

R2PCS Listserv

4 June 2008

Responsibility to Protect Engaging Civil Society

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In this issue:

[SC Open Debate on the Protection of Civilians in Armed Conflict, GA Thematic Debate on Human Security, Crisis in Burma]

I. R2P in Security Council Open Debate on the Protection of Civilians in Armed Conflict

II. R2P in General Assembly Thematic Debate on Human Security

III. Crisis in Burma and R2P

1. PUTTING PEOPLE AHEAD OF PROTOCOL BY KNIGHT AND POPOVSKI
2. HUMANITARIAN VANITIES
3. AID FOR MYANMAR
4. U.N. RESPONSIBILITY TO PROTECT EXISTS, BUT ONLY ON PAPER
5. CRISIS AND RESPONSE BY RAMESH THAKUR

IV. Civil Society on R2P and Burma

1. TWO TRAGEDIES, TWO RESPONSES: INHUMANE REACTION BY REGIME IN MYANMAR
2. NEW UQ CENTRE GIVES KEY ADVICE ON BURMESE AND INTERNATIONAL RESPONSE TO CYCLONE

I. Security Council Open Debate on the Protection of Civilians in Armed Conflict

27 May 2008

*On 27 May 2008, the fifth Open Debate on the Protection of Civilians in Armed Conflict was held at the UN Security Council. The delegates in the Security Council Chamber condemned all violations of international law and reaffirmed the inalienable **responsibility** of sovereign states and the international community*

to protect
their populations.

*In the course of the meeting, the following governments mentioned the **Responsibility to Protect** : Italy, Viet Nam, France, Canada, Palestine, China, United States, Panama, Russian Federation, Burkina Faso, Libya, Croatia, United Kingdom, Australia, Slovenia (on behalf of the EU), Nigeria, Japan, and United Arab Emirates. Many of them supported the development of*

R2P

as agreed from the 2005 World Summit. The Council emphasized once again the need for prosecuting those responsible for war crimes, genocide, ethnic cleansing and crimes against

humanity.

To access excerpts of statements on **R2P** at the Security Council Open Debate, please view the following document compiled by the **Global Centre for the Responsibility to Protect**

:

<http://www.responsibilitytoprotect.org/index.php?module=uploads&func=download&fileId=547>

II. General Assembly Thematic Debate on Human Security

22 May 2008

The United Nations General Assembly held its first-ever Thematic Debate on Human Security on 22 May 2008. Member states expressed their deep concern over rising problems with increasing population, food, energy, environmental, monetary and cultural issues. Many delegates spoke of the importance of the preventive nature of human security. The **Responsibility to Protect**

doctrine was mentioned by the representatives from Japan, Jordan, Egypt, Sudan, Morocco, Pakistan, Lichstenstein and GA president Srgjan Kerim, who highlighted the responsibility of the international community to assist states in protecting their populations as stated in the World Summit 2005 Outcome Document.

The following statements are **R2P** excerpts from compiled by the **Global Centre for the Responsibility to Protect**

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<http://www.responsibilitytoprotect.org/index.php?module=uploads&func=download&fileId=546>

Note: the statements from Sudan, Morocco, Pakistan and Lichtenstein will be added to this document as soon as they are made available on the GA website.

III. Crisis in Burma and R2P

1. Putting People ahead of Protocol
Edmonton Journal
Andy Knight and Vasselin Popovski
4 June 2008

The Burmese government's dithering on accepting global aid for cyclone victims has created an ethical dilemma for some nations. Do they follow international agreements and let the regime in Rangoon decide what is best for its people, or intervene directly to save lives? ()

Kouchner's argument was simple: The refusal of Burma's military junta to accept external humanitarian relief put even more Burmese at risk of death and disease. This, combined with the difficulty of getting access to some victims due to the inaccessibility of certain stricken areas

and the appalling conditions of Burma's infrastructure and health-care facilities, meant that within a few months the death toll in that country could rival that of the Rwandan genocide. In Kouchner's opinion, the international community had a responsibility to impose -- coercively if necessary -- humanitarian relief in Burma because the government of that country was acting negligently at best, or even criminally at worst.

