



SUMMARY

- The RtoP principle rests on three pillars: the responsibility of the state to protect its population; the international community's responsibility to assist the state to fulfil its responsibility to protect; in situations where a state has manifestly failed to protect its population, the international community's responsibility to take timely and decisive action through peaceful diplomatic and humanitarian means and, if that fails, other more forceful means.
- Measures relating to RtoP must enjoy the consent of the state concerned except when they are mandated by the UN Security Council.
- »Prevention« is the single most important dimension of RtoP. Even in the most extreme case, coercive force should only be applied as a last resort.
- Developing countries are generally more interested in justice among, rather than within nations, more concerned about the root causes of terrorism, more interested in economic development than worried about aspects like nuclear proliferation, and more committed to securing national sovereignty than to promoting human rights.

The Responsibility to Protect (RtoP) - An Asian Perspective

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INTRODUCTION

In the aftermath of the Second World War and the horrors of the Holocaust, during which war crimes were committed on an unprecedented scale, the international community came together to declare »never again« and set up the United Nations. Governments agreed that they would cooperate to prevent genocide and punish the perpetrators. They agreed to enact new laws governing the use of force and protection of civilian populations, stating that the deliberate killing, displacement or mistreatment of non-combatants in international and domestic armed conflict and in peace time was criminally prohibited. They also pledged to encourage compliance with the law. Sadly, states and societies have largely failed to live up to these noble aspirations and ethical expectations. Genocide, war crimes, ethnic cleansing and crimes against humanity have recurred with disturbing frequency after 1945, and despite voicing horror at the crimes, the international community more often than not failed to prevent them or to adequately protect the victims. These crimes were not limited to any one part of the world. They affected West and East, South and North. South Asia was witness to genocide in 1971 in what was then East Pakistan (now Bangladesh). South East Asia witnessed conscience-shocking inhumanity when the Khmer Rouge seized power in Cambodia in 1975 and unleashed unspeakable horrors on the people of that country. Europe saw renewed ethnic cleansing and crimes against humanity in Bosnia-Herzegovina in the mid 1990s. Rwanda in Africa was the arena for large-scale genocide during the same period.

The principle of the Responsibility to Protect (RtoP) has its roots in a number of initiatives. These include the rights and duties enumerated in the 2000 Constitutive Act of the African Union (Articles 4[h] and 4[g]); the concepts of »human security«, »comprehensive security« and »cooperative security« pioneered in the Asia/Pacific region; the notion of »sovereignty as responsibility« developed in the 1990s by Francis Deng, then the Special Representative of the UN Secretary-General on internally displaced persons and subsequently articulated by Secretaries-General Kofi Annan and Ban Ki-Moon; and the 2001 report of the International Commission on Intervention and State Sovereignty (ICISS).¹ One of the primary initiatives that led to the

¹ See Francis Deng et al., *Sovereignty as Responsibility: Conflict Management in Africa*

adoption of the World Summit Outcome Document in 2005 was the report of the UN Secretary-General's High-Level Panel on Threats, Challenges and Change released a year earlier. The Asia/Pacific region was strongly represented on the Panel, which was chaired by former Prime Minister of Thailand, Anand Panyarachun. Six of its fifteen members were from the Asia/Pacific region (Gareth Evans, Australia; Sadako Ogata, Japan; Yevgeny Primakov, Russia; Qian Qichen, China; Nafis Sadik, Pakistan; and the author of this paper). The Panel emphatically «endorsed the norm that there is a collective international responsibility to protect, exercisable by the Security Council authorising military intervention as a last resort, in the event of genocide and other large scale killing, ethnic cleansing or serious violations of international humanitarian law which sovereign governments have proved powerless or unwilling to prevent».² The High-Level Panel's recommendations on RtoP were included in revised form in the submissions made to the heads of state and government at the 2005 World Summit by the then UN Secretary-General Kofi Annan in his report «In Larger Freedom».³

MEANING AND SCOPE

After several months of detailed consultation and negotiation conducted at the highest levels of government and the UN, world leaders unanimously adopted the principle of the «Responsibility to Protect» at the UN World Summit in 2005. Paragraphs 138 to 140 of the Summit's Outcome Document declared:

138. Each individual state has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.

(Washington DC: Brookings Institution Press, 1996); Pranee Thiparat (ed.), *The Quest for Human Security: The Next Phase of ASEAN?* (Bangkok: Institute of Security and International Studies, 2001), Sorpong Peou (ed.), *Human Security in East Asia: Challenges for Collaborative Action* (London: Routledge, 2009), International Commission on Intervention and State Sovereignty, *Responsibility to Protect* (Ottawa: IDRC, 2001).

