern that the PGA was misusing the role of PGA to advance his personal views. Some worried that the thematic debate would distract Member States from the core issue of implementation and lead to a discussion focused on imperialism and tangential United Nations reform issues.



Thematic discussion panelists: Gareth Evans, Ngugi wa, Fr. Miguel D'Escoto Brockman, Noam Chomsky and Jean Bricmont

Civil society worked closely with friendly governments and other supporters to respond effectively to these obstacles and largely succeeded in marginalizing the negative impacts of these isolated efforts leading up to the debate.

### III. The Debate: What happened?

This section will outline the main areas of consensus, legitimate issues raised by governments, unhelpful criticism offered by a few Member States and concrete proposals to take the norm forward that emerged from the GA debate on RtoP. To see a full length statements delivered by governments, please see: [www.responsibilitytoprotect.org](http://www.responsibilitytoprotect.org).

#### A. What were areas of consensus?

Out of the 94 statements delivered, the Coalition determined the following areas of consensus amongst Member States. A clear majority of governments:

1. **Welcomed the report of the Secretary-General.** Many governments also thanked the Secretary-General for writing his report, "Implementing the Responsibility to Protect" and for his presentation of the report on 21 July 2009.
2. **Agreed that the task for the General Assembly was not to renegotiate the Responsibility to Protect**, but to discuss ideas and challenges for its implementation. While the concept paper of the PGA attempted to discredit the foundations of the norm, Ghana argued that "this debate should not be about renegotiating the concept ... Instead, the primary focus of our ongoing dialogue must be on how to garner the needed political and collective will to act and take concrete measures at the national, regional and international levels towards the prevention of those four crimes." Many states also called for continued consideration of the norm by the General Assembly in the upcoming 64<sup>th</sup> session.
3. **Showed strong support for confining the definition of the Responsibility to Protect to the four crimes and violations** articulated in the 2005 World Summit Outcome Document: genocide, war crimes, crimes against humanity and ethnic cleansing. Most governments warned about the potential for abuse of RtoP that would stem from expanding its application to situations that fall outside of these four areas (e.g. natural disasters, health crises, etc.). As articulated by the Philippines: "any attempt to enlarge its coverage even before R2P is effectively implemented will only delay, if not derail, such implementation; or worse yet, diminish its value or devalues its original intent and scope."
4. **Articulated support for the SG's "Three Pillar" approach.**<sup>7</sup> Many governments demonstrated overall support for the three pillars and emphasized that the pillars are of equal length, strength and

<sup>7</sup> The three pillars, as articulated in the SG's January report "Implementing the Responsibility to Protect" are: Pillar one: The protection responsibilities of the State; Pillar two: International assistance and capacity-building; Pillar three: Timely and decisive response

viability with no set sequence to be followed from one pillar to another. There were several constructive questions about implementation of pillar three, which will undoubtedly require further consideration. A few governments conditioned their support for pillar three on reform of the Security Council.

**5. Showed an appreciation and understanding for the concept of “sovereignty as responsibility”,** meaning that governments have the primary obligation to protect their populations from the four crimes and the Responsibility to Protect seeks to enhance sovereignty, not undermine it. As Belgium argued, “[rather] than weakening sovereignty, the responsibility to protect reinforces it by turning it into responsible sovereignty.” Brazil agreed that “... the attribute of sovereignty does not exempt the State from its obligation to protect its population. On the contrary, it is from this very attribute that derives such obligation.”

**6. Emphasized the importance of prevention** as well as the need for an early-warning mechanism (see capacity section below). Governments from all regions and ideologies were in agreement that efforts to boost prevention of the four crimes and violations should be a key priority of governments, regional organizations and the UN. As Lesotho notes “States have to diligently discharge this responsibility. Once that is done, there will be no need to invoke pillar three. It is in this regard that “prevention” becomes relevant. As the saying goes, ‘Prevention is better than cure’.”

**7. Recognized the role of the African Union** in adopting strong provisions for the prevention and halting of mass atrocity crimes when the AU moved from a policy of non-interference to non-indifference. Highlighting article 4(h) of the African Union Constitutive Act of 2000, both African and non-African governments alike noted that these provisions had been agreed to five years before the 2005 World Summit.

**8. Emphasized that the Responsibility to Protect is rooted in existing international law.** Many members argued that the Responsibility to Protect is rooted in existing international human rights, humanitarian and criminal law. As expressed by the Philippines, “The concepts in these two paragraphs [Paragraphs 138-139] do not create new binding norms, but build on current international standards condemning genocide, war crimes, ethnic cleansing and crimes against humanity, and confirming their classification as international crimes.”