Lloyd Axworthy, former Canadian foreign minister and now president of the University of Winnipeg, lent his support to Kouchner's call to invoke **R2P**. In Axworthy's opinion, "there is no moral difference between an innocent person being killed by machete or AK-47, or starving to death, or dying in a cholera pandemic that could be avoided by proper international responses." Thus, the global community should exercise its

responsibility to protect

the Burmese people who are at risk, not only from natural disaster, but also from their own government's neglect.

Axworthy's argument was bolstered by University of British Columbia professor Michael Byers, who recommended that Canada air drop, covertly, humanitarian aid packages into the Irrawaddy Delta, with or without the permission of the government in Rangoon. ()

But as Gareth Evans, former Australian foreign minister and current head of the International Crisis Group, points out, invoking **R2P** in the Burmese case could dramatically undercut the international consensus on the use of **R2P**, which was arrived at during the 2005 world leaders' summit at the UN.

It was not easy to get countries from north and south to agree on the **R2P** doctrine. That doctrine can be found in Paragraphs 138 and 139 of the Outcome Document of the 2005 World Summit. In essence it says that nations, first and foremost, have "the

responsibility to protect

" their populations "from genocide, war crimes, ethnic cleansing and crimes against humanity."

The international community's obligation is to "help states exercise this

responsibility

."

According to the Outcome Document, **R2P** could be invoked by the international community, via the UN Security Council, "on a case-by-case basis" and "in co-operation with relevant regional organizations as appropriate," if national states are "manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity." Note that no mention is made of utilizing **R2P** as a response to natural disasters.

Thus, Evans is technically right that "**R2P** is about protecting vulnerable populations from genocide, war crimes, ethnic cleansing and crimes against humanity" and "it is only in that context that the question should even arise of coercively intervening in a country against the express will of its government." Even in such cases, the

R2P

norm allows for the use of military force only with the UN Security Council's authorization, and

force is to be used only as a last resort.

It is certainly important to protect the integrity of the **R2P** norm, since there was international consensus over its definition and usage.

But, an argument can and has been made by scholars like Peter McKenna, of the University of Prince Edward Island, that "the willful obstruction of aid delivery to some one million Burmese by the military government" rises to the level of "a despicable crime against humanity."

Even Ramesh Thakur, who like Evans was one of the norm entrepreneurs responsible for developing the **R2P** concept, argues that "morally, there is no difference between large numbers of people being killed by soldiers firing into crowds or the government blocking help being delivered to the victims of natural disasters."

Although Thakur seems ambivalent about invoking **R2P** in the Burma case, he acknowledges that when Canadian-sponsored International Commission on Intervention and State Sovereignty (ICISS) drafted its report in 2001, there was an explicit inclusion of "overwhelming natural or environmental catastrophes" as one of the triggers of

R2P

, should a state prove unwilling or unable to cope with the disaster or rebuff aid.

At the 2005 World Summit, this clause was dropped. The result was what Alex Bellamy of the University of Queensland has called, in his forthcoming book on the **responsibility to protect**, the adoption of

R2P

Lite. Nevertheless, crimes against humanity remained a trigger for the invocation of

R2P

, according to the 2005 Outcome Document. And, the (in)action of the government in Rangoon could be categorized as a crime against humanity.

If that is the case, should there not be at least a discussion in the UN Security Council about invoking the **R2P** norm in the Burmese case? Or is the international community more concerned with preservation of the **R2P** norm rather than protecting people first?

