

R2PCS Listserv

20 August 2007

Responsibility to Protect- Engaging Civil Society

Web: www.responsibilitytoprotect.org

In this issue: [R2P in the News; Reactions to Security Council Resolution 1769 on Sudan; Other Reports of Interest: Northern Uganda]

I. R2P in the News

1. SOUTH AFRICANS NEED THE WORLD
2. WHY SRI LANKA IS NO R2P SITUATION: SL PEACE SECRETARIAT HEAD

II. Reactions to Security Council Resolution 1769 on Sudan

1. DARFUR SUPPORTERS' ACTIONS LOOKING MORE LIKE WILLFUL NEGLECT
2. HOPE IN DARFUR
3. UN RESOLUTION FOR DARFUR: AN IMPORTANT BUT INSUFFICIENT FIRST STEP TOWARDS PROTECTING CIVILIANS

III. Other Reports of Interest: Northern Uganda

1. BERKELEY-TULANE INITIATIVE ON VULNERABLE POPULATIONS AND INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE: "RESEARCH NOTE ON ATTITUDES ABOUT PEACE AND JUSTICE IN NORTHERN UGANDA"
2. ENOUGH PROJECT: "LEVERAGE NEEDED IN NORTHERN UGANDA PEACE TALKS"

I. R2P in the News

The following article argues for the expansion of the R2P concept from genocide, war crimes, ethnic cleansing, and crimes against humanity to include the failure of governments to protect their populations from HIV/AIDS.

1. SOUTH AFRICANS NEED THE WORLD

By Stephen Lewis, Former UN Special Envoy for HIV/AIDS in Africa, Co-director of AIDS-Free World

Ottawa Citizen

16 August 2007

The dismissal of the deputy minister of health last week was a wretched day for South Africa. The country lost one of its strongest unifying forces in the struggle against the AIDS pandemic.

But as great a loss as the firing may be, it says far more about the president of South Africa and his minister of health than it does about Nozizwe Madlala-Routledge.

What outsiders perceive, yet again, is a betrayal of trust. It never seems to end. Every time there is evidence of progress, the president, Thabo Mbeki, and health minister, Manto Tshabalala-Msimang, combine to crush the glimmers of hope. In this instance, the Strategic Plan to combat AIDS, crafted by every sector of South African society, has been put in jeopardy.

After years of denial, the government finally abandoned the demented absurdity of beetroots and opted, instead, to roll out treatment in a fashion around which the entire country had rallied. The world looked upon it as a nearly miraculous reversal of fortune. But we were too quick to make assumptions. We underestimated the sheer willful malice of South Africa's minister of health. A vengeful personal vendetta has been unleashed and the deputy minister paid the price.

However, it's the president who appoints and fires members of cabinet. And as much as we may feel collective dismay at the behaviour of Ms. Tshabalala-Msimang, it's President Mbeki who lowered the axe.

(...)In the face of the record, the silence of the international community is truly bewildering. The leadership of the United Nations has no problem -- rightly -- eviscerating the president of Sudan over Darfur, or lacerating the Junta in Myanmar for the erosion of human rights, or condemning Iran for the export of weapons to Iraq and the possible development of nuclear arms.

Indeed, Kofi Annan, the former UN secretary general, during an election campaign in the United States, courageously declared the war in Iraq to be illegal. How then to explain the silence on South Africa? Why the double standard? Are lives lost to AIDS somehow less worthy than lives lost to conflict?

Two years ago, the countries that comprise the United Nations embraced, by consensus, a new principle called the Responsibility to Protect. It was rooted in the theory that if a country cannot or will not protect its own people from heinous violations of human rights, then sovereignty is forfeit, and the international community has the " responsibility to protect
."

That responsibility can be exercised in a variety of ways from economic sanctions to military intervention. But whatever the response, the motive is clear: no longer can the citizens of a country be sacrificed on the altar of destructive and deadly state behaviour.