B. What concerns were raised by governments?

The GA debate gave Member States a unique opportunity to raise questions about the implementation of RtoP, as well as raise aspects of the norm that still require clarification. Many of these concerns were present in discussions between 2001 and 2005 leading to the World Summit, but the debate was the first time since 2005 that governments had a formal venue to discuss them. The following section is broken into two categories: an overview of constructive concerns raised by Member States and government statements that the Coalition deems obstructive in the debate.

#### Constructive concerns requiring further discussion

##### **1. Preventing unilateral coercive interventions**

Some Member States such as Mexico, India and Egypt raised fears that the application of RtoP would legitimize unilateral coercive measures, pointing to past cases of abuse and violations of sovereignty. Most governments recalled, however, that the norm explicitly calls for Security Council authorization for the use of force, ensuring multilateral responses rather than unilateral responses or “coalitions of the willing” without explicit UN authorization. Some supportive governments, such as Costa Rica and Denmark, argued that the RtoP norm will prevent unilateral use of force, explaining that “rather than authorizing unilateral interventions, the responsibility to protect aims at expanding multilateral options to improve the Security Council's performance.”

##### **2. Building political will: transforming words into deeds**

Several Member States observed that the lack of sufficient preventive and reactive responses to mass atrocities often stems from a lack of political will. New Zealand emphasized that “open-ended or

ambiguous [Security Council] mandates are indications of indecisiveness, or even weakness, and should not be tolerated for it could cause not only chaotic confusion but dismal failure". Indeed, some Member States, including Benin, said that the main challenge was to turn political will into appropriate and timely measures to prevent "difficulties to mobilize human resources and [the] logistic means required to face situations which demand rapid and resolute action."<sup>8</sup>

### **3. Reform of the Security Council: expanding membership and limiting use of the veto**

Many Member States called for reform of the Security Council, which they argued is essential for the UN to act in a credible and democratic manner. While several Member States called for a more representative Security Council with an expanded membership, over 35 governments called for restricting the use of the veto by the P5<sup>9</sup> in cases of genocide, war crimes, crimes against humanity and ethnic cleansing. (See the next section on concrete proposals raised by governments.)

### **4. Ensuring non-selectivity by the Security Council**

Several Member States mentioned that the current configuration of the Security Council and its balance of power has led the Security Council to be unfairly biased in the cases it considers. A handful of Member States referred to the crisis in Gaza and its lack of attention by the Security Council to illustrate this point. This legitimate call for RtoP to be applied equally and fairly to all Member States was expressed by Singapore who said that "the judgment of whether a government has failed in its responsibility to protect must be taken by the international community without 'fear or favour'. All countries must be open to being judged, and all situations acted upon, according to the same standards." Nevertheless, supporters of RtoP such as New Zealand "acknowledge[d] concerns that Responsibility to Protect might not be applied consistently. However, such issues are separate, and should not be used as a diversion or excuse to stop progress".

### **5. Enhancing the role of the General Assembly in implementing RtoP**

A majority of Member States encouraged the General Assembly, as the most democratic body of the UN, to continue its consideration of RtoP and to play a role in oversight of the development and implementation of the norm. CARICOM<sup>10</sup> suggested that the Council could be subject to guidance from the GA in cases where the Security Council acts under Chapter VII. Indonesia and South Korea suggested that such guidance could come by way of a periodic review by the GA. Gambia suggested the creation of a Committee on RtoP – making non-binding recommendations to the Security Council and the GA, including recommendations on the use of force. (See next section on concrete proposals.)

### **6. Defining a time frame for action (when each pillar should be applied)**

Some Member States, such as the Philippines and Malaysia, voiced the concern that there is a lack of clarity about when action under each pillar would be triggered. Other governments, however, supported the vision of the SG, which states that the three pillars are of equal length and strength and that there is no set sequence as to which pillar or measure should be used to ensure an early and flexible response. Australia explained that "the Secretary-General's report highlights the diversity of tools in the R2P toolkit...and which tool to use in any particular situation will clearly depend on the precise circumstances. The essential operating principle, however, must be that we do respond. Indifference or delay is not an option".