*W. Andy Knight is professor of international relations at the University of Alberta; he does research for the **Global Centre for the Responsibility to Protect** in New York. Vasselin Popovski is a former Bulgarian diplomat and current senior academic program officer at the United Nations University in Tokyo.*

Source:

<http://www.canada.com/edmontonjournal/news/ideas/story.html?id=0f041843-446d-4fce-b650-b3c904487a93>

2. Humanitarian Vanities
The New York Times

David Rieff
1 June 2008

Ours is an age in which the **responsibility for protecting** people when their physical survival is at stake has become an increasingly accepted principle in international relations. It is even enshrined in a United Nations-approved covenant as the "**responsibility to protect**" the idea being that a state that engages in criminal behavior toward its own people has forfeited not just its moral but also its legal right to sovereignty.

(...) [I]t is striking that all the strong talk about the need to intervene immediately in Myanmar did not in fact lead to action of any sort, let alone the kind of radical action activists and some major international political figures like Kouchner considered. Certainly there were practical reasons why nothing was done. The Chinese were opposed and the U.S. military unenthusiastic, as Secretary of Defense Robert Gates made clear. And in fairness, the **responsibility to protect** is a new doctrine; it was only adopted at the U.N. World Summit in 2005.

() Perhaps the Myanmar example is anomalous in that it involves a natural disaster and a malefactor government's acts of omission, not commission. The **responsibility to protect** was not originally intended to cover catastrophes. Yet the debate differs little from those that have taken place over the man-made disasters of ethnic cleansing and massacre.

Think of Darfur. No international political cause since the campaign against apartheid in South Africa not Bosnia, not Tibet, not El Salvador has been as compelling to as many Americans as what, in this country at least, is generally thought to be the genocide going on in western Sudan. (...)

But the stubborn fact is that despite this extraordinary mobilization, no effective intervention has actually been mounted to prevent the genocide in Darfur. (...) Part of the reason is that China opposes such a move, and it is a lot harder for the U.S. in 2008 to go against the wishes of a country that holds so much of its government paper than it was to defy the wishes of a then-weak Russia in Bosnia in 1995 and Kosovo in 1999. But while realpolitik certainly has played a role, the failure to intervene in Darfur cannot be attributed to calculations of power alone.

After the Iraqi debacle, it is hardly surprising that we are hesitant to undertake interventions that may well involve regime change. And regime change its moral legitimacy and political practicality is the ghost at the banquet of humanitarian intervention. Use any euphemism you wish, but in the end these interventions have to be about regime change if they are to have any chance of accomplishing their stated goal. (That is why they are opposed in many parts of the formerly colonized world even as they are supported in the formerly colonizing West.) (...)

[A]s Iraq has taught us so painfully, the law of unintended consequences may be one of the few iron laws of international politics. (...)

David Rieff, a contributing writer, is the author of "At the Point of a Gun: Democratic Dreams and Armed Intervention."

Source:

http://www.nytimes.com/2008/06/01/magazine/01wwln-lede-t.html?_r=2&ref=magazine&oref=slogin&oref=slogin

3. Aid for Myanmar

The Washington Times

Tyra R. Saechao and Sujeet B. Rao

30 May 2008

On May 7, 2008, French Foreign Minister Bernard Kouchner proposed that the United Nations implement a rarefied doctrine - the **Responsibility to Protect (R2P)** - to compel the delivery of aid to Myanmar despite the junta's resistance. (...)

(...) Critics immediately dismissed Mr. Kouchner's recommendation as a misapplication of the concept. They argue that it only applies to situations involving genocide, ethnic cleansing, and other crimes against humanity; in their view, it does not apply to natural disasters. This is a valid argument: **R2P** will likely prove ineffectual in dealing with cyclone relief in Myanmar. It is far more likely that a solution in Myanmar will involve intense ad hoc negotiation and compromise on all sides.

Extending **R2P** to natural disasters may be a practical non-starter. Yet the situation in Myanmar highlights the need to create a reliable prospective mechanism to provide humanitarian aid in the wake of natural disasters. (...)

(...) [T]here are promising alternatives. A comprehensive international disaster relief framework set forth by treaty is a logical response - when the problem is rooted in the lack of clearly formulated and pre-approved guidelines. If such a framework were in place before a disaster occurs, there would surely be less quarreling over the exact parameters of providing aid when natural disasters strike.

