

R2PCS Listserv

13 May 2008

Responsibility to Protect Engaging Civil Society

Web: <http://www.responsibilitytoprotect.org>

Email: info@responsibilitytoprotect.org

In this issue:

[Crisis in Burma]

Dear friends,

*Please find articles recently written regarding the application of the **Responsibility to Protect** to the situation in Burma. We have heard from several subscribers, but if you are interested in posting your thoughts to the entire listserv for all readers to see, please reply to this address:*

R2P-CS-info@yahoogroups.com

*Also, to clarify, the statement that we released last Friday is from WFM-Institute for Global Policy's **R2PCS** project.*

Crisis in Burma

1. GARETH EVANS -- FACING UP TO OUR RESPONSIBILITIES
2. RAMESH THAKUR -- SHOULD THE UN INVOKE THE 'RESPONSIBILITY TO PROTECT'?
3. LLOYD AXWORTHY AND ALLAN ROCK -- RESPONSIBILITY TO PROTECT? YES
4. MYANMAR FACES PRESSURE TO ALLOW MAJOR AID EFFORT; KOUCHNER INVOKES R2P
5. WORLD WRESTLES WITH BURMA AID ISSUE
6. IN BURMA, A U.N. PROMISE NOT KEPT

Crisis in Burma

1. 'Facing up to Our Responsibilities,' Gareth Evans in the Guardian
The Guardian
Gareth Evans
12 May 2008

If the intransigence of the Burmese generals continues, it is a very real issue whether in the name of humanity some international action should be taken against their will like military air drops, or supplies being landed from ships offshore to get aid to the huge numbers who desperately need it right now, in the inaccessible coastal area in particular.

French Foreign Minister Bernard Kouchner opened up a hornet's nest when he argued last Thursday, as others are now doing, that this is a proper case for coercive intervention under the "**responsibility to protect**" principle unanimously endorsed by 150 heads of state and government at the 2005 UN World Summit. His proposal that the Security Council pass a resolution which "authorizes the delivery and imposes this on the Burmese government" met

with immediate rejection not only from China and Russia, who are always sensitive about external intervention into internal affairs, but from many other quarters as well.

It generated concern from the UK and others, including senior UN officials, that such an "incendiary" approach would be wholly counterproductive in winning any still-possible cooperation from the generals. It also provoked the argument from humanitarian relief agencies who know what they are talking about that simply as a practical matter any effort to drop supplies without an effective supporting relief on the ground would be hopelessly inefficient, and maybe even dangerous with the prospect of misuse of medical supplies.

These are strong arguments, and they weigh heavily in the policy balance. But as the days go by, with relief efforts impossibly hindered, only a trickle of the government's own aid getting through, and the prospect of an enormously greater death toll looming acutely within just a few more days, they are sounding less compelling, and at least need revisiting.

My own initial concern, and it remains a serious one, with Bernard Kouchner's invocation of the "**responsibility to protect**" was that, while wholly understandable as a political rallying cry and God knows the world needs them in these situations it had the potential to dramatically undercut international support for another great cause, to which he among others is also passionately committed, that of ending mass atrocity crimes once and for all.

The point about "the **responsibility to protect**" as it was originally conceived, and eventually embraced at the World Summit as I well know, as one of the original architects of the doctrine, having co-chaired the international commission that gave it birth is that it is not about human security generally, or protecting people from the impact of natural disasters, or the ravages of HIV-AIDS or anything of that kind.

Rather, "**R2P**" is about protecting vulnerable populations from "genocide, war crimes, ethnic cleansing and crimes against humanity" in ways that we have all too miserably often failed to do in the past. That is the language of the 2005 UN General Assembly resolution, and Security Council resolutions that have followed it, 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. And even then, the **responsibility to protect** norm allows the use of military force only with Security Council endorsement, and only as a last resort, after prevention has failed, when it is clear that no less extreme form of reaction could possibly halt or avert the harm in question, that the response is proportional to that harm, and that on balance more good than damage will be done by the intervention.