Admittedly, Responsibility to Protect was forged in the shadow of conflict.

It was the Darfurs of this planet that prompted the governments of the world to take such an unusual step. Never before had the unlimited power of sovereignty been so frontally

challenged.

But I'd like to argue that it shouldn't stop with conflict. I'd like to argue that Responsibility to Protect must have a broader application; it should apply equally to AIDS. If a government, like that of South Africa, refuses to roll out anti-retroviral treatment to save the lives of millions of its people, then the international community has a responsibility to intercede. What is desperately needed at this moment in time is to make certain that the Strategic Plan is not derailed. There can be no retreat; there can be no bad faith.

I'm not suggesting an extreme response. But I am suggesting that if the firing of the South African deputy minister of health imperils the indispensable plan of treatment, prevention and care, then the world should take action. South Africa should no longer be invited to the World Health Assembly in Geneva, or to meetings of the Southern African Development Community (SADC) health ministers, or to the board meetings of the Global Fund to Fight AIDS, Tuberculosis and Malaria.

Such censure makes particular sense because the minister of health no longer authentically represents the people of South Africa in matters of health.

And if those penalties don't change government policy, then South Africa should experience the suspension of its membership in the World Bank, the International Monetary Fund and the World Trade Organization.

President Mbeki will scoff. But he's running against the universal tide of public dismay. That dismay should be turned into an international civil society campaign, pressing governments on the one hand, and the various South African embassies on the other to carry a message to the president of South Africa: the Strategic Plan must prevail. The world will not stand idle in the face of wanton, monumental death. (...)

Full article available at:

<http://www.canada.com/ottawacitizen/news/opinion/story.html?id=4a79fee3-13c7-4cc6-98b0-53eff8496693&p=2>

2. WHY SRI LANKA IS NO R2P SITUATION: SL PEACE SECRETARIAT HEAD

Prof. Rajiva Wijesinha, Secretary General- Secretariat for Coordinating the Peace Process

"Points of Clarification on International Crisis Group CEO Gareth Evans' Neelan Tiruchelvam Memorial Lecture"

31 July 2007

Throughout the lecture there was reference to indicators of a Responsibility to Protect situation being genocide, ethnic cleansing, war crimes and crimes against humanity or other similar mass atrocity crimes. At one point there is mention, in addition to these two factors, of systematic rape and starvation of children. Sometimes the reference is to

large-scale killing instead of genocide.

In addition to reacting effectively to such situations, the lecture also notes the need to prevent such situations from occurring, and talks about situations not only actually but also potentially involving the above factors, about a threat which is 'occurring or apprehended'.

Unfortunately the lecture does not go into detail about the manner in which potential situations are to be assessed, which is extremely unfortunate because, as any study of moral perspectives shows, deriving an 'ought' from an 'is' is not an easy exercise.

(...)None of the factors the lecture notes are or have been present in Sri Lanka. As the examples cited indicate, the concept of R2P arose in the context of genocide, where a country was divided almost absolutely on racial lines. This is not the case in Sri Lanka, where many Tamils have died at the hands of the LTTE, and indeed after the Ceasefire was in operation other Tamil parties and groups were in more danger from the Tamils than Sinhalese were.

(...)Sri Lanka does not encompass a murderous struggle of two races, as was the case in the cases cited. Rather, there are problems of political deprivation that must be addressed, as with for instance the aborigines in Australia. Ensuring that these are addressed in a context in which some politicians are recalcitrant does not lead to a R2P situation.

(...)Certainly there has been nothing even remotely approaching the genocide of the other countries that are distinguished above, without sufficient explication of the differences. To talk of potential genocide or an apprehended threat of genocide in Sri Lanka is excessively alarmist.

