

Key Developments on the Responsibility to Protect at the United Nations

2005 – 2012

Responsibility to Protect Agreed to at the World Summit During the historic gathering of world leaders in New York for the High-level Plenary Meeting of the General Assembly (World Summit) in 2005, heads of state and government reached agreement on a Responsibility to Protect (RtoP) populations from genocide, war crimes, crimes against humanity and ethnic cleansing. This commitment is included in paragraphs 138 and 139 of the 2005 World Summit Outcome Document (WSOD).

UN Security Council Resolutions Reaffirm Support for RtoP

The Protection of Civilians Open Debates

On 28 April 2006, the UN Security Council unanimously adopted Resolution 1674 on the Protection of Civilians in Armed Conflict (POC). Resolution 1674 contains the first official Security Council reference to the responsibility to protect by reaffirming the provisions on RtoP within paragraphs 138 and 139 of the WSOD. It also notes the Council's readiness to address gross violations of human rights, as genocide and mass crimes against humanity may constitute threats to international peace and security.

On 28 June 2006, the Security Council held its first open debate on the protection of civilians in armed conflict. Since then, the Council has held semi-annual open debates to take stock of developments in the area of protection of civilians and assess progress in the implementation of the commitments made in Resolution 1674. Governments were overwhelmingly positive in affirming their support for RtoP during the first open debate, as well as in subsequent debates.

On 11 November 2009, during the eighth open debate on the POC, the Security Council reaffirmed its commitment to prevent the victimization of civilians in armed conflict and end ongoing violence against civilians around the world in Resolution 1894. This Resolution, the second passed by the Security Council under this agenda, recognizes that States have the primary responsibility to protect their population and reaffirms the provisions on RtoP within paragraphs 138 and 139 of the WSOD. More than twenty Member States mentioned RtoP in their statements, recognizing that sovereignty includes responsibilities of the state to protect populations from mass atrocities, and that it is the responsibility of the international community to assist national governments in fulfilling their protection obligations. Several Member States, mainly European, also welcomed the July 2009 General Assembly debate on implementing RtoP and the consequent Resolution on RtoP.

Resolution 1706 on Darfur

Citing the Sudanese government's flagrant disregard for its responsibility to protect the people of Darfur, alarm bells have been ringing for years for the international community to uphold its responsibility to protect Darfuri citizens from genocide and mass violations of human rights. On 31 August 2006, the Security Council passed Resolution 1706 authorizing the deployment of 17,300 UN peacekeeping troops to Darfur. The Resolution also referred to paragraphs 138 and 139 of the WSOD and Resolution 1674. Nonetheless, the mandate met resistance in Khartoum, which prevented its deployment.

Resolution on Burma/Myanmar

On 12 January 2007, the Security Council met to discuss the situation in Burma/Myanmar. The members of the Council voted on a non-coercive draft resolution presented by the United Kingdom and the United States, which called for a cession of all attacks against minorities, access for humanitarian organizations, cooperation with the International Labor Organization, political dialogue and progress towards democracy, the release of all political prisoners and support for all UN "good offices" in Burma/Myanmar. Permanent Members China and Russia vetoed the resolution, and South Africa voted against, arguing that Burma/Myanmar did not pose a threat to peace and security in the region, and that the internal affairs of the state were not included in the mandate of the Security Council. As Council Members questioned the role of the Council in responding to an intra-state situation where populations are at risk of mass human rights violations, many Member States affirmed the appropriateness of the Council's jurisdiction in this case, and stated their support for the resolution.

Resolutions 1970 & 1973 on Libya

On 26 February 2011, the Security Council unanimously adopted Resolution 1970, which recalled Libya's "responsibility to protect", referring the situation to the International Criminal Court and imposing financial sanctions as well as an arms embargo.

As the threat to populations persisted in spite of these non-military measures, the Security Council adopted

Resolution 1973 on 17 March 2011

, which called for the enforcement of a no-fly zone and for "all necessary measures to protect civilians and civilian populated areas under threat or attack... while excluding a foreign occupation force of any form."

Five Member States - China, Russia, Brazil, India and Germany - abstained, allowing Resolution 1973 to pass without a veto. While the authorization of a no-fly zone on March 17 is the first time the Security Council has implemented a military response to protect populations in a non-consenting state, this was likely due to the influence that regional organizations had in supporting stronger measures, notably the League of Arab States and the Gulf Cooperation Council. That Member States prioritized the protection of civilians from mass crimes reflects a

historic embrace of the RtoP principle. Subsequent concerns arose following the intervention in Libya. Many UN Member States and international and regional organizations voiced their concern over how the use of force was operationalized, but many others particularly noted the necessity to apply RtoP flexibly to ensure that past cases do not inhibit efforts to protect populations in future situations.