If it comes to be thought that "**R2P**", and in particular the sharp military end of the doctrine, is capable of being invoked in anything other than a context of mass atrocity crimes, then such consensus as there is in favour of the new norm will simply evaporate in the global South. And that means that when the next case of genocide or ethnic cleansing comes along we will be back to the same old depressing arguments about the primacy of sovereignty that led us into the horrors of inaction in Rwanda and Srebrenica in the 1990s.

But here's the rub. If what the generals are now doing, in effectively denying relief to hundreds

of thousands of people at real and immediate risk of death, can itself be characterised as a crime against humanity, then the **responsibility to protect** principle does indeed cut in. The Canadian-sponsored commission report that initiated the

R2P

concept in fact anticipated just this situation, in identifying one possible case for the application of military force as "overwhelming natural or environmental catastrophes, where the state concerned is either unwilling or unable to cope, or call for assistance, and significant loss of life is occurring or threatened."

The UN resolution does not pick up this specific language, but it does refer to "crimes against humanity", and the definition of such crimes (in the Rome Statute establishing the International Criminal Court, as well as in customary international law) embraces, along with widespread or systematic murder, torture, persecution and the like, "Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health".

There is, as always, lots for the lawyers to argue about in all of this, not least on the question of intent. And there will be lots for the Security Council to quarrel about as to whether air drops and the like are justified, legally, morally and practically. But when a government default is as grave as the course on which the Burmese generals now seem to be set, there is at least a prima facie case to answer for their intransigence being a crime against humanity of a kind which would attract the **responsibility to protect** principle. And that bears thinking about, fast, both by the Security Council, and the generals.

Gareth Evans is President, International Crisis Group; Co-Chair, International Commission on Intervention and State Sovereignty; Member, UN Secretary-General's Advisory Committee on the Prevention of Genocide.

Source:

<http://www.crisisgroup.org/home/index.cfm?id=5430&l=1>

2. Should the UN Invoke the 'Responsibility to Protect'?

The Globe and Mail

Ramesh Thakur

8 May 2008

The United Nations warns that Myanmar's death toll from this week's deadly cyclone could reach 60,000. CNN quotes Shari Villarosa, the top U.S. diplomat there, as saying over 100,000 may have died in the country's delta region alone. Aid is desperately needed on a war footing. But humanitarian aid does not justify going to war as called for by French Foreign Minister Bernard Kouchner in urging the UN Security Council to pass a resolution under the "**responsibility to protect**

" norm to force the delivery of aid over any objections from the country's ruling military.

Mr. Kouchner is one of the unrepentant "humanitarian warriors" who gave "humanitarian intervention" such a bad name that we had to rescue the deeply divisive idea and repackage it

into the more unifying and politically marketable "**responsibility to protect**" (**R2P**) which was endorsed by world leaders at the UN in 2005. There would be no better way to damage

R2P

beyond repair in Asia and the developing world than to have humanitarian assistance delivered into Myanmar backed by Western soldiers fighting in the jungles of Southeast Asia again. If France has soldiers to spare for serious combat, they could relieve embattled Canadians in southern Afghanistan.

John Holmes, the former British ambassador to France, has rightly rejected Mr. Kouchner's call as unnecessarily confrontational. He said co-operation from Myanmar authorities was "reasonable and heading in the right direction."

To be sure, Myanmar's military junta has been an unmitigated disaster.

My all too vivid impressions of the country are of a gentle people suffering horribly under an unrelentingly oppressive regime that has stolen and squandered the nation's wealth. Where, in most cases, there is some redeeming feature, I can think of none regarding this distasteful regime.

Hesitations about invoking **R2P** are not based, therefore, in any tender thoughts about the junta. **R2P** is one of the most important normative advances in global governance since the Second World War. We managed to find international consensus on it by putting it in non-confrontational language, restricting the circumstances in which outside military intervention is justified to halt large-scale killings (not death caused by natural disasters) or ethnic cleansing, and surrounding it with prevention before and reconstruction after such intervention.