² High Level Panel on Threats, Challenges and Change, *A More Secure World: Our Shared Responsibility*, A/59/565, 2 December 2004, para. 203.

³ Kofi Annan, *In Larger Freedom: Towards Development, Security and Human Rights for All*, A/59/2005, 21 March 2005.

139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter of the United Nations, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organisations as appropriate, should peaceful means be inadequate, and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.

*140. We fully support the mission of the Special Adviser of the Secretary-General on the Prevention of Genocide.*⁴

The following year, the UN Security Council unanimously reaffirmed «the provisions of paragraphs 138 and 139 of the 2005 World Summit Outcome Document regarding the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity» in Resolution 1674 (2006) (para. 4). The Security Council also recalled its earlier reaffirmation of these provisions in the preamble of Resolution 1706 (2006) on the situation in Darfur (Sudan) and unanimously affirmed RtoP once again in Resolution 1894 (2009).

As agreed by UN member states, the RtoP principle rests on three equally important and non-sequential pillars:

- First, the responsibility of the state to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity, and from their incitement (para. 138).

⁴ A/60/L.1, 20 September 2005, paras. 138–140. See *Report of the Secretary-General on Implementing the Responsibility to Protect* A/63/677, 12 January 2009 (hereafter *Implementing the Responsibility to Protect*).

- Second, the international community's responsibility to assist the state to fulfil its responsibility to protect (para. 139).
- Third, in situations where a state has manifestly failed to protect its population from the four crimes, the international community's responsibility to take timely and decisive action through peaceful diplomatic and humanitarian means and, if that fails, other more forceful means in a manner consistent with Chapters VI (peaceful settlement), VII (enforcement) and VIII (regional arrangements) of the UN Charter (para. 139).⁵

No single pillar is more important than the others. RtoP is equally dependent on all three.

In 2009, the UN Secretary-General submitted a report on »implementing the responsibility to protect«.⁶ The Secretary-General's report was subsequently discussed by the General Assembly in a plenary debate held in July 2009. It would be useful to recall what India's Permanent Representative to the UN had to say on 24 July 2009: »It has been India's consistent view that the responsibility to protect its population is one of the foremost responsibilities of every state.« He stressed that »Willingness to take Chapter VII measures can only be on a case-by-case basis and in cooperation with relevant regional organisations with a specific proviso that such action should only be taken when peaceful means are inadequate and national authorities manifestly fail in discharging their duty.« In emphasising the need to be realistic, he stated: »We do not live in an ideal world and therefore need to be cognisant that creation of new norms should at the same time completely safeguard against their misuse. In this context, responsibility to protect should in no way provide a pretext for humanitarian intervention or unilateral action.« And he concluded thus: **»Even a cursory examination of reasons for non-action by the UN, specially the Security Council, reveals that in respect of the tragic events that were witnessed by the entire world, non-action was not due to lack of warning, resources or the barrier of state sovereignty, but because of strategic, political or economic considerations of those on whom the present international architecture had placed the onus to act. The key aspect therefore is to address the issue of willingness to act, in which context a necessary ingredient is real reform of the decision making bodies in the UN like the Security Council in its permanent membership«.**⁷

⁵ A/60/L.1, 20 September 2005, paras. 138–140. See *Implementing the Responsibility to Protect*.

⁶ *Implementing the Responsibility to Protect*.

⁷ UNGA. (2009) »Statement by Ambassador Hardeep Singh Puri, Permanent Representative of India to the United Nations at the General Assembly Plenary Meeting on Implementing the Responsibility

INTERNATIONAL LAW

RtoP is based on well-established principles of existing international law. The crimes to which the concept relates are already enumerated in international law. Under existing international law, states already have obligations to prevent and punish genocide, war crimes and crimes against humanity; assist states to fulfil their obligations under International Humanitarian Law; and promote compliance with the law. In addition, the mechanisms through which RtoP can be implemented are consistent with existing international law. Paragraphs 138 and 139 of the World Summit Outcome Document identify four principal ways in which RtoP can be implemented, each of which is consistent with existing international law:

- Primary responsibility rests with the state itself. This is the cornerstone of sovereignty.
- The international community may provide assistance, such as capacity-building, mediation and diplomacy. Such assistance may only be provided at the request and with the express consent of the state concerned and is consistent with the state's sovereign right to make bilateral and multilateral agreements.
- The UN Security Council may take measures in a manner consistent with Chapters VI, VII and VIII of the UN Charter.
- The General Assembly may make recommendations on the basis of Article 11 of the Charter, and other organs of the UN may act in accordance with the Charter.
- Paragraph 139 of the World Summit Outcome Document explicitly envisages a role for regional arrangements. Such roles must be consistent with the charters, constitutions or guiding principles of the regional arrangement concerned and with the UN Charter.

