

**R2PCS Listserv**

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Responsibility to Protect Engaging Civil Society

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I. R2P in the News

1. THE RESPONSIBILITY TO PROTECT: UNFINISHED BUSINESS

Gareth Evans

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G8 Summit 2006: Issues and Instruments

()What should be the response of the international community when faced with situations of catastrophic human rights violations within states, where the state in question claims immunity from intervention based on longstanding principles of national sovereignty? When, if ever, is it right for states to take coercive action, in particular military action, against another state for the purpose of protecting people at risk within it? Whether or not they are on this G8 agenda, these questions simply have to be addressed, and a workable international consensus reached as to how to answer them.

**The Conceptual Breakthrough.** The good news is that the international community, after years of wrangling, has more or less agreed on basic principles. We have seen over the last five years the emergence of a new international norm the **responsibility to protect** esp

- of really quite fundamental ethical importance and novelty in the international system, and which one that may ultimately become a new rule of customary international law. ()

**Unfinished Business.** The not so good news is that we still cannot be at all confident that the world will respond quickly, effectively and appropriately to new human rights catastrophes as they arise. There are at least three pieces of unfinished business to attend to.

First, there is a need to persuade the Security Council to embrace specific guidelines for the legitimate use of military force, at least in the context of R2P, if not more generally. The Canadian Commission argued strongly that this was an integral part of the package: if we cannot get general agreement about which are the kinds of cases that clearly demand coercive military action, and which are those where the responsibility to protect should be exercised with less shattering effect, there is a risk that the R2P principle will be misused, and that such consensus around it as there is at the moment will evaporate. (In the minds of many, R2P was misused in Iraq by those arguing, in the absence of other plausible rationales, that Saddams tyranny against his own people particularly his large-scale violence against the Kurds and Shiites many years earlier fully justified his military overthrow.)

What is needed and the High Level Panel and Secretary-General have agreed is the adoption of five basic criteria of legitimacy to test the validity of any case made for a coercive humanitarian intervention. These criteria are, in short, the seriousness of the harm being threatened (which would need to involve large scale loss of life or ethnic cleansing, happening here and now and not in the distant past, to prima facie justify military action); the primary purpose of the proposed military action (to halt or avert harm); whether there were reasonably available peaceful alternatives; the proportionality of the response; and the balance of consequences whether, overall, more good than harm would be done.

There will always be argument about how these criteria should be applied in particular situations. Darfur is a tricky case in point: there is no doubt about the scale of the catastrophe and the international community's responsibility to help resolve it, but coercive military force applied without Khartoum's agreement in effect, an invasion would almost certainly be counterproductive. It is reasonable to assume, however, that if agreed criteria had to be systematically addressed every time force was proposed, there would be a much better chance of consensus being reached in these cases, and less risk of the Security Council being bypassed.

Second, we have to solve the problem of capacity, ensuring that if we are to exercise the responsibility to protect, and in particular the responsibility to react to clear and present dangers, the required civilian and military resources are always available in the right amounts. In the case of military capacity, those countries with apparently massive resources are often preoccupied with battles and deployments elsewhere, or have the wrong kind of troop configurations and equipment to do the fast and flexible jobs most often required. Throughout Europe in particular, in country after country, the number of troops operationally deployable at any given time is a tiny percentage of the men and women in uniform. Elsewhere in the world, there may be no apparent shortage of boots able to go on the ground but there will be issues of training, command, control and communications capability, transportability and general logistic support. Unless these problems are tackled, R2P will often be more theoretical than real.

Last but not least, there is ever-recurring problem of generating the political will to act. For most countries this is hardest to find when military force is involved, even if the required capacity is there, but it is also needed to mobilize non-military coercive action like sanctions or bringing atrocity crime suspects before international criminal courts, and it is also a requirement even for utterly non-coercive preventive action, like targeted development assistance, which may nonetheless involve expensive resources and the commitment to apply them effectively. Finding the will to do anything hard, expensive or politically sensitive is just a given in public affairs, domestically or internationally. Its absence should be the occasion not for lamentation, but mobilization.

Part of the task here must be to generate much more widespread understanding and support for the responsibility to protect concept itself. It is becoming better known by policymakers and those in the media and elsewhere who influence them. But R2P is not yet a household term anywhere in the world and it needs to become one everywhere. We have to get to the point where, when the next conscience-shocking mass human rights violation comes along, the reflex response, of both governments and publics around the world, is to find reasons to act, not reasons to pretend it is none of our business. And that means some sustained campaigning by all those of us who take seriously - as we must, despite all the backsliding case after case the battle cry ever again! Our common humanity demands that the responsibility to protect be a permanent item on the global security agenda as a matter not just of principle but of operational practice.

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