Prospects of **R2P** providing the legal and normative foundation for a military intervention to stop killings will diminish if it is abused and misused. As it is, we can detect signs of a rollback as some countries that previously endorsed it in 2005 now develop symptoms of buyer's remorse.

Neither is the **R2P** cause helped by misapplying it to situations such as Myanmar's cyclone. Instead of securing timely action, it would complicate humanitarian relief efforts in this particular case and more generally afterward.

The solution to untying the knot in delivering aid to Myanmar lies in invigorated efforts at four levels, based on solidarity with the victims, not the rights and privileges of intervenors.

First, in direct exchanges with the Burmese authorities. Second, in making encouraging but non-threatening resolutions and statements at the UN by the Secretary-General and presidents of the General Assembly and Security Council. Third, by the major Asian powers - China, India and Japan. And fourth, by the Southeast Asian neighbours of Burma, including ASEAN, the regional organization.

If the Asians come on board, political progress will be swift in unblocking obstacles and the

delivery of humanitarian aid will be effective. Furthermore, the use of the prevention and reconstruction language of **R2P** (but not the military intervention component) will promote the political legitimacy of military intervention when and where it becomes necessary.

*Ramesh Thakur is one of the original **R2P** commissioners and a member of the advisory board of the **Global Centre for R2P** in New York. He is author of 'The United Nations, Peace and Security: From Collective Security to the **Responsibility to Protect***

Source:

<http://www.theglobeandmail.com/servlet/story/RTGAM.20080508.wcoprotect08/BNStory/specialComment/home>

3. **Responsibility to Protect**? Yes

The Globe and Mail

Lloyd Axworthy and Allan Rock

9 May 2008

The humanitarian disaster in Myanmar is a prime example of how the concept of "**responsibility to protect**

" (

R2P

) should be applied (Should The UN Invoke The '

Responsibility To Protect

'? - May 8).

When the Canadian government initiated the International Commission on Intervention and State Sovereignty that gave life to **R2P**, it was based on the concept of human security which puts the protection of people at the forefront of the global agenda. The commission's mandate was never meant to be exclusive to one kind of threat. Human security applies to situations like natural disasters, pandemics and civil conflict.

Under **R2P**, when states are unwilling or unable to fulfill their most basic **responsibility to protect** their citizens, the international community must assume that role.

Myanmar's ruling military is actively impeding the timely arrival of assistance and medicines to more than one million people. What is the moral distinction between closing the door of rescuing people from death by machete and closing the door of life-saving aid?

Ramesh Thakur dangerously exaggerates the notion that implementing **R2P** means military intervention. **R2P'**

s chief goal is to use a variety of diplomatic forms of persuasion and influence to prevent or react to a humanitarian atrocity or catastrophe.

Lloyd Axworthy and Allan Rock are former Canadian foreign affairs minister and former ambassador of Canada to the United Nations.

The comment is available at:

http://www.theglobeandmail.com/servlet/Page/document/v5/content/subscribe?user_URL=http://www.theglobeandmail.com%2Fservlet%2Fstory%2FLAC.20080509.COLETTS09-1%2F%2FTPStory%2FComment&ord=2062619&brand=theglobeandmail&force_login=true

4. Myanmar Faces Pressure to Allow Major Aid Effort

International Herald Tribune

Graham Bowley and Steven Erlanger

7 May 2008

World pressure intensified Wednesday on Myanmar's military leaders to allow massive aid into their ravaged country.

The top United States diplomat in Myanmar said that the country's authorities were now estimating that the weekend cyclone might have killed 70,000, and she warned that the toll could rise to 100,000 if aid was not prompt. () The Myanmar government has so far put its official tally of the deaths from the cyclone at 22,500, of which perhaps 40 percent were children. A further 41,000 people are missing, and up to 1 million people are estimated to have been left homeless.

() Earlier in the day, the French foreign minister, Bernard Kouchner, said that the United Nations should invoke its "**responsibility to protect**" civilians as the basis for a resolution to allow the delivery of international aid even without the permission of the military junta.