#### Unhelpful comments raised by some governments

Some Member States (a number of them authoritarian military governments) chose to subordinate RtoP to decades-old political disagreements: North versus South, development versus peace and security, and so on. These governments deliberately misrepresented RtoP as being synonymous with military intervention and argued that RtoP is counter to international law and the UN Charter. These governments attempted to re-open negotiations on the merits and meaning of the norm. This strategy failed.

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<sup>8</sup> Informal translation of Benin's statement from French into English.

<sup>9</sup> The P5 are the five Permanent Members of the Security Council who possess veto power.

<sup>10</sup> CARICOM stands for the Caribbean Community and is comprised of 15 Caribbean nations and dependencies.

### **1. Equating RtoP with humanitarian intervention**

Cuba, Sudan, Pakistan and the Democratic People's Republic of Korea insisted on referring to RtoP as identical to the concept of humanitarian intervention and the right to intervene. Sudan called RtoP and humanitarian intervention "the same coin with a different face" and RtoP "a legalization of humanitarian intervention."

South Korea, along with other states, refuted these remarks by explaining that RtoP is an ally of sovereignty since it "helps states to meet their core protection responsibilities and facilitates success in the field," adding that "in this sense, the substance of R2P has nothing to do with so-called humanitarian intervention... since it is based on collective actions, in accordance with UN Charter, but not unilateral ones."

### **2. Conditioning support for RtoP on the reform of the Security Council**

While the issue of Security Council reform is a legitimate issue, some Member States, such as Jamaica (speaking on behalf of CARICOM), Ecuador and Cameroon believe that a reformed Security Council is an important precondition for the full implementation of RtoP, in particular pillar three. Others, such as Ireland and New Zealand, recalled that preventing and halting genocide should not be delayed and contingent upon reform issues that could take years.

### **3. Calls for the GA to be the sole body to implement the use of force**

Member States such as Venezuela and Sudan argued that the GA was the only democratic body that would ensure a proper implementation of RtoP and, in the words of Venezuela, "if the Responsibility to Protect aspires to become a multilateral mechanism for collective action, it must be under the jurisdiction of the General Assembly."

Costa Rica however, like others including Argentina, Sweden (on behalf of the EU) Lesotho and Benin recalled instead that "[s]ystematic violations of human rights constitute a threat to international peace and security that deserves special attention by the Security Council". Lichtenstein insisted that "if [measures of collective action] are to be considered, they have to be taken in accordance with Chapter VII of the UN Charter and therefore be authorized by the Security Council, as the ultimate arbiter on all matters related to international peace and security."

Benin recalled that "if and only if the Council does not reach a decision in the interest of the international community, then the General Assembly can consider Resolution 337(V) by a majority vote to allow the international community to enact its responsibility, promises and obligations (...) spelled out in the UN Charter."

### **4. RtoP as a violation of sovereignty**

While the 2005 World Summit clearly states that RtoP principles are in accordance with the UN Charter, some states chose to suggest that RtoP violates principles of sovereignty. Pakistan mentioned that "R2P should not become a basis to contravene the principles of the noninterference and non-intervention or question the national sovereignty and territorial integrity of States".

Countering these claims, many Member States recalled that the concept of responsibility to protect is an ally of sovereignty. Chile explained that "the modern state assumed explicit responsibilities to protect its populations in the Geneva Conventions, dating back to 1864, in the UN Charter, and in the UN Universal Declaration of Human Rights, as well as in the various conventions dealing with the crime of genocide, forced disappearances, torture and others." Chile argued "in short, the state's responsibility to protect rests on long-standing obligations under international law... [which] is the adequate interpretation of Article 2.7 of the Charter".

### **5. Calls for RtoP to address under-development and poverty**

It was mentioned by several States such as Venezuela, Cuba and Pakistan that RtoP should address causes of conflict such as poverty, under-development and economic inequalities.

Pakistan argued that "[situations] leading to R2P are more often than not the result of under-development and poverty which need to be addressed in capacity building of the development framework". Venezuela pointed to the "use, exploitation and administration of natural resources, the right to a just economic order, the rights of people to solidarity and cooperation (...) [which] are some of the central aspects that, if respected by all, will avoid the generation of conflicts that lead to crimes against humanity."<sup>11</sup>

While it is clear that poverty and under-development could lead to escalation of conflict, several Member States argued that RtoP should deal more with more proximate or direct causes of the four crimes and violations. As Japan made clear, RtoP applies to the four crimes only and that "what we should do is to implement and consolidate properly this agreement and focus on issues which have direct links with those four most serious crimes....not to enlarge the scope of R2P to overall threats to humanities such as poverty, pandemics, climate change, natural disasters, etc."