Resolution 1975 on Côte d'Ivoire

In response to the escalating, post-election violence against the population of Côte d'Ivoire, the Security Council

unanimously adopted Resolution 1975 on 30 March 2011. The Resolution condemned the gross human rights violations committed by supporters of both the incumbent Laurent Gbagbo and president-elect Alassane Ouattara stating, "the attacks currently taking place in Côte d'Ivoire against the civilian population could amount to crimes against humanity." The Resolution cited "the primary responsibility of each State to protect civilians," called for the immediate transfer of power to Ouattara, and reaffirmed the mandate of the UN Operation in Côte d'Ivoire (UNOCI) to "use all necessary means to protect life and property." Resolution 1975 also authorized targeted sanctions against Gbagbo and his close supporters and reaffirmed the UN mandate in Côte d'Ivoire to prevent the use of heavy weapons and protect civilians using all necessary means.

The General Assembly holds informal interactive dialogues on the implementation of RtoP

2009 Report and GA Dialogue on "*Implementing the Responsibility to Protect*"

UN Secretary-General Ban Ki-moon's report
'Implementing the Responsibility to Protect'

, was released on 12 January 2009. This Report, the first comprehensive UN document on RtoP, outlines measures and actors involved in operationalizing, or implementing, the norm and translates paragraphs 138 and 139 of the WSOD into a 'three-pillar approach', namely 1) the protection responsibilities of the state, 2) international assistance and capacity building, and 3) timely and decisive response. The Secretary-General recommended that the General Assembly meet to consider, based on this report, how Member States would take the 2005 World Summit commitment forward.

The first General Assembly informal interactive debate on RtoP started on 23 July 2009 and continued for two full days on 24 July and 28 July 2009. Overall, of the 92 Member States (and 2 observers) that spoke, most demonstrated strong interest in the norm. Noting that the concept of RtoP as endorsed in 2005 was not to be renegotiated, presenters stated that the scope of the norm should remain limited to the four crimes.

Governments demonstrated that they were conscientiously considering the proposals in the Secretary-General's Report and raised important issues and recommendations for the General Assembly, Security Council, UN departments, regional bodies and governments. Many also recognized the important role of civil society in preventing and reacting to these most serious international violations.

Concerns were raised regarding the implementation of RtoP, with cautioning against the norm being used selectively.

General Assembly Resolution 308 on the Responsibility to Protect The first General Assembly Resolution on the Responsibility to Protect was adopted on 14 September 2009. The Resolution (A/RES/63/308) was introduced on 14 September 2009 by the delegation of Guatemala, and was co-sponsored by 67 Member States. The General Assembly Resolution took note of the Report of the Secretary-General and of the debate, and decided to continue the Assembly's consideration of RtoP.

Second GA Dialogue on Early Warning, Assessment, and the RtoP

Secretary-General Ban Ki-moon released a report on *'Early Warning, Assessment and the Responsibility to Protect'* on 14 June 2010. This Report identified the capacities and gaps of early warning mechanisms, noting the insufficient level of information and analysis sharing as well as the fact that existing mechanisms do not always conduct early warning through an "RtoP lens" but rather focus more specifically on the prevention of armed conflict. The publication of the Report was followed by a General Assembly informal, interactive dialogue on 9 August 2010. Participants included 42 Member States, 2 representatives from regional organizations, and 2 civil society representatives. Constructive questions and concerns were raised on how the UN system can best gather and analyze information, develop policy options and translate them into early engagement.

A recurrent theme throughout the debate was the need to ensure that information received comes from credible sources, provided in a timely way and on a confidential basis. Multiple sources of information should be sought, including from UN funds, programs and agencies, as well as field missions. Many Member States supported information coming from civil society. The majority of States reaffirmed their support for the emerging RtoP norm, welcomed the Secretary General's Report, and called for continued discussion on the RtoP in the General Assembly.

Third GA Dialogue on the Role of Regional and Sub-Regional Arrangements on Implementing the RtoP

Secretary-General Ban Ki-moon released a Report on 7 July 2011 entitled, *'The Role of Regional and Sub-Regional Arrangements on Implementing the Responsibility to*

Protect.

The Report emphasizes that the Security Council and regional and sub-regional organizations lend legitimacy to each other, frames the role of such arrangements using the norm's three pillar approach, and offers areas for collaboration. The third General Assembly informal, interactive dialogue was held on 12 July 2011 to discuss the role that regional and sub-regional organizations play in protecting populations from mass atrocities. Statements were delivered by 43 Member States, 3 regional organizations and 4 civil society representatives.

Member States recognized the unique advantage of regional organizations in preventing and reacting to mass atrocities and mentioned the need for more collaboration among these actors including on best practices and lessons learned, peer review, early warning information and analysis, and coordination on sanctions or punitive measures. Events in Libya and Côte D'Ivoire could have led to registered disapproval for RtoP and a push for renegotiation of the norm, however most Member States used the platform to instead voice support for RtoP and provide constructive suggestions for its continued implementation.