RtoP is consistent with the principle of non-interference enumerated in the UN Charter (Article 2 [7]), which states that: »Nothing contained in the present Charter shall authorise the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII«. Article 2(7) affirms that the principle of non-interference »shall not prejudice« the application of enforcement measures by the UN Security Council acting under Chapter VII of the Charter. **Thus, measures relating to RtoP must enjoy the consent of the state concerned except when they are mandated by the UN Security**

to Protect«, A/63/PV.99 (24 July 2009)

Council acting under Chapter VII of the Charter.

RtoP does not, therefore, impose any new legal obligations upon states or widen the legal scope for interference in the domestic affairs of states. Instead, it calls upon states only to implement existing legal commitments and requires that the international community act in conformity with international law, principally the UN Charter.

THE CENTRALITY OF PREVENTION

RtoP emphasises the prevention of genocide, war crimes, ethnic cleansing and crimes against humanity.

Prevention is the single most important element of RtoP. In the World Summit Outcome Document, member states explicitly agreed that »this responsibility [to protect] entails the prevention of such crimes« (para. 138) and identified four specific elements of prevention:

- Preventing the incitement of the four crimes.
- Supporting the UN in establishing an early warning capability.
- Assisting states under stress before crises and conflicts break out.
- Supporting the mission of the Special Adviser to the Secretary-General on the prevention of genocide.

Although the use of force to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, properly authorised by the UN Security Council, is a component of RtoP and is sometimes necessary and legitimate, the international community must pursue peaceful solutions to the extent possible. As agreed by world leaders in 2005, the use of force for RtoP purposes is permitted only when the state is manifestly failing to protect its population from the four crimes and peaceful means are proving inadequate (para. 139). Although the use of force might protect victims in the short-term, there can be little doubt that in the long-term only peaceful measures will prevent the occurrence of the four crimes and provide comprehensive protection.

PILLAR ONE: THE RESPONSIBILITY OF THE STATE

Pillar One of RtoP refers to the state's primary responsibility to protect its own population from the four crimes. The primary responsibility to protect rests with the state and applies to all populations under a state's care, and not just citizens (para. 138). At the 2005 World Summit, states unambiguously declared

that »we accept that responsibility and will act in accordance with it« (para. 138). **This includes the responsibility to prevent the commission of the four crimes and their incitement.** The principle of the state's primary responsibility to protect was reaffirmed by the UN Security Council and has been widely endorsed. In his 2009 report on implementing RtoP, the UN Secretary-General noted that »no single part of the world has a monopoly on good ideas or successful practices« when it comes to implementing Pillar One of RtoP. He identified a wide range of measures that states might take to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity, drawing on a range of experiences from around the world. He also called for more research to be undertaken on why some societies plunge into mass violence whilst their neighbours remain relatively stable, and why some armed conflicts descend into genocide, war crimes, ethnic cleansing and/or crimes against humanity whilst others do not. Important in this regard are processes of state-to-state and region-to-region learning through which states and societies benefit from one another's experience. There is no single template that states can use to implement their primary responsibility to protect and the approach taken must be sensitive to the needs, interests and preferences of each community.

PILLAR TWO: INTERNATIONAL ASSISTANCE AND CAPACITY-BUILDING

The second pillar of RtoP refers to the international community's duty to assist states in meeting their RtoP obligations through a combination of persuasion and partnership.⁸ **It also shares with Pillar One an emphasis on preventive measures.**⁹ According to the 2005 World Summit Outcome Document, assistance under Pillar Two of RtoP could take one of four forms:

- Encouraging states to meet their responsibilities under Pillar One.
- Helping them to exercise this responsibility.
- Helping them to build their capacity to protect.
- Assisting states »under stress before crises and conflicts break out«.¹⁰

Measures designed to strengthen sovereignty, by helping prevent state failure, strengthen national resilience and resolve internal conflicts, significantly reduce the likelihood that RtoP-related crimes will be committed in the future. The primary purpose of

⁸ *Implementing the Responsibility to Protect*, para. 28.