### **6. Misrepresenting the legal status of the Responsibility to Protect**

Echoing the PGA in his concept note, some states, including Venezuela, Cuba, and Nicaragua, argued that RtoP lacks legitimacy because it was not conferred legal status by the UN World Summit Outcome Document, which was not a Declaration, Convention or development within international customary law. They argued that this lack of juridical standing implies that RtoP could be in tension with the principles of the UN Charter.

However many supportive Member States rebutted that they had *never* argued that RtoP is a legal concept, or a legally binding commitment, but is instead a political one. In the words of Serbia, "[the] concept of [R2P] is a necessity which no one can question. However, this necessity... does not in any way imply its legality at this stage". As best described by Brazil, "R2P is not a novel legal prescription. Rather it is a powerful political call for all states to abide by legal obligations already set forth in the Charter, in relevant Human Rights conventions and International Humanitarian Law and other instruments".

### **C. What were some of the concrete proposals raised by governments?**

During the course of the three day debate, concrete proposals for how to enhance and strengthen national, regional and international capacities were made by several Member States.

### **International Capacities**

#### **Strengthening the UN's early-warning capacity**

Many Member States reaffirmed their commitment from 2005 to establish a UN early-warning capability and welcomed the Secretary-General's plan to submit additional proposals on improving UN early-warning by the end of 2009. Some Member States also expressed support for the proposals contained in the Annex of the Secretary-General's report, including the proposals to strengthen the Office of the Special Adviser on the Prevention of Genocide and the Special Adviser with a focus on the Responsibility to Protect and to establish an inter-agency mechanism to assess early-warning information and provide system-wide coherence in policy-making related to RtoP.

Member States *not* expressly supporting enhanced early-warning varied from China's explicit questioning of the 2005 commitment to establish a UN early-warning capability to those suggesting that further assessment of existing capacities and proposals is required before committing to the establishment of a new mechanism. A few governments expressed concern about possible selectivity in any UN early-warning and assessment mechanism and others questioned the appropriateness of enhancing information flow between the UN and regional and sub-regional organizations. The role of human rights reporting in early-warning was contentious for Cuba and a number of countries such as China, Guatemala, Pakistan and Sri Lanka raised questions about the relationship between an early-warning capability and a potential triggering mechanism for international responses to crises under pillar three.

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<sup>11</sup> Unofficial translation from Spanish to English

Japan noted concern that the measures outlined in the Secretary-General's report on early-warning under pillar two might be overstretched and should be narrowed to ensure focus and effectiveness in implementation.

### **Refraining from the threat and the use of the veto**

Many Member States urged UN Security Council Permanent Members to refrain from the use of the veto in cases of genocide, war crimes, crimes against humanity and ethnic cleansing. Several governments argued that the P-5 has difficulty reaching consensus and are reluctant to act in response to certain grave situations. According to Singapore, "[I]f we, the GA, imbue the Security Council with the power to invoke R2P to justify action, the Council must also commit to exercising fully this grave responsibility. And they must do so without fear or favour. At the very least, this would entail the P5 refraining from using the veto in relation to the four crimes." This was further iterated by the delegation of New Zealand in its statement that "New Zealand believes we should all support the SG's call for restraint in exercising or threatening the veto. It should never be said that the veto prevented action to deal with genocide, ethnic cleansing, widespread crimes against humanity or war crimes."

Member States also expressed concern that due to the veto, action would not be taken under the RtoP framework if a major power were unable or unwilling to prevent or halt one or more of the four crimes and violations. Importantly, Chile noted that "there is always the possibility, in case the Security Council wouldn't exercise its main responsibility of maintaining peace and security, of convening the General Assembly following its 377 [resolution] 'Unit[ing] for Peace.'"<sup>12</sup>

### **Adopting criteria for the use of force to prevent misuse**

Many Member States, including the Philippines, Rwanda, South Korea and Serbia, mentioned the need to reach consensus on criteria for the use of force to protect populations from mass atrocity crimes. The Philippines called for "more focused discussions on the implementation and modalities for Pillar Three," arguing that "[deliberations] should lead to more clarity on the use of force to enforce R2P. It is imperative that policies, principles and rules be laid out in cases where coercive force is applied in extreme situations."