() "We are seeing at the United Nations if we can't implement the **responsibility to protect**, given that food, boats and relief teams are there, and obtain a United Nations' resolution which authorizes the delivery and imposes this on the Burmese government," Kouchner, who founded the aid group Doctors Without Borders, told reporters in Paris.

But the United Nations' under-secretary general for humanitarian affairs, John Holmes, resisted the idea of taking action to force Myanmar to open its doors, though he noted that 50 to 10 United Nations aid workers were awaiting word on their applications for visas.

"To be honest I'm not sure we're at that stage at the moment," Holmes said at a noon briefing on Wednesday. "We are having useful and constructive discussions with the authorities of Myanmar. It is moving in the right direction. We want it to move much faster, clearly. But I'm not sure it would help at this moment at least to embark on what could be seen by some people as a confrontational path."

When a reporter from Al Jazeera asked why the United Nations should not simply going into Myanmar, "invited or not," Holmes replied tartly, "I'm not sure that invading Myanmar would be a very sensible option at this particular moment." He added: "Would it actually get aid to the

people who are really suffering on the ground any quicker? Personally I doubt it."

In 2005, the United Nations recognized the concept of "**responsibility to protect**" civilians when their governments could or would not do it, even if this meant intervention that violated national sovereignty. But it has been rarely applied. ()

For full article, please go to:

<http://www.iht.com/articles/2008/05/07/asia/08myanmar.php?page=1>

Cyclone Nargis Situation Report issued on 12 May 2008 by the UN Office for the Coordination of Humanitarian Affairs is available at:

http://yangon.unic.org/index.php?option=com_content&task=view&id=167&Itemid=73

For more detailed account of the crisis situation in Burma and the discussions around its application to R2P, please refer to:

<http://www.canada.com/topics/news/world/story.html?id=bcda6dd5-97bd-4c99-ae73-590dedd3487b&k=35439>

5. World Wrestles with Burma Aid Issue

BBC News

Jonathan Marcus

9 May 2008

The scale of the suffering prompted by the cyclone in Burma is huge. Only a massive outside relief effort can help the authorities there to cope with the catastrophe.

But Burma's isolated military regime has been dragging its feet in accepting offers of aid - something that has frustrated non-governmental organisations and many other governments alike.

Their frustration has been exemplified by the French Foreign Minister Bernard Kouchner - himself a veteran humanitarian activist - who proposed the idea that there should be a UN resolution compelling Burma to accept outside aid.

Such a move was strongly opposed by Russia and China, who are uneasy about the implications of such a step, which they see as intruding into Burma's internal affairs.

Mr Kouchner's call was based upon an idea that has gained some ground in international affairs during the past decade. This is the notion that the international community has a right, indeed a duty, to intervene in another country's affairs, if it is not upholding its responsibilities to its own citizens. The doctrine, first championed by the Canadians and recognised by the United Nations in 2005, is known as "the **responsibility to protect**".

Applying the doctrine

It was strongly influenced by the experience in the Balkans, and NATO's military intervention

to expel Serbian forces from Kosovo in 1999. The Serbian authorities, it was argued, were conducting genocidal attacks against a part of their own population. Taking military action, though, is one thing - forcing a country to accept a vast humanitarian aid effort quite another.

Ed Luck, a special adviser to the UN Secretary General, has argued that linking the "**responsibility to protect**" to the situation in Burma is a misapplication of the doctrine.

The World Summit in 2005, he says, saw this responsibility being applied in four very specific cases - genocide, war crimes, crimes against humanity, and ethnic cleansing.

The US and France still seem to be hinting at the possibility of some kind of forced delivery of aid if all else fails, and the Burmese government continues to refuse to grant humanitarian access.

But quite apart from the political implications of such a step, there would be huge practical problems, too. Such an approach might have to rely upon air-drops of food and emergency supplies to the flood-hit areas.

Without proper co-ordination on the ground this might be a gesture, at best.

Diplomatic pressure

There can be no substitute for a vast, co-ordinated operation on the ground.