⁹ *Implementing the Responsibility to Protect*, p. 9.

¹⁰ *Implementing the Responsibility to Protect*, p. 15.

Pillar Two is to galvanise the international community into assisting states to build and maintain the capacity necessary to address potential problems well before they become manifest in the commission of one or more of the four crimes.

Measures under Pillar Two are undertaken with the express consent of the state involved, usually in the form of an invitation or agreement. Among a range of relevant measures, the UN Secretary-General's recommendations for implementing Pillar Two included the use of the UN and regional arrangements to support states where requested. This may involve:

- Provision of technical and financial support to states that are enacting preventive measures.
- Use of education on human rights to prevent future crimes.
- Assistance with combating sexual violence.
- Special emphasis on women and children in conflict.
- Focus on building learning processes between regional organisations and the UN; building civilian capacities to prevent the four crimes.
- Provision of military assistance to states as necessary.
- Assistance with establishing impartial and effective security and judicial systems within states.
- Targeted development assistance.
- Support for the establishment of safe and secure dialogue within states.
- Post-conflict peacebuilding measures to prevent future crimes.¹¹

Regional arrangements can play a particularly important role in marshalling the resources, technical capacity and political will necessary to provide appropriate and effective assistance to states. It should be emphasised that the precise composition of relevant regional arrangements and activities will be different in each region, taking account of regional circumstances and norms.

PILLAR THREE: TIMELY AND DECISIVE RESPONSE

Pillar Three, which is set out in detail in paragraph 139 of the World Summit Outcome Document, is an integral part of the RtoP and is as important as Pillars One and Two.¹² Responding to the failure to protect the people of Rwanda from the 1994 genocide, Pillar Three imposes a political commitment that the international community will, when required, assume

the responsibility to protect. There are two stages to this responsibility. First, as the opening line of paragraph 139 makes clear, »the international community, through the United Nations, has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity« (para. 139). There are a range of peaceful activities that the UN may undertake which are not necessarily specifically enumerated in Chapters VI and VIII of the Charter, but as these two chapters are identified, it is worth mentioning their content. Chapter VI relates to the »Pacific Settlement of Disputes« and its provisions include:

- Parties to conflicts likely to have an impact on international peace and security should seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice. (Article 33[1])
- The UN Security Council may investigate any matter it thinks will infringe on international peace and security and may call on the parties to settle their disputes by peaceful means. (Article 33[2] and 34)
- Any member state may bring a dispute to the attention of the UN General Assembly or Security Council (Article 35). Chapter VIII of the UN Charter regulates regional arrangements. These may engage in the full range of activities short of enforcement, which is the exclusive domain of the UN Security Council. The UN Secretary-General has specifically explained that the wording of paragraph 139 suggests that the intent is for such initiatives to be an ongoing responsibility employing peaceful means.¹³

The second stage of Pillar Three refers to the use of a wider range of collective measures, both peaceful and coercive, by the international community in the event that the following two conditions prevail:

- Peaceful means have proved inadequate, and;
- National authorities are »manifestly failing« to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

In these situations, paragraph 139 of the Document suggests that the UN Security Council, acting in accordance with Chapter VII of the UN Charter, should be prepared to take collective action »on a case-by-case basis and in cooperation with relevant regional

¹¹ *Implementing the Responsibility to Protect*, paras 28–48.

¹² *Implementing the Responsibility to Protect*, para. 49.

¹³ *Implementing the Responsibility to Protect*, para. 49.

organisations as appropriate». It is therefore for the members of the UN Security Council, acting under the authority bestowed upon it by the UN Charter, to determine whether the two conditions mentioned above prevail, and to decide upon appropriate measures. As such, it is important to underline that the RtoP principle that legitimises coercive interference in the domestic affairs of states is circumscribed by the provisions of the UN Charter. RtoP does not permit any alteration to the Charter's provisions in this regard.