### **Strengthening international standby forces**

Member States, including South Korea, Rwanda and the United States, made reference to the need to strengthen international standby and rapid reaction capacity to ensure that the UN has the ability to intervene should peaceful measures fail to protect populations from mass atrocities. The Republic of Korea stated that "[while] encouraging Member States to consider proposals to build capacity, such as standing or standby rapid response mechanisms, as well as to ask for assistance when under pressure, the delegation of the Republic of Korea stresses the need to mainstream the goals of R2P into the broad activities of the UN system."

### **Strengthening the Peacebuilding Commission (PBC)**

In several presentations, many Member States referred to the Peacebuilding Commission (PBC) as a crucial instrument to implement key preventive aspects of the RtoP norm, particularly under pillars one and two. Costa Rica, arguing for strengthening the PBC, noted that "[the] concept of responsibility to protect implies a process that not only includes prevention and response to violence, but also subsequent reconstruction to prevent reoccurrence of conflicts. As the report clearly states, 'the surest predictor of genocide is past genocide.'" Member States also called for strengthening the Peacebuilding Support Office (PBSO). Others, such as Nigeria and Ghana, mentioned the need to strengthen regional instruments such as the AU Framework for Post-Conflict Reconstruction and Development to complement the work that the PBC is doing.

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<sup>12</sup> Chile referred to the Uniting for Peace procedure, in which the Assembly may take up cases when the Security Council fails to address threats to international peace and security due to lack of unanimity among its five Permanent Members. In such cases, however, Assembly decisions are not legally binding on the parties.

## **Regional and Sub-regional capacities**

Many proposals by Member States focused on the importance of strengthening capacity-building and cooperation with regional and sub-regional institutions, such as the European Union (EU), the African Union (AU) and some sub-regional organizations such as the East African Community (EAC), the Inter-Governmental Authority on Development (IGAD), the Economic Community of West African States (ECOWAS), and the International Conference of the Great Lakes Region (ICGLR). Member States proposed the following:

### **Increased Support for Regional and Sub-regional Organizations**

Many speakers called for increased support by the international community for regional institutions, especially those which have existing instruments relevant to the implementation of RtoP such as early-warning mechanisms, development and human rights programs, and capacity-building in the areas of conflict prevention and rapid response mechanisms.

Several governments stated that regional institutions are well-placed to take the lead in preventing and responding to mass atrocity crimes. The Philippines called for “building the civilian capacities of regional and sub-regional organizations to prevent the commission of crimes covered by R2P, as well as looking into the potential value of region-to-region learning processes and their adaptation to local conditions and cultures.” To ensure the most appropriate assistance to states, Bosnia-Herzegovina added that “[regional] organizations should have relevant instruments to support capacity building in the area of conflict prevention, rule of law and security sector reform, as well as development and human rights, protection of refugees and [IDPs].” Finally, New Zealand mentioned that while regions such as Africa have taken important steps to put in place frameworks for preventing mass atrocities, other regions still needed to do so.

### **Strengthening regional standby forces**

Another important proposal made by some Member States is the need to strengthen regional standby forces, such as the African Standby Force, the East African Standby Brigade and the ECOWAS Monitoring Group (ECOMOG). According to the Member States, strengthening these regional and sub-regional forces will provide more effective preventive deployment in the context of mass atrocity crimes. This was highlighted by Ghana, who recommended that, “the UN and the rest of the international community must support ongoing efforts by the AU to implement regional instruments in the context of which the AU has requested international assistance to complement the operationalization of the AU Standby Forces arrangement.” Other member states such as Italy, Botswana and Rwanda made similar proposals.

## **National and Domestic Capacities**

### **Accelerated ratification and domestication of the Rome Statute of the International Criminal Court**

Over a dozen Member States recommended that all states ratify and domesticate the Rome Statute establishing the International Criminal Court to end impunity and prosecute those who are responsible for committing mass atrocities during or after a conflict. Italy explained that “the link between accountability and prevention is clear: the purpose of international criminal justice is to bring to justice the perpetrators of international crimes; preventing such crimes is at the core of RtoP.” Governments across different regions also emphasized the need to adhere to international human rights and humanitarian law instruments to improve the effectiveness in meeting their own protection obligations under pillar one. Indeed, in the eyes of Bosnia-Herzegovina, “becoming a party to the international human rights instruments, international humanitarian law and refugee law and above all to the Rome Statute of the International Criminal Court should be seen as a factor of stability for every single State”.