Such an initiative is not unprecedented. In January 2005, 30 countries ratified the Tampere Convention, an international agreement creating procedures for the effective deployment of telecommunications resources for disaster relief. The Tampere Convention waives certain regulatory barriers that inhibit the use of telecommunications equipment, exempts relief agencies from taxation and duties, and grants various privileges and immunities to NGO staff and relief workers. The Tampere Convention represents an effort to ensure effective disaster response as a means of fulfilling nations' vital responsibility to protect victims of natural disaster.

In the case of Myanmar, the junta is resisting humanitarian assistance out of fear that an international presence - even one engaged in relief work - will weaken its political grip over the country. (...) A comprehensive disaster relief treaty similar to the Tampere Convention would provide exactly that. (...) But we should address such countries' concerns formally in a neutral

forum at a neutral time rather than engage in emotionally and politically charged negotiations against the backdrop of a crisis that is spinning out of control.

(...) **R2P** may not provide the right solution: Yet extending some of its tenets to address disaster relief would be a positive step towards alleviating unnecessary human suffering through global action.

Tyra R. Saechao is an attorney at a New York City firm, and a graduate of Brooklyn Law School, where she studied and published in the area of natural disasters and international law. Sujeet B. Rao, currently a student at Yale Law School, has studied and worked in the areas of international law and development.

Source:

<http://www.washingtontimes.com/news/2008/may/30/aid-for-myanmar/>

4. U.N. **Responsibility to Protect** Exists, but Only on Paper
DesMoinesRegister
Kathy Gockel
23 May 2008

There has been a lot of talk over the past two weeks regarding the United Nations' "**Responsibility to Protect**" - the **responsibility** of a state **to protect** its citizens from genocide, war crimes, crimes against humanity or ethnic cleansing.

The two paragraphs (138 and 139) on the **responsibility to protect** in the U.N.'s 2005 Summit Outcome document have sat for almost three years with little activity toward implementation. (...) [A]s usual, the biggest challenges stem from key U.N. member states.

() Let's take a quick look at some of the issues with member states. First, there are developing states that won't even admit that the **responsibility to protect** is a concept. Rather, it is merely an idea. There are other states that tend to focus solely on the use-of-force aspect, which should be used only as a last resort. (...) And then some states try to invoke the concept when the facts supporting their argument are in dispute, such as when the United Kingdom invoked it in relation to the intervention/invasion of Iraq.

More difficult yet is when a humanitarian crisis is so large that it threatens a large percentage of a state's population and the nation's government turns down external assistance as was recently done by the military regime in Myanmar, also known as Burma. (...) Particularly as China has veto power on the U.N. Security Council?

Then we add in the international experts. Many can't even agree on what does or doesn't fit into the U.N. paragraphs. (...)

Others disagree with the limited take on the concept included in the U.N. document. (...) Why does this matter? Because the United Nations requires agreement from its member states to act, particularly among the permanent five members of the U.N. Security Council that hold veto power - the United States, China, France, the UK and Russia.

(...) Until the political will exists to create an international norm and then enforce it, the **Responsibility to Protect** will remain words on a page. (...)

Source:

<http://www.desmoinesregister.com/apps/pbcs.dll/article?AID=/20080523/OPINION01/805230363/-1/NEWS04>

5. Crisis and Response

YaleGlobal

Ramesh Thakur

19 May 2008

Applying the UN **responsibility-to-protect** doctrine too broadly to natural disasters could do more harm than good.

(...) The mix of recent cases of inter-group armed violence and untended victims of natural disasters confirms the need for **R2P**, the risks of straying too widely from it and the difficulties of activating it even when warranted.

(...) Reflecting his humanitarian background, French Foreign Minister Bernard Kouchner suggested that the Security Council should invoke **R2P** [in cyclone-stricken Burma].

