THE RESPONSIBILITY TO PROTECT, CIVILIAN PROTECTION AND THE HIGH LEVEL PANEL REPORT

Non-paper

The High Level Panel report outlines a range of institutional and normative gaps impeding effective collective security. Among these, the absence of clarity regarding U.N. responsibility in the face of internal conflict, and the lack of conflict prevention capacity stand out as particularly troubling barriers to effective civilian protection.

We the members of the Friends for the U.N. Reform believe that bringing the system of collective security in line with contemporary security challenges and expectations requires a new international consensus regarding the international community's role in responding to such conflicts, one that is guided by the principles and norms of international law, the Universal Declaration of Human Rights and the Charter of the United Nations.

There is growing international pressure for the UNSC to act in the face of massive violations of humanitarian law and crimes against humanity. The failure to protect civilians in crises such as Somalia, Bosnia, Rwanda, Srebrenica, and more recently in Darfur, raises fundamental questions regarding the UN's capacity to provide real solutions to contemporary security challenges.

While there is widespread political agreement regarding the need to protect civilians, and a growing body of both law¹ and practice² to support this principle, the specific responsibilities of the international community in cases when prevention fails remain vague and politically sensitive.

The HLP correctly concludes that the UN Charter "is not as clear as it could be" when it comes to protecting civilians from mass atrocity in the context of internal conflict.

¹ Beyond the U.N. Charter, which explicitly recognizes the need to protect fundamental rights of the individual, there is a well established and growing body of international law on genocide, crimes versus humanity, and war crimes, including Hague and Geneva conventions (including the additional protocols) the Genocide Convention, and the Rome Statute.

² The UNSC has included explicit provision for the protection of civilians in the mandates of all UN-led and UN-authorized peacekeeping missions since 1999, including: UNAMSIL (1999), UNAMIL (2003), MONUC (2000), UNOCI (2004) and ONUB (2004); MINUSTAH (2004); AMIS (2004)

Final

To address this gap, HLP properly articulates guidelines related to the use-of-force, which: (i) recognize that Article 2(7) cannot be used to protect genocidal acts or other atrocities, and; (ii) establish large-scale loss of life, ethnic cleansing, and other systematic violations of humanitarian law as the threshold for action.

The effectiveness of the system of collective security depends not only on the legality of decisions, but also on common agreement regarding their legitimacy. In this regard we note that, while the HLP's proposed guidelines provide a basis for international action in the face of genocide and other catastrophic violations of humanitarian law, they are crafted to guard against misuse.

- The specific recommendation that these guidelines be embodied in declaratory resolutions of the UNGA and UNSC should be implemented on a priority basis.
- Given the severe humanitarian toll of both internal and inter-state conflict, the high cost of military intervention, and the destabilizing impact that such intervention may have on national or regional political dynamics (even where it is deemed necessary for the protection of civilians) draws into sharp relief the overwhelming importance of a renewed commitment to effective conflict prevention.
 - In this regard the Panel's recommendations for enhancing the U.N.'s conflict-prevention capacity deserve strong support during the implementation phase.
 - In particular, the recommendation that the Department of Political Affairs be restructured and given additional resources to establish an enhanced mediation capacity should be implemented on a priority basis.
- There is a need for thorough discussion on this subject by the wider U.N. membership before any decisions are taken on this question.