### **Improving national capacities to fulfill national obligations**

States across all regions mentioned that building national capacities is essential to fulfilling national obligations to prevent mass atrocities. The United Kingdom, Kingdom of Swaziland and the United Republic of Tanzania, as well as Palestine and the Holy See, suggested strengthening national constitutions and legal regimes, improving transparency and promoting good governance. The United

Kingdom said," RtoP should be a governing principle of all Member States' work across the conflict spectrum, as well as on human rights and development. Building good governance, the rule of law, and effective judicial and security sectors all goes towards building a preventive environment in which RtoP crimes would be less likely to take place."

#### **Assistance programs for building capacity to protect**

Some governments, including the government of Australia, discussed the need to provide financial support for governments seeking to build their capacity to protect. Australia stated: "[We] have been active in assisting States to fulfill their responsibility to protect their populations. Through Australia's development assistance program we assist States to increase their capabilities for conflict prevention and peace building and respect for the rule of law. As the Secretary-General notes in his report, such programs could reduce the likelihood that certain states will travel the path to crimes relating to the responsibility to protect."

#### **IV. Immediate challenges in the coming weeks and months for the UN Secretariat, governments and civil society**

The Secretary-General committed to submit proposals for a UN early-warning capability by the end of 2009 in his report on implementing RtoP and a sufficient number of Member States welcomed this initiative and expressed a commitment to early-warning during the GA debate to give a clear mandate to the Secretary-General to further develop his proposals. The Annex to *Implementing the Responsibility to Protect* outlines four key areas of focus to improve early-warning and assessment within the UN Secretariat that could form the basis of the Secretariat's follow-up to the GA debate.<sup>13</sup> These four areas are:

- 1) Mainstreaming the principles of the Responsibility to Protect throughout the UN system, both vertically and horizontally;
- 2) Developing mechanisms to ensure the flow of information and analysis between regional and sub-regional organizations and UN decision-makers;
- 3) Establishing an interagency and interdepartmental mechanism to process early-warning and assessment information and develop more coherent UN policy responses;
- 4) Expanding the Office of the Special Adviser on the Prevention of Genocide to incorporate the RtoP mandate and Special Adviser with attention to RtoP, thus creating a joint office to conduct independent early-warning assessment, build system-wide capacity related to RtoP and help develop common policy on RtoP situations.

While some of these reform proposals may require further consideration by the General Assembly, others may be taken forward by the Secretariat independently. It is clear, however, that an overwhelming majority of Member States welcome further and more elaborated proposals from the Secretary-General on, in particular, a comprehensive UN early-warning capability and the establishment of the proposed joint office on genocide and RtoP<sup>14</sup> as an important step toward improved UN early-warning and assessment.

We expect that many governments will continue to act as supporters of the Responsibility to Protect, both at the UN and in capitals. In particular, it was clear from the debate that governments are dedicated to developing proposals on a few different areas, namely:

1. Enhancing early-warning, within the UN and beyond;

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<sup>13</sup> The Secretary-General's report articulates the need to link the task of gathering information on situations at risk of reaching the RtoP threshold with improving analysis and assessment of this information within the local political context. For more information see paragraph 10 of the report.

<sup>14</sup> The establishment of a joint office, with expanded capacity through additional staff posts, would require the approval of the General Assembly's Fifth Committee, unless such an office is staffed and funded through voluntary contributions.

2. Identifying and implementing “best practices” for each state to protect its own population from mass atrocity crimes;
3. Strengthening UN collaboration with regional and sub-regional organizations in the prevention of mass atrocity crimes;
4. Providing assistance to states to help them fulfill their responsibility to protect populations, including mediation, strengthened regional institutions and development of standby or standing rapid reaction mechanisms;
5. Taking timely and appropriate action in specific situations where RtoP crimes and violations threaten to occur.

On 14 September 2009, governments adopted resolution A/RES/63/308<sup>15</sup>, which ensures that the General Assembly will continue its consideration of how to implement the Responsibility to Protect.

In the coming weeks and months, civil society organizations worldwide will consider which proposals raised by governments during the GA debate they warrant further consideration and action. In particular, the members of the International Coalition for the Responsibility to Protect will outline key goals to pursue at the UN, regional and national levels.

We also expect that the growing consensus on the meaning of the RtoP norm, as expressed in the GA debate, will motivate new civil society actors to actively promote RtoP. We hope this rising level of interest will lead to an increase in the membership of the Coalition, especially partners in all regions with expertise and interest in working to further the RtoP agenda.

