

Ramesh Thakur  
Ottawa Citizen  
08 December 2007

Dec. 9 and 10 mark the anniversaries of the Genocide Convention and the Universal Declaration of Human Rights (1948). Both were an acknowledgment of the dark side of European history and embodied the determination to ban vices that had been let loose with terrible consequences by westerners.

As human beings, we bear rights that are inalienable. Because these arise from the fact that we are human, they are necessarily universal, held equally by all humans. The parallel growth and expansion of human rights and international humanitarian law converged in the protection of civilians and punishment of perpetrators against the backdrop of government-instigated atrocity crimes like genocide, ethnic cleansing and large-scale killings.

Changes in the nature of armed conflict have put civilians on the front line of conflict-related casualties as well, from about 25 per cent during the First World War to around 65 per cent in the Second World War and up to 90 per cent of casualties today. Meantime, globalization has shrunk distances, brought images of human suffering into our daily lives in graphic detail and expanded our capacity to respond meaningfully, thereby increasing the calls to do so. Burma in 2007 was vastly different from Burma in 1988 on this count.

() At a time when Darfur continues to tug at consciences without borders, in a year in which the military thugs in Burma cracked down on peaceful Buddhist monks, and amidst the continuing shame of Guantanamo that mocks the worldwide legacy of the previous champion-in-chief of human rights, it is worth highlighting two notable advances that give cause for cheer: the establishment of the International Criminal Court in 1998 and the UN's adoption of the **responsibility to protect** in 2005. Canada played a starring role in the first and the lead role in the second.

Both encroach substantially on national sovereignty with respect to nonintervention and the sovereign impunity of heads of state. Without an international criminal court with universal jurisdiction, the Genocide Convention remained an incomplete instrument. Without **R2P**, the Universal Declaration of Human Rights was a hollow mockery for many.

() Both with protection and prosecution, the default responsibility remains with states. Only if and when they are unable or unwilling does the community of states have the duty to step in with international protection and prosecution.

But who is "the international community"? The UN Security Council is the only international law enforcement body but faces serious leakage of representational legitimacy with each passing year.

() The alternative of non-UN authorized interventions is also flawed. The rest of the world is not going to accept that Washington, unilaterally or in concert with coalitions of the willing, has the right to define the thresholds of acceptable and intolerable behaviour by everyone else.

() The solution to both dilemmas is to return to the rule of law which tames the use of force both internally and internationally. And that means codifying the **responsibility to protect**, acting on it through agreed procedures and institutions, buying into the ICC, and then having the moral force, legal authority, material capacity and courage of conviction to topple the tyrants of the world, from Taliban-ruled Afghanistan, Saddam Hussein's Iraq and Burma to Darfur, and put them on trial at The Hague.

Full text available at:

<http://www.canada.com/ottawacitizen/news/story.html?id=9a6679e9-a5cf-4c13-bca7-89ea38812cfd>