At first blush, this is a strange call. **R2P**'s provenance is protecting at-risk populations from genocide, war crimes and ethnic cleansing. Broadening it to cover contingencies like nuclear proliferation, environmental vandalism, HIV/AIDS and natural disasters may have the perverse effect of weakening support for **R2P** when we face the next Rwanda tomorrow without materially helping the needy today.

(...) While the legal case is powerful, the politics against it are compelling, which explains why it was dropped in 2005. Unless the Western powers want another war in the jungles of Southeast Asia, a war of relief delivery that will quickly turn into one of national liberation against foreign occupiers, it is better not to speak this language at all. (...)

Invoking **R2P** will make the generals, who are beyond shame, dig in their heels even more firmly. It will antagonise the Southeast Asian countries, whose political support is vital to communicating with the generals and persuading them to open up. It will alienate China, India and Japan, the three big Asian powers whose backing is essential for delivering any meaningful relief in Burma. It will prove divisive within the UN, reintroducing the North-South polarisation over "humanitarian intervention" that the **R2P** formula transcended.

(...) [T]he Western powers will damage their own political credibility and that of **R2P** by invoking it ineffectually. (...)

Darfur remains everyone's favourite poster-case for **R2P** intervention. An **R2P**-type situation arose in Kenya earlier this year, when international attention and African reaction was engaged after the killings inside the church very much along

R2P

lines. A potential

R2P

situation might arise in Zimbabwe, with the army taking charge and liquidating opponents.

Possible

R2P

scenarios can be imagined also in Nepal, Sri Lanka and North Korea. Yet even in Darfur, military intervention against the government could trigger an even worse humanitarian carnage: there is no crisis so dire that a war cannot make it worse.

Our responses continue to be ad hoc and reactive, rather than consolidated, comprehensive and preventive. Actually acting in time and effectively when governments are guilty of mass killings should must form the intervention agenda of **R2P**. Sins of omission during natural and environmental disasters can be better handled under the prevention, persuasion and reconstruction formulations. When Burma's regime claims to be the "legitimate" government, the very concept is corrupted and highlights the international community's lack of courage in confronting the illegitimacy. (...)

We need a "paradigm shift" from a culture of reaction to one of prevention and rebuilding which would pre-empt the need for military intervention. ()

The West should get real. If **R2P** can be applied to force aid at the point of guns into Burma, can it be extended to protect the Palestinians from the serial collective punishments and hardships imposed by Israel? If our sense of justice and moral outrage is to trump political calculations, then should those who waged a war of aggression in Iraq be sent for criminal trial in an international court? Like the call to invoke **R2P** in Burma, the net result would be, not the criminal trial of powerful leaders, but the destruction of embryonic and fragile international institutions.

In short, first do more good than harm. Invoking **R2P** in Burma is a three-way lose-lose option. It will complicate, not ease, the delivery of relief; fracture the delicate consensus on

R2P

at the UN; and diminish the chances of protecting victims of atrocity crimes, which should be the primary focus of

R2P

. Maybe, after the humanitarian emergency has ended and if the action seems practicable, the Burmese generals could be tried for "crimes against humanity" at the International Criminal Court.

*Ramesh Thakur, one of the original **R2P** commissioners, member of the international advisory board of the Global Centre for **R2P** in New York and a patron of the Asia-Pacific Centre for*

R2P

in Brisbane, is the author of "The United Nations, Peace and Security: From Collective Security to the

Responsibility to Protect

." He is a distinguished fellow with the Centre for International Governance Innovation and professor of political science with University of Waterloo.

Source:

<http://yaleglobal.yale.edu/display.article?id=10824>

IV. Crisis in Burma: Civil Society on R2P

1. Two Tragedies, Two Responses: Inhumane Reaction by Regime in Myanmar

Council on Foreign Relations

Michael Moran

25 May 2008

[The context of these two tragedies in China and Burma], the differing ways they have been handled by their respective authoritarian governments, is worth pondering. ()

() This has led to an important debate in foreign policy circles: Is the behavior of Myanmar's generals so irresponsible that it justifies the use of force to save its citizens? And did the existence of this threat help the U.N. chief prize open Myanmar's borders to aid workers?