Full statement available at:

<http://www.defence.lk/news/20070801.pdf>

The above statement is in response to Gareth Evans' speech "The Limits of State Sovereignty: The Responsibility to Protect in the 21st Century" at the Eighth Neelam Tiruchelvam Memorial Lecture on 29 July 2007. The following is an excerpt from Mr. Evans' speech:

(...) Since the resumption of hostilities last summer, both the government and the LTTE have been careful to keep their military actions, and their terror and counter-insurgency operations, within certain limits. While more than 4,500 have been killed over the last 20 months, and both government and LTTE forces have repeatedly violated international humanitarian law, the recent violence has not crossed the boundary into mass atrocity or obvious genocide, war crimes, ethnic cleansing, or crimes against humanity. The violence has been contained just this side of full-scale disaster and internationally-recognized catastrophe.

(...)All this makes it hard to argue that Sri Lanka is anything but an R2P situation. It may not be one where large scale atrocity crimes- Cambodia-style, Rwanda-style, Srebrenica-style, Kosovo-style- are occurring right now, or immediately about to occur, but it is certainly a situation which is capable of deteriorating to that extent. So it is an R2P

situation which demands preventive action, by the Sri Lankan government itself, but with the help and support of the wider international community, to ensure that further deterioration does not occur. (...)

Full speech available at:

<http://www.crisisgroup.org/home/index.cfm?id=4967>

II. Reactions to Security Council Resolution 1769 on Sudan

On 31 July 2007, the UN Security Council unanimously adopted Resolution 1769 authorizing the deployment of a 26,000-strong United Nations-African Union force to Sudan's western Darfur region. The joint force is to be called the United Nations- African Union Mission in Darfur (UNAMID) and is authorized for an initial period of 12 months, pending extension at a later date. The following articles are reactions to Resolution 1769.

Security Council Resolution 1769 is available at:

<http://www.un.org/News/Press/docs/2007/sc9089.doc.htm>

1. DARFUR SUPPORTERS' ACTIONS LOOKING MORE LIKE WILLFUL NEGLECT

By John Morlino

San Francisco Chronicle

19 August 2007

(...)The recent announcement that a joint United Nations-African Union operation is headed to Sudan has been widely touted as a breakthrough. But such optimism, given the litany of previously unsuccessful U.N. resolutions, is not warranted. At best, the entirety of this fledgling peacekeeping contingent will not arrive for another year, leaving millions of defenseless Darfurians in imminent danger.

Far worse, the mission may never fully materialize, due to the likely reinterpretation of the plan's details by Sudan's president, Omar Hassan Ahmed al-Bashir, followed, inevitably, by his infamous stalling tactics. Case in point: Within hours of this latest "agreement," squabbling had already begun over the precise meaning of a mandate for prospective troops to protect civilians.

(...)Little wonder that, in his final interview after three frustrating years on the job, the U.N. coordinator of humanitarian aid for Sudan, Manual Arando Da Silva, described the

madness in this brutal corner of the world as "worse today than it has ever been," adding "there are no good guys there anymore."

It would be foolish to say that measures taken by the international community to end the crisis have failed, because that would imply a sincere effort had been made. Rather, this was a genocide nobody really wanted to stop - not the U.N., not the Bush administration, not even the heads of countries that make up the African Union. And while there was a time that the introduction of a powerful, multinational protection force could have halted the violence, that time has long since passed.

(...)Despite its pronouncement of bearing a "responsibility to protect," the U.N. Security Council has acted neither swiftly nor decisively to defend the innocents of this catastrophe. This, in large part, is due to the fact that its five permanent members (the other 10 chairs are filled on a rotating basis) retain absolute veto power over any pending resolution.

As a result, should any one of those five countries have a "special interest" in Sudan - such as Russia (arms sales), China (arms sales, oil, natural resources) or the United States (shared intelligence information for its "war on terror") - it can easily nullify any serious form of intervention. Consequently, the plethora of watered-down resolutions have been matched only by the number of times al-Bashir has reneged on his promise to stop the killing.

