

THE RESPONSIBILITY TO PROTECT: WHOM FROM WHAT?



Undoubtedly the responsibility to protect is a hot item. Endorsed and explained in two detailed paragraphs (138 and 139) of the unanimously adopted Outcome Document of the 2005 World Summit, it has since been reaffirmed by the General Assembly (resolution 60/1) and the Security Council (resolutions 1674 (2006) and 1706 (2006)), and the subject of a major speech (SG/SM/11701) and a major report (A/63/677) of UN Secretary-General Ban Ki-moon.

The General Assembly is expected to take up the Secretary-General's report, which lays out a comprehensive strategy for implementing the concept, in what promises to be a lively debate at some point in the next two months. Civil society networks for researching and advocating the responsibility to protect have sprung up in many parts of the world, as have any number of books, articles, and commentaries on the subject. It has acquired, as well, the ultimate symbols of trendiness: an acronym (or two really, RtoP for the UN and R2P for most everyone else) and a devoted academic journal, *Global Responsibility to Protect*. Not bad for a term first coined by Gareth Evans and the International Commission on Intervention and State Sovereignty (ICISS) less than eight years ago.

Notoriety, however, guarantees neither universal popularity nor conceptual clarity. The dual notion – that states have an inherent, sovereign responsibility to protect their populations from harm and that the international community has a parallel responsibility to help – clearly has wide appeal. The very breadth of this appeal, however, has opened the concept to widely divergent interpretations. The deceptively simple query, who should protect whom from what?, has elicited a variety of responses.

By and large, civil society activists have embraced RtoP in its most ambitious guise: as encompassing the whole range of security and welfare goals envisioned by a shift of policy orientation from state to human security. People, it is said, should be protected from the ravages of climate change, HIV/AIDS, and natural disasters, among other plagues. The 2001 ICISS report spoke of “situations of compelling human need” and of the consequences of “state failure,” painting a canvas of historic proportions, but leaving the hard policy choices and distinctions to others.

Governments of all stripes, not surprisingly, have been far more circumspect, inclined to paint within the numbers, as they chart much stricter boundaries within the bold ICISS panorama. The surface consensus in 2005 was possible, it seems, in part because the answer to the “from what?” question was restricted to four kinds of atrocity crimes and violations already well-embedded in international law, namely genocide, war crimes, ethnic cleansing, and crimes against humanity. In 2005, the assembled heads of state and government unambiguously pledged to prevent those four crimes and violations, as well as their incitement. This was, and remains, a historic commitment. Identifying and implementing ways to discourage such atrocity crimes would be a singular accomplishment with wide human rights, humanitarian, political, and security implications. To try to extend the concept to cover other calamities, cautioned the Secretary-General in his 2009 report, “would undermine the 2005 consensus and stretch the concept beyond recognition or operational utility.” That the UN has long been prone to do just that, turning one simple and straightforward concept after another into hopelessly holistic mush, should be ample warning to resist such attempts this time around.

At the same time, the Secretary-General has underscored the need for an approach that is as deep in terms of the range of tools that should be brought to the task as it is narrow in the scope of ills to be targeted. His report outlines three pillars – state responsibility, international assistance, and, if necessary, international response – that would support a system-wide effort by the United Nations system, as well as by regional and sub-regional bodies, civil society partners, and most importantly, sovereign states themselves. Prevention is stressed, along with early warning and assessment. The 2005 Summit called for “timely and decisive” response should national authorities be “manifestly failing” to meet their protection responsibilities regarding the four specified crimes and violations. That response, the Secretary-General underscores, should draw on the whole spectrum of Chapter VI, VII, and VIII measures, as appropriate in each case, and be undertaken within the framework of the UN Charter. To the understandable concern that major powers would abuse RtoP by citing it as a pretext for intervention undertaken for ulterior reasons, the Secretary-General has pointed out that the best way to discourage such misapplications of the term is to fully develop the kind of well-defined, narrowly focused, and Charter-based conception and strategy that he has advocated.

The question of whom should be protected can be answered simply: everyone. States are to protect their “populations,” not just their citizens, according to the Summit Outcome Document. Presumably this should cover populations in occupied territories, as well as those in areas controlled by or threatened by armed groups. States are not always the ones committing the atrocities. In Sierra Leone, for instance, it was the RUF, not the government, that adopted the policy of severing the limbs of innocent civilians. And it required international armed intervention to help that government regain sovereign control over its territory.

The strength of RtoP lies in its political currency, in its capacity to move and inspire people, and, over time, even governments and international organizations. It will require discipline and vigilance to ensure that asset does not become a liability. It is in the coming months, during RtoP’s infancy, that its future character will be defined. With care, we can ensure that this UN-brokered principle, at least, is off to a good start toward realizing its full potential in the years ahead.

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