() Put simply, does a decision to forgo international assistance, and by extension condemn thousands to die, amount to a crime against humanity? Judged by Western standards, preventing all possible aid is criminal. But the relevant standards here are Asian, remember, then international, and only after that, Western. The debate rages against a backdrop of a relatively new United Nations doctrine known as "the **Responsibility to Protect**."

(...) But protect [people] from what? This is the crux of the debate. Currently, **R2P** is understood by most to apply primarily in cases involving genocide or organized violence. Ramesh Thakur, a vice rector at the United Nations University in Tokyo and a member of the U.N. panel that drew up

R2P

, says a specific reference to natural disasters was removed because of the objections of some member states when the doctrine was promulgated in 2005.

To many, with thousands of lives at stake, this sounds mealy-mouthed. Both the United States and France have ships capable of mounting rescue operations stationed off the Myanmar coastline. But entreaties to the generals were, until this week, rebuffed, leading French Foreign Minister Bernard Kouchner to demand the U.N. invoke **R2P** to authorize airdrops. Even now, the ability of experienced Western aid workers to operate inside the cyclone zone remains in

question.

() Intervening on principle, then, is not the current template: As Myanmar's generals have proven, help requires an invitation. ()

Still, perhaps what the outside world may be able to hope for in Myanmar's suffering is a reevaluation of **R2P** to include nations overwhelmed by nature. Even today, convincing many countries once ruled by the "civilizing white man" to allow that kind of access may prove impossible. ()

For more information, please refer to:

http://www.cfr.org/publication/16340/two_tragedies_two_responses.html?breadcrumb=/publication/by_type/op_ed

2. New UQ Centre Gives Key Advice on Burmese and International Response to Cyclone
UQ News
23 May 2008

UQ's Asia-Pacific Centre for the **Responsibility to Protect** (APR2P Centre) has been closely monitoring international debates surrounding the Burmese and international response to the crisis in the Irrawaddy Delta.

(...) Professor Alex Bellamy [, who is Director of the APR2P Centre at UQ and Professor in the School of Political Science and International Studies,] said that central to the response by concerned governments and commentators had been the request to invoke what the UN recently came to define as the "

sponsibility to Protect
".

Re

(...) "While moral outrage is an appropriate response to the tragically ineffective manner in which the authorities in Myanmar/Burma have addressed the humanitarian crisis in the wake of Cyclone Nargis, coopting the **Responsibility to Protect** to justify coercive aid disbursements is not," he said.

A major new Briefing Report released by the Centre on May 16 asserted that the **Responsibility to Protect** does not apply at this stage to the devastation in Burma/Myanmar, because the principle does not mean protecting people from all imaginable threats.

(...) "In international law, crimes against humanity are defined as widespread or systematic attacks directed against civilians."

Professor Bellamy said the Centre's position was that: "although the Burmese government's response has been deplorable, there is no indication at present that it has committed such violations."

The Asia-Pacific Centre for the **Responsibility to Protect** is a bold new initiative. Launched in February in Bangkok, the Asia-Pacific Centre for the **Responsibility to Protect**

aims to become a focal point for bringing together politicians, NGOs, government agencies, and academics to develop peace keeping and early intervention initiatives with an Asian focus.

In keeping with the Centre's aims the Briefing Report was circulated to key stakeholders throughout the region including politicians, governments, NGOs and academics. The Report detailed four possible courses of action, including the option of ASEAN coordinating multilateral efforts and that concerned governments should support ASEAN's disaster relief teams. (...)

For more information, please refer to:

<http://www.uq.edu.au/news/index.html?article=14778>

AP**R2P** Centre Briefing Report, urma Requires Urgent Response but **R2P** not Appropriate is available at:

http://responsibilitytoprotect.org/index.php/featured_reports/1662