PREVENTIVE DIPLOMACY AND THE ROLE OF REGIONAL ARRANGEMENTS

In pursuing the RtoP agenda, diplomacy is without doubt one of the most significant preventive tools. When used effectively, preventive diplomacy can prevent crises from escalating and forestall the need for the UN Security Council to become involved. Most cases of genocide, war crimes, ethnic cleansing and crimes against humanity have political roots and therefore merit political solutions. Third party mediation is often the best way to build trust between the parties in disagreement. A good example of preventive diplomacy in action was its use by the African Union envoy, Kofi Annan, in response to post-election violence in Kenya in 2008. Dispatched at the behest of the African Union, Annan brokered an agreement between the parties in Kenya that brought the violence to an end, prevented the escalation of crimes against humanity, and forestalled the need for the Security Council to adopt more intrusive and coercive measures. The African Union was able to accomplish this because it had established a framework for preventive diplomacy and a capacity to deploy distinguished and trusted mediators.¹⁴ Similarly, rapid diplomatic engagement by ECOWAS and the African Union in 2009 prevented instability in Guinea from escalating. **It is clear, then, that regional arrangements are particularly well suited to using diplomacy to resolve crises before they escalate.** Timely and effective diplomacy requires speed, proximity, trust and knowledge of the context; and regional bodies are best placed to achieve this.

It is important to stress that the use of diplomacy by regional arrangements and the UN to prevent occurrence of genocide, war crimes, ethnic cleansing and crimes against humanity, was *explicitly* agreed by heads of state and government at the 2005 World Summit. Paragraph 139 of the World Summit stated that, »the international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means,

¹⁴See Elizabeth Lindenmayer and Josie Lianna Kaye, »A Choice for Peace? The Story of Forty-One Days of Mediation in Kenya«, International Peace Institute, August 2009.

in accordance with Chapters VI and VIII of the Charter of the United Nations, to help protect populations from war crimes, ethnic cleansing and crimes against humanity«

Articles 52–54 of the UN Charter clearly support a role for regional arrangements in maintaining international peace and security, but there remains some question as to what forms that role should take. To help frame the discussion, during its January 2010 presidency of the UN Security Council, China presented a concept paper in which it argued that the UN and regional organisations should »respond collaboratively« to the increasing demand for deployment of UN peacekeeping missions.¹⁵ How can this idea be translated into practice? The Asia/Pacific could buttress its ability to respond to worst-case scenarios by coordinating and enhancing its humanitarian and peacekeeping capabilities. Many countries in the region are major contributors of personnel, finances, and equipment to UN peacekeeping missions. Groups such as the ARF could consider how to use this »comparative advantage« to augment the region's contribution to its own and other regions' security. The sub-region that contributes most personnel and equipment to United Nations peacekeeping, namely South Asia, represented by SAARC, is unfortunately not at present able to exploit this capacity to the benefit of the international community because lack of political consensus, in particular the continuing »stand-off« between India and Pakistan, precludes formulating of a common position on such vital aspects.

CREATION OF A STANDING CAPACITY AT REGIONAL AND GLOBAL LEVEL

One specific idea that merits serious consideration is the establishment of a standing capacity that could be available for deployment, at the request of the host state, regional organisations or the UN, to crises both inside and outside the region. More specifically, this could take the form of a rapidly deployable standing capacity for dealing with natural disaster response and humanitarian relief. The ability to rapidly fund, organise, deploy and coordinate humanitarian operations strengthens stability, saves lives and increases the chances of success. Practitioners and academics agree that the success of humanitarian operations, which might include military peacekeepers, police, and civilian personnel, is dependent on rapid deployment. Yet rapid deployment is often difficult to achieve. The UN, for example, considers a 90-day

¹⁵See »Letter dated 4 January from the Permanent Representative of China to the United Nations addressed to the Secretary-General,« <http://www.china-un.org/eng/zt/scchina201001/P020100112268106189187.pdf>.

gap between a mission being mandated and deployed to be an acceptable norm. Yet in that space of time, thousands of lives might be lost, the political context might change, and the credibility of the UN and its peacekeepers irrevocably undermined. Moreover, in practice, very few UN operations are deployed to sanctioned capacity within 90 days, further compounding the problems. These facts highlight the problems associated with »stand-by« arrangements. Although an improvement on the earlier entirely ad-hoc approach to force generation and responsible for a shortening of deployment times, the UN's stand-by system has to date generally failed to meet its own, very modest, 90-day deployment target for all but the smallest missions.

ADDRESSING MISUNDERSTANDINGS

It would be appropriate to round off this analysis by addressing the more serious misunderstandings surrounding the principle of RtoP. The major misunderstandings currently doing the rounds are: that this is just another name for the Western world's doctrine of humanitarian intervention; that at least in extreme cases, RtoP almost always means the use of military force; that RtoP applies only to the weak and friendless countries, never to the strong ones; that RtoP is not just about mass atrocity crimes, but about the full range of human protection issues that call for international attention; and most damaging of all, that the invasion of Iraq in 2003 was an example of application of RtoP and a foretaste of things to come; reinforced to some extent by NATO actions in Libya, and what was proposed but not eventually agreed on Syria..

