

## The Responsibility to Protect and its application to the situation in Burma

21 May 2008

Dear Colleagues,

Two weeks ago, **R2PCS** put out a statement following Bernard Kouchner's application of the Responsibility to Protect in Burma. Since then there has been considerable debate over the issue at the UN and within civil society. Founders and proponents of the concept (including Gareth Evans, Ramesh Thakur, Lloyd Axworthy and Special Adviser Edward Luck) have issued differing messages on whether the situation is a case for R2P, reflecting the intensity of the debate.

The main argument we have heard since last week is that the regime's continued failure to provide adequate protection for its civilian populations (by obstructing aid, holding a referendum instead of providing aid, stealing/funneling aid to help only the regime...) either 1) rise to the level of crimes against humanity or 2) could lead to mass loss of life which could rise to the level of crimes against humanity. As you know, under Paragraphs 138 and 139 of the World Summit Outcome Document from 2005, governments and world leaders agreed that they have a responsibility to protect civilians from genocide, war crimes, crimes against humanity, and ethnic cleansing. If it can be shown that the government of Burma's actions are or will lead to crimes against humanity, the international community therefore will bear the responsibility to prevent these crimes against humanity from occurring, first through peaceful means (diplomatic, economic, political) and through the use of force only as a last resort.

This line of argumentation has led to a variety of responses:

1. Some advocates are using the Responsibility to Protect to call for the UN Security Council to forcefully intervene to protect the people of Burma. Some calls are for "food drops" and others are for full forced military invasion. While the **R2PCS** program has not put out a new statement based on the "crimes against humanity" argument, we are strongly opposed to invoking R2P to elicit UN forced intervention in Burma. We do not think that intervention will lead to improving the humanitarian situation inside (see previous statement).

2. Other advocates argue that if the Responsibility to Protect does apply (given the crimes against humanity argument) that we should highlight the variety of appropriate non-military responses that the principle calls for and ensure that Kouchner's equation of R2P as forceful intervention does not hold ground. In addition, advocates should highlight that R2P is not just about Security Council action, but about other actors (including regional and sub-regional organization) as well. This is a position that our project supports, and we welcome ideas—especially from those actors on the ground or in the region on specific measures—and from different actors—that would fit within the R2P toolbox.

The debate surrounding intervention in Burma highlights several outstanding questions about the application and operationalization of R2P:

First, who makes the determination that what is currently happening (or what will happen) amount to crimes against humanity? Is it a legal determination or is this something that advocates can weigh in on?

Second, given the strong opposition to R2P at the UN and in particular in the Non-Aligned Movement, could it still be useful to promote the responsibility to protect by highlighting the non-military measures that the principle calls for? What are these measures?

Previous **R2PCS** statement on Burma disaster and R2P:

<http://www.responsibilitytoprotect.org/index.php?module=uploads&func=download&fileId=535>

We are eager to engage in further discussions to hear additional supporting or dissenting views. Please be in touch with any comments.

Many thanks,  
R2PCS Project