Inevitably, then, the focus remains on applying diplomatic pressure to encourage Burma's rulers to relax their constraints. Britain is pursuing urgent efforts with both the Burmese authorities, and countries with close ties to the military regime there - like China, India and Thailand - to try to deal with the central problem slowing the aid effort to the cyclone-stricken region: access.

Britain's ambassador in Rangoon, Mark Canning, in a telephone briefing, said that some aid workers were being allowed into the country, but not on a scale that was either large enough or fast enough.

He said that governments with close ties to the Burmese authorities had a very important role to play in trying to convince them to allow a major international aid effort to get under way.

Burma experts, though, stress the scale of the problem.

This, they say, is an inward-looking regime, where every effort has been made to limit access to the country from outside.

The British ambassador's message to the Burmese authorities was clear - steps had to be taken to get the badly-needed experts in as quickly as possible.

Source:

<http://news.bbc.co.uk/2/hi/asia-pacific/7392662.stm>

6. In Burma, a U.N. Promise Not Kept
Washington Post
Fred Hiatt
12 May, 2008

When a parent abuses or neglects a child, government steps in to offer protection. But who steps in when government abuses or neglects its people?

Nearly three years ago, the United Nations announced an answer to that question: It would. At a summit celebrating the organization's 60th birthday, 171 nations agreed that they would intervene, forcefully if necessary, if a state failed to protect its own people. The action was seen as both a sign of remorse for the failure to stop genocide in Rwanda and a rebuke to the United States and its unilateral ways.

"I'm delighted that the **responsibility to protect**, a Canadian idea, now belongs to the world," said Canada's prime minister at the time, Paul Martin. "The United Nations will not find itself turning away or averting its gaze."

Since then the United Nations has averted its gaze as Sudan's government continues to ravage the people of Darfur. It has turned away as Zimbabwe's rulers terrorize their own people. Now it is bowing to Burma's sovereignty as that nation's junta allows more than a million victims of Cyclone Nargis to face starvation, dehydration, cholera and other miseries rather than allow outsiders to offer aid on the scale that's needed.

() But the stalemate in Burma, also known as Myanmar, shows how difficult it is to translate "**responsibility to protect**" into action. It's hard to imagine a government more deserving of losing the national equivalent of its parental rights; yet it seems more likely that hundreds of thousands of people will die needlessly than that the United Nations will act.

Dr. Chris Beyrer, an epidemiologist at Johns Hopkins Bloomberg School of Public Health, has spent years in and around Burma, fighting the intransigence of the regime to help the Burmese people. What he has learned, as he said last week, is that "the regime does not have the interest of the people as its fundamental concern." Almost all its actions before the storm and since can be understood in this light: The junta cares about its own survival, not the survival of its people.

So even before the devastating storm swept in around midnight May 2, the Burmese were vulnerable. One-third of children under 5 were undernourished. With 3 percent of government spending going to public health, compared with 40 percent to the military, there was a dearth of doctors and clinics. In many areas malaria and tuberculosis posed severe threats.

The government failed to warn people of the approaching storm and has failed to help them since. It apparently does not want to risk whatever benefit might redound to Western countries

for deploying the "soft power" of assistance. Saturday it deployed its army northward, to beat and browbeat people to vote yes in a phony referendum intended to make military rule permanent, rather than southward, where 1.5 million people were homeless and 65 percent of territory was under water.

Yet when France reminded the United Nations of its "**responsibility to protect**," China, Russia and their ever-reliable voting partner, Thabo Mbeki's South Africa, slammed the door. So tons of aid float just offshore as Burma's generals sleep comfortably in their remote jungle capital and China's rulers can proudly, once again, take credit for defending the principle of national sovereignty.

Meanwhile, the Burmese people themselves do not give up. Small teams of aid workers from persecuted dissident groups are making their way south, offering what little assistance they can, though soldiers at times confiscate their goods. And in the delta, one Burmese managed to inform a friend outside, "many people keep looking up to the sky -- literally." Ten days after the cyclone, they are waiting for helicopters, which for many will appear too late or not at all.

Source:

<http://www.washingtonpost.com/wp-dyn/content/article/2008/05/11/AR2008051101782.html>