And while not legally bound to do so, council members further paralyze themselves by reiterating that any proposed intervention in Darfur must first meet the approval of al-Bashir, who has been clear he will not allow any meaningful interference. Similarly, NATO's involvement has been conspicuous by its absence. How this entity has managed to avoid condemnation for only going "all-in" when genocide occurs in the West is nothing short of bewildering. (...)

Full article available at:

<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2007/08/19/INLARICDT.DTL>

2. HOPE IN DARFUR

By Stephen Heidt

Foreign Policy in Focus Commentary

3 August 2007

On July 31, the UN Security Council (UNSC) passed resolution 1769 authorizing the creation of a 20,000-strong peacekeeping force to be deployed to the Darfur region of Sudan. This resolution has been hailed as a historic landmark on the way to fulfilling the responsibility to protect established in humanitarian law. Supporters of the resolution believe that this peacekeeping force will end the ongoing genocide, which has left 7,000 civilians dead each month.

(...)This resolution also reveals a vexing complexity in international humanitarian law and response. The UN was originally organized to preserve peace and international security, not protect innocents from genocide. Enshrined in the covenant was the principle of sovereignty by which a state has the supreme authority to manage affairs within its boundaries. This remains one of the more highly respected principles of international law. The United States uses this principle of sovereignty to justify staying outside the International Criminal Court. Sovereignty is also often a shield that genocidal regimes hide behind to continue practices of extermination and ethnic cleansing.

Increasingly, sovereignty directly conflicts with the growing body of international law referred to as the responsibility to protect. Over the last 15 years, the events of Bosnia and Rwanda, among other factors, have challenged the ironclad principle of sovereignty. In Rwanda, in particular, the norm of non-intervention suggested that nations should stand by and watch as Hutus killed hundreds of thousands of Tutsis with the most primitive weapons when a few thousand foreign troops tasked with ending the genocide could have saved uncountable lives with very little risk.

(...)Yet Resolution 1769 reflects current political realities by explicitly stating its respect for Sudan's sovereignty. This is a bit like telling the Nazis that they have a right to do whatever they want within their territory but they really need to stop gassing Jews. The fallacy at the heart of our failure in Darfur until now has been the idea that you can stop genocide and ethnic cleansing with the consent of those responsible, David Clark writes in *The Guardian*. It's almost as if Bosnia never happened. Subverting the inviolable concept of sovereignty in favor of the responsibility to protect will be a long-term process with many obstacles along the way. Until the newer concept becomes enshrined in international law and practice, responding to genocide will require working with some rather unsavory nations.

(...)The problem of response is compounded by a dearth of information about when and where genocides occur. Nations are generally a bit smarter than Nazi Germany: they don't keep records or publicize genocidal actions. Therefore, detecting initiation and culpability, as well as prosecuting genocide after the fact, has become a more difficult challenge. As long as political leaders can hide behind the twin shields of sovereignty and plausible deniability, response to genocide will be slow to non-existent.

Ultimately, the world needs a more rigorous monitoring system to reduce response time and build political will for action. The World Health Organization has a global disease monitoring program that is more or less uncontroversial since public health risks threaten everyone. A similar system should be developed to address problems of emergent genocide. The more information there is about ongoing genocide, the easier it will be to generate an adequate response. For the world community to shoulder its new responsibility to protect, it needs new tools and capabilities.

In the end, however, no amount of information will compensate for a lack of political will. UN Resolution 1769 is a small but important step in that direction.

Full article available at:

<http://www.fpif.org/fpiftxt/4449>

3. UN RESOLUTION FOR DARFUR: AN IMPORTANT BUT INSUFFICIENT FIRST STEP TOWARDS PROTECTING CIVILIANS

By Mark Malan

Refugees International

2 August 2007

The United Nations Security Council voted unanimously on the afternoon of July 31, 2007 to authorize and mandate the establishment of an African Union/UN Hybrid operation in Darfur, to be called UNAMID. UN Secretary-General Ban Ki-Moon hailed Resolution 1769 as "historic and unprecedented".