The traditional meaning of »humanitarian intervention« is coercive military action for humanitarian purposes. But RtoP is about much more than that. It is about taking effective preventive action through encouragement and support being given to the host government and its people to help themselves. »Prevention« is the single most important dimension of RtoP. Even in the most extreme case, coercive force should be applied except as a last resort. The misunderstanding that the concept will not be applied against the »strong«, for example one of the »Permanent Five«, has to be seen in context of the reality of the international system; it is inconceivable that the Security Council would approve an action against a veto-holding member. Moreover, it is also reality that some countries are militarily too strong for this principle to be applied against them. **The other misunderstanding, that RtoP covers the full range of human protection issues, may have resonance in context of the fact that people do need protection from the horror**

and misery of any form of conflict and from human rights abuses. But the collective wisdom of world leaders has restricted the application of the principle to preventing genocide, war crimes, ethnic cleansing and crimes against humanity. Few misunderstandings have done more to undermine global acceptance of the RtoP principle than the coalition invasion of Iraq in 2003. It was not an application of this principle; it was in fact a classic example of how not to apply RtoP: without Security Council authorisation and in the absence of any credible claim of commission of the four crimes. The invasion was clearly illegal and illegitimate. And the jury is still out on NATO actions against Libya.

LOOKING AHEAD

Compared with the industrialised Western countries, developing countries are generally more interested in justice among, rather than within nations, more concerned about the root causes of terrorism such as poverty, illiteracy and territorial grievances, more interested in economic development than worried about aspects like nuclear proliferation, and more committed to securing national sovereignty than the promotion of human rights. In the UN General Assembly debate on the subject, almost all speakers from the developing world reaffirmed the 2005 consensus, expressed opposition to efforts to reopen it, and **insisted that its scope be restricted to the specified four crimes of genocide, war crimes, ethnic cleansing and crimes against humanity.**

The divide between the Western world and the developing countries is somewhat starkly and possibly ironically highlighted by the fact that three major instances where intervention could plausibly have been justified on strong humanitarian grounds, since they protected people seriously at risk from the actions of their own governments, were categorised as intrusions on sovereignty. The first instance was India's action in December 1971 in East Pakistan where large-scale genocide and displacement were occasioned by the brutal suppression of the local population by the national authorities. The second case was Cambodia, where Vietnam's actions brought to a halt the atrocities inflicted on the population from 1975 to 1978 by the Khmer Rouge. The third case was Tanzania's overthrow in 1979 of the murderous Idi Amin regime in Uganda. One cannot but cynically conclude that the Western world labelled these instances as aggression because the actions were initiated by developing countries.¹⁶

¹⁶Gareth Evans, »The Responsibility to Protect, Ending Mass Atrocity Crimes Once and for All«, The Brookings Institution, 2008; pp. 23–25.

The emergence of the RtoP norm and its acceptance by the World Summit in 2005 takes the international community closer to ending mass atrocities crimes once and for all. But determined action by all those committed to it would be required to realise that dream. Not just national and international leaders, but also strategic analysts, members of the academic community and even well-informed ordinary citizens in every corner of the globe can do much to influence the future course of events.

Equally important will be the need to restore the credibility of the United Nations as an organisation by providing legitimacy to the Security Council and its decisions through restructuring to conform to the realities of the 21st Century. Namely, by according membership in the permanent category to Africa and South America, as also to the other deserving candidates from the developing and developed world.

ABOUT THE AUTHOR

Satish Nambiar served in the Indian Army for almost 40 years and retired as the Deputy Chief on 31 August 1994. His positions included First Force Commander and Head of Mission of the UN forces in the former Yugoslavia, Adviser to the Govt of Sri Lanka on peace process, Member of the UN High Level Panel on »Threats, Challenges and Change«, and others. He received the VIR CHAKRA for bravery in battle, and the Padma Bhushan on Republic Day 2009 for contributions to the national security discourse.

REFLECTION GROUP MONOPOLY ON THE USE OF FORCE

The Reflection Group »Monopoly on the use of force 2.0?« is a global dialogue initiative to raise awareness and discuss policy options for the concept of the monopoly for the use of force. Far from being a merely academic concern, this concept, at least theoretically and legally remains at the heart of the current international security order. However it is faced with a variety of grave challenges and hardly seems to reflect realities on the ground in various regions around the globe anymore. For more information about the work of the reflection group and its members please visit: http://www.fes.de/GPol/en/security_policy.htm

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