A number of concerns were raised regarding NATO's use of force to implement Resolution 1973 in Libya and many Member States supported the idea, included in the Secretary-General's report, of continued discussion on the third pillar of the norm.

Joint Office of the Special Advisers to the Secretary-General on the Prevention of Genocide and RtoP

Special Adviser on the Prevention of Genocide

At the 2004 Stockholm International Forum on Genocide: Threats and Responsibilities, then UN

Secretary-General

Kofi

Annan proposed creating a Special Adviser for the Prevention of Genocide (SAPG) who would be supported by the High Commissioner for Human Rights but would report directly to the Security Council. In July 2004, the Secretary-General appointed Juan Mendez, Argentinean human rights lawyer and then Executive Director of the International Center for Transitional Justice, to the Assistant Secretary-General post. The mandate for the SAPG, based on Security Council Resolution 1366 adopted on 30 August 2001, is to collect existing information, particularly from within the UN system, act as an early warning mechanism, and make recommendations to the Security Council through the Secretary-General. On 29 May 2007, Secretary-General Ban Ki-moon appointed Francis Deng as the second Special Adviser for the Prevention of Genocide. Dr. Deng, who was designated Under-Secretary-General status in December 2007, served in the position for five years, refining an analysis framework to better understand factors and indicators of genocide, and working with governments to emphasize the importance of managing identity and diversity to prevent conflict. On 17 July 2012, the Secretary-General appointed Adama Dieng of Senegal, then Registrar of the International Criminal Tribunal for Rwanda, as the third SAPG.

Special Adviser to focus on the Responsibility to Protect

At the end of August 2007, Secretary-General Ban Ki-moon sent a letter to the Security Council President, then Mr. Pascal Gayama of the Democratic Republic of Congo, proposing the creation of the position of Special Adviser on the Responsibility to Protect. The Assistant Secretary-General position, acknowledged on 11 December 2007 by the Security Council, was filled on 21 February 2008, when the Spokesperson for Secretary-General announced that Dr. Edward Luck had been appointed as Special Adviser to focus on the Responsibility to Protect. Dr. Luck's primary role was focused on the conceptual development of and consensus building around RtoP, and to assist the General Assembly in its ongoing consideration of the norm. Dr. Luck worked out of the Office of the SAPG, and served until July 2012.

Brazil's Concept of "responsibility while protecting" Brazilian President Dilma Rouseff, in her opening address to the General Assembly in September 2011, articulated that alongside the "responsibility to protect", it is important to exercise responsibility *while*

protecting. Soon after, on 9 November 2011, during the twelfth open debate on the protection of civilians, the Permanent Representative of Brazil to the UN,

Maria Luiza Ribeiro Viotti, presented a concept note,

Responsibility while protecting: elements for the development and promotion of a concept, to the Security Council. The "responsibility while protecting" seeks to address concerns regarding the implementation of military measures under the RtoP framework, emphasizing that prevention is the "best policy" and that the use of force in particular must be monitored and assessed. Member States and civil society organizations discussed the concept note during an informal meeting organized by the Permanent Mission of Brazil on 21 February 2012. The concept was welcomed as providing an opportunity for constructive discussion on the implementation of the norm. However, recurring concerns were raised, including the risk that monitoring and limiting the use of force could establish barriers to action in responding to the threat of mass atrocities and the note's proposal to chronologically sequence the norm's three pillar framework.

UN Human Rights Council Statements and Meetings on RtoP

In March 2011, the Australian Permanent Mission to the United Nations in Geneva, on behalf of 55 Member States, delivered a joint statement on RtoP, reminding that the Human Rights Council had a role in supporting long-term measures to help states exercise their responsibility to protect, including institution building, strengthening the rule of law, and technical cooperation.

On 21 March 2012, during a

General Debate in the

Council on Technical Assistance and Capacity Building, on behalf of the governments of

Australia, Hungary, Nigeria, Thailand and Uruguay, the Australian Permanent Mission delivered a statement expressing their goal to explore the role of the Council in operationalizing the first two pillars of the norm and presenting a proposal for a high-level side-event in the margins of the 20th

session of the Council.

The

side-event was co-organized by the

Permanent Missions in Geneva of these same governments and held on

19 June 2012 to discuss the Council's role in implementing RtoP, focusing specifically on the first and second pillars.

The side-event was the first occasion during which members of the Human Rights Council were invited to discuss the Responsibility to Protect in Geneva, and represented an important step in promoting RtoP advocacy as well as implementation in the Council.

RtoP experts, Member States and several civil society organizations, including the ICRtoP, participated in the discussion. The UN High Commissioner for Human Rights Navi Pillay, who has also expressed her continuous support for the Responsibility to Protect, provided a statement via video at the side event. Furthermore, over the course of 2011 and 2012, Ms. Pillay recalled Member States' commitment to RtoP in the context of country situations, including the crises in Libya and Syria.