The validity of this judgment will not be known for many months. While the passage of Resolution 1769 is potentially a decisive step towards protecting the vulnerable people of Darfur, its language is deliberately vague on the force's actual mandate to do so. Ultimately, the real issue is whether or not UNAMID's Force Commander, General Martin Agwai, and the Troop Contributing Countries will be willing to risk the lives of their soldiers and police officers in order to prevent or stop killing and to end the gross abuses of human rights in Darfur.

(..)There may be some disappointment with the vagueness of the language of Resolution 1769 when it comes to the protection of civilians and the safeguarding of humanitarian space. Vagueness is the rule, however, rather than the exception with UN mandates. In virtually every peacekeeping lessons learned exercise since the early 1990s, force commanders have called upon their political masters, Council and governments of Troop Contributing Countries (TCCs) to provide them with a realistic and well-defined mandate, and the necessary means for its accomplishment. This has not happened to date; the fact is that decision-making in the Security Council is based on the need for consensus-building. Vagueness and incrementalism, rather than specificity, are inevitable outcomes of multilateralism where the limits and boundaries of an operation need to be obscured. In the case of Darfur, nothing less than the full-scale application of the Responsibility to Protect norm would provide a clear mandate for UNAMID. But this is apparently a bridge too far; the sovereignty of a state that has failed dismally to protect its own population has trumped international morality.

This is not to say that UNAMID will not be able to act decisively to protect civilians at risk and to pursue its other mandate objectives. The force will be three times larger and far more balanced in terms of mobility and other "force enablers" than the current AU mission. Moreover, the Force Commander's concept of operations and the Rules of Engagement issued to UNAMID are more important than the mandate itself, in terms of the potential for proactive use of military force to protect civilians. The Rules of Engagement are "UN Confidential" and thus not subject to as much political scrutiny and horse-trading as Security Council resolutions.

All in all, Resolution 1769 is good news; a decisive step in a tortuously long process of bringing suffering to an end in Darfur. It is a very necessary, but insufficient, element of the broader peace process. While the Council urged speedy deployment, the bulk of the force will not be in Sudan much before early next year, and the ultimate strength of UNAMID will depend on the willingness of UN member states to speedily contribute sufficient good quality personnel and equipment. As far as civilian protection is concerned, that will be in the hands of General Agwai and his troops, who will face the challenge of responding to threats in a hostile environment where there has been little peace and safety for more than four years.

Full text available at:

<http://www.reliefweb.int/rw/rwb.nsf/db900sid/RMOI-75PVFK?OpenDocument>

III. Other Reports of Interest: Northern Uganda

1. BERKELEY-TULANE INITIATIVE ON VULNERABLE POPULATIONS AND INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE: "RESEARCH NOTE ON ATTITUDES ABOUT PEACE AND JUSTICE IN NORTHERN UGANDA"

"Research Note on Attitudes about Peace and Justice in Northern Uganda" was published by the Berkeley-Tulane Initiative on Vulnerable Populations and the International Center for Transitional Justice (ICTJ). The Berkeley-Tulane Initiative on Vulnerable Populations is a joint project of the Human Rights Center at UC Berkeley and the Payson Center for International Development at Tulane University.

The full Berkeley-Tulane Initiative on Vulnerable Populations and ICTJ Report is available at:

<http://hrcberkeley.org/download/Uganda-survey-research-note.pdf>

2. ENOUGH PROJECT: "LEVERAGE NEEDED IN NORTHERN UGANDA PEACE TALKS"

"Let's Make a Deal: Leverage Needed in Northern Uganda Peace Talks" (August 2007) is written by John Prendergast for the ENOUGH Project. The ENOUGH Project is a joint initiative of the International Crisis Group and the Center for American Progress. "Leverage Needed in Northern Uganda Peace Talks" is the ENOUGH Project's 6th Strategy Paper.

The full ENOUGH Project report is available at:

<http://www.enoughproject.org/reports/pdf/ugandapeace.pdf>