## **V. Conclusion**

The General Assembly debate brought welcome and surprising endorsement of the Responsibility to Protect. It is clear from this debate that governments have not abandoned their 2005 commitment and acknowledge that there is a new opportunity to move past defining the norm and toward implementation of the very concrete promise to protect populations from gravest of crimes. As reflected above, many constructive proposals for implementation were put forward by governments, and now a reinvigorated community of supporters of RtoP will need to draw out a plan of action for the years of work ahead. Together, the UN, governments, and civil society will work to ensure that this major new peace tool in fact takes us closer to saving lives and preventing the most heinous crimes.

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<sup>15</sup> At the time of publication of this report, the final resolution had not been published on the UN site. We understand the resolution text was as follows:

*The General Assembly,*

*Reaffirming* its respect for the principles and purposes of the Charter of the United Nations,

*Recalling* the 2005 World Summit Outcome<sup>1</sup> and especially its paragraphs 138 and 139,

1. *Takes note* of the report of the Secretary-General<sup>2</sup> and of the timely and productive debate organized by the President of the General Assembly on the responsibility to protect held on 21, 23, 24 and 28 July 2009,<sup>3</sup> with full participation by Member States;
2. *Decides* to continue its consideration of the responsibility to protect.

**Annex A**  
**List of Speakers**

1. Sweden, on behalf of the EU
2. Egypt, on behalf of NAM
3. United Kingdom
4. Indonesia
5. France
6. Philippines
7. Brazil
8. Guatemala
9. Bosnia and Herzegovina
10. United States
11. Belgium
12. South Korea
13. Australia
14. Liechtenstein
15. Costa Rica, Denmark
16. New Zealand
17. Netherlands
18. Italy
19. Austria
20. Pakistan
21. Switzerland
22. Algeria
23. Singapore
24. Ecuador
25. Chile
26. Morocco
27. Colombia
28. Israel
29. South Africa
30. Uruguay
31. Ghana
32. Japan
33. Czech Republic
34. China
35. Mali
36. Canada
37. Nigeria
38. Vietnam
39. Guinea-Bissau
40. Ireland
41. Venezuela
42. Norway
43. Germany
44. Bolivia
45. Romania
46. Slovenia
47. Monaco
48. Qatar
49. Solomon Islands
50. Croatia
51. Jordan
52. Luxembourg
53. Mexico
54. Rwanda
55. Turkey
56. Cuba
57. Hungary
58. India
59. Andorra
60. San Marino
61. Sri Lanka
62. Sierra Leone
63. Jamaica, on behalf of CARICOM
64. Myanmar/Burma
65. The Former Yugoslav Republic of Macedonia
66. Slovakia
67. Islamic Republic of Iran
68. Russian Federation
69. Nicaragua
70. Iceland
71. Armenia
72. Timor-Leste
73. Panama
74. Democratic People's Republic of Korea
75. Botswana
76. Kazakhstan
77. Swaziland
78. Bangladesh
79. Papua New Guinea
80. Benin
81. United Republic of Tanzania
82. Peru
83. Kenya
84. Malaysia
85. Lesotho
86. Azerbaijan
87. Georgia
88. Argentina
89. Sudan
90. Gambia
91. Serbia
92. Cameroon
93. Holy See (observer)
94. Palestine (observer)

**Annex B**  
**Concept Paper of the President of the General Assembly**

See the President of the General Assembly's concept note on RtoP distributed to States the Friday before to the date available at:

[http://responsibilitytoprotect.org/R2P%20programme%20%20concept%20note%20\(3\).pdf](http://responsibilitytoprotect.org/R2P%20programme%20%20concept%20note%20(3).pdf)

**Annex C**  
**Articles and op-eds from the General Assembly debate on RtoP**

1. 19 July 2009, A TRIBUNA: [GILBERTO RODRIGUEZ AND ANDRES SERBIN--RESPONSABILIDADE DE PROTEGER](#) (PORTUGUESE)
2. 21 July 2009, ALLAFRICA: [MOHAMED SAHNOUN OP-ED-- UPHOLD CONTINENT'S CONTRIBUTION TO HUMAN RIGHTS](#)
3. 21 July, 2009, ASSOCIATED PRESS: [UN DEBATE ON GENOCIDE ASKS: PROTECT OR INTERVENE?](#)
4. 22 July 2009, NEW YORK TIMES: [WHEN TO STEP IN TO STOP WAR CRIMES CAUSES FISSURES](#)
5. 22 July 2009, EL TIEMPO: [JUAN MENDEZ OP-ED--RESPONSABILIDAD DE PROTEGER](#) (SPANISH)
6. 22 July 2009, EMBASSY MAGAZINE: [ERNIE REGEHR OP-ED: REVISITING, AND REVIVING, THE R2P](#)
7. 23 July 2009, UN NEWS CENTRE: [ASSEMBLY PRESIDENT WARNS ON DOCTRINE TO INTERVENE ON WAR CRIMES](#)
8. 23 July 2009, THE ECONOMIST: [RESPONSIBILITY TO PROTECT: AN IDEA WHOSE TIME HAS COME—AND GONE?](#)
9. 23 July 2009, HUFFINGTON POST: [LLOYD AXWORTHY AND ALAN ROCK OP-ED--PROTECTING R2P](#)
10. 23 July 2009, AFP: [UN DEBATES RESPONSIBILITY TO PROTECT THREATENED POPULATIONS](#)
11. 24 July 2009, VOICE OF AMERICA: [SHOULD THE UN REACT TO EVERY COUNTRY IN CRISIS?](#)
12. 24 July 2009, REUTERS BLOGS: [SAVIORS OR CONQUERORS?](#)
13. 24 July 2009, ELPAIS: [MONICA SERRANO OP-ED—LA RESPONSABILIDAD DE PROTEGER](#) (SPANISH)
14. 24 July 2009, XINHUA: [CHINESE DIPLOMAT: IMPLEMENTING R2P MUST NOT CONTRAVENE STATE SOVEREIGNTY](#)
15. 25 July 2009, THE TIMES OF INDIA: [UN BODIES SHOULD REFLECT CONTEMPORARY REALITIES](#)
16. 27 July, 2009, EL IMPARCIAL: [LA "RESPONSABILIDAD DE PROTEGER" EN LA CONCIENCIA DE LA ONU](#) (SPANISH)
17. 30 July 2009, WALL STREET JOURNAL: [US BACKS IMPLEMENTING UN DOCTRINE AGAINST GENOCIDE](#)
18. 3 August, 2009, FOREIGN POLICY IN FOCUS: [BAN KI MOON AND R2P](#)
19. 10 August, 2009, AMERICAN MAGAZINE: [THE STATE'S DUTY TO PROTECT: ENFORCEMENT IN QUESTION](#)

**Annex D**  
**2005 World Summit Outcome Document**  
**Paragraphs 138-140**

**Heads of state and government agreed to the following text on the Responsibility to Protect in the Outcome Document of the High-level Plenary Meeting of the General Assembly in September 2005**

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 will 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 capability.

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.

## About the International Coalition for the Responsibility to Protect

The International Coalition for the Responsibility to Protect was established on 28 January 2009, and is currently comprised of the following NGOs (Members with stars serve as on our founding Steering Committee):

1. Act for Peace (Sydney, Australia)
2. Centre for Media Studies & Peace Building (CEMESP) (Monrovia, Liberia)
3. Citizens for Global Solutions (Washington, DC)
4. Coordinadora Regional de Investigaciones Económicas y Sociales (CRIES) (Buenos Aires, Argentina) \*\*
5. East Africa Law Society (Arusha, Tanzania) \*\*
6. Genocide Alert (Köln, Germany)
7. Global Action to Prevent War
8. Human Rights Watch \*\*
9. Initiatives for International Dialogue (Davao city, Philippines) \*\*
10. International Refugee Rights Initiative (New York and Uganda) \*\*
11. Kofi Annan International Peacekeeping Training Centre (Accra, Ghana)
12. Oxfam International \*\*
13. Réseau de Développement et de Communications de la Femme Africaine (FEMNET) (Bamako, Mali)
14. United Nations Association of Sweden (Stockholm, Sweden)
15. West Africa Civil Society Forum (Abuja, Nigeria)
16. West Africa Civil Society Institute (Accra, Ghana) \*\*
17. Women's Refugee Commission (New York)
18. World Federalist Movement-Institute for Global Policy (New York and The Hague) \*\*
19. World Federation of United Nations Associations (New York and Geneva)

The Coalition aims to bring together civil society groups from all regions of the world to: strengthen normative consensus for RtoP; push for the strengthening of capacities to prevent and halt genocide, crimes against humanity, ethnic cleansing and war crimes; further the understanding of RtoP; and mobilize non-governmental organizations to push for action to save lives in RtoP country-specific situations.

The International Coalition for the Responsibility to Protect has received the generous support of the Governments of Australia, Sweden and the United Kingdom, the John D. and Catherine T. MacArthur Foundation, the Oak Foundation, the Arsenault Family Foundation and individual donations.

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