



Fw: R2P Debate Key Points & Upcoming Meetings

SGCentral to: Maria Chacon

Sent by: Jill Annitto

04/09/2012 11:15 AM

----- Forwarded by Jill Annitto/NY/UNO on 04/09/2012 11:15 AM -----

Fw: R2P Debate Key Points & Upcoming Meetings

Yulya Vanetik to: SGCentral

04/09/2012 11:12 AM

Dear Central,

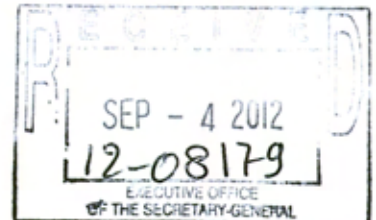
Please see below for logging. Many thanks.

Regards,
Yulya

Yulya Vanetik
Personal Assistant to the Deputy Secretary-General
Executive Office of the Secretary-General
NL-3003
ext: 3-6246

ACTION DSG/JA

COPY -



----- Forwarded by Yulya Vanetik/NY/UNO on 04/09/2012 11:12 AM -----

From: "Adams, Simon" <sadams@gc.cuny.edu>
To: "eliasson@un.org" <eliasson@un.org>
Cc: "pakfar@un.org" <pakfar@un.org>, "vanetik@un.org" <vanetik@un.org>
Date: 31/08/2012 06:02 PM
Subject: R2P Debate Key Points & Upcoming Meetings

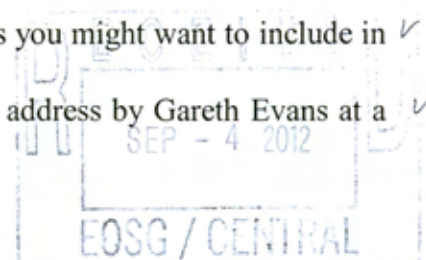
Your Excellency,

It was a pleasure to speak with you today and I would like to express my deepest gratitude for your steadfast commitment to the development of the Responsibility to Protect and your support for the Global Centre for the Responsibility to Protect.

With regards to the Interactive Dialogue on R2P that will be held in the General Assembly on Wednesday 5th September, as requested we have attached the following documents which may be of use to when drafting your speech:

- Key Talking Points: A list of some key talking points you might want to include in your speech.
- "R2P and RWP After Libya and Syria": The keynote address by Gareth Evans at a

SC#108/003; SC#108/002



recent event the Global Centre for R2P co-hosted with the Brazilian government in Rio de Janeiro. The speech explains our position on the Brazilian "Responsibility While Protecting" initiative very clearly.

Summary of the SG Report on R2P: A one page summary of the Report of the Secretary-General that we distributed to member states.

We are thrilled that you will be able to introduce Gen. Romeo Dallaire at the 2nd annual Gareth Evans lecture to be held on Thursday, 18 October 2012. The lecture and a private reception will take place in the auditorium at Scandinavia House, located at 58 Park Avenue, 38th Street, New York. It will begin at 5:15pm and we will appreciate it if you could speak for about 10 minutes, introducing the lecture as well as Gen. Dallaire. The lecture will end at approximately 6:30-6:45. The Global Centre will then host a small private reception for a few Permanent Representatives and some of our honored guests on the 2nd floor. We will send you some more information about the lecture as we get nearer to the date, and obviously could provide some talking points if you would like.

We are also looking forward to the Secretary-General's possible attendance at the annual Ministerial Roundtable for R2P. Please find attached an invitation sent to member states and the concept note for the Ministerial Roundtable. The Ministerial Roundtable will take place on:

Friday, 28 September 2012, 8:15 am - 9:30 a.m.

Breakfast available at 8:00 a.m.

W Hotel New York

541 Lexington Avenue, Entrance between 49th and 50th Streets

New York, N.Y. 10022

I deeply appreciate your commitment that if the SG is unable to attend, that you will come in his place. Please do not hesitate to contact me should you require any additional information on this event.

Again, it was a pleasure to meet you today and I look forward to working with your office around these and other issues. Please don't hesitate to contact me if I can ever be any assistance to you with regard to R2P.

Simon

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Key Talking Points

Interactive Dialogue on the Responsibility to Protect

5th September 2012

1. Preventive and non-coercive measures are the most preferable options to addressing mass atrocity crimes.
2. Timely and decisive response is required when prevention has failed and peaceful measures are deemed inadequate.
3. Pillar III action can help national governments to meet first pillar responsibilities.
4. The Pillar framework is not sequential and measures do not fall exclusively under one pillar.
5. All pillars can be considered to be both prevention and response. Prevention must not be seen as distinct from response; they are mutually reinforcing and elements of both should be integrated into any effective future strategy.
7. There must be consistency in application of the Responsibility to Protect.
8. The international community needs to speak with one voice; the success of coercive and non-coercive measures requires political unity in the design, consistency and operational application.
9. Sovereignty as responsibility and prevention are at the core of the Responsibility to Protect. But sovereignty can not become an excuse for inaction or indifference in the face of mass atrocities.

R2P and RWP After Libya and Syria

Keynote Address by Professor the Hon Gareth Evans, Co-Chair, Global Centre for the Responsibility to Protect, to GCR2F/FGV/Stanley Foundation Workshop, Responsibility While Protecting: What's Next?, Rio de Janeiro, 23 August 2012

We have to acknowledge that the UN Security Council paralysis over Syria, and at least some of the circumstances which have brought that about, have regenerated some serious international scepticism about the whole Responsibility to Protect (R2P) project. For example, I was asked this week by Chatham House to respond to the question 'Surely the Libya backlash is so powerful it has set your agenda back to 2001?!' Issues have been raised which do have to be addressed. The Brazilian 'Responsibility While Protecting' (RWP) proposal has made an important contribution to doing just that, and today's discussion – designed to help further refine and develop the RWP concept, especially in the context of next month's UNGA debate on R2P – could not be more timely.

But before we plunge into the detail of where we are now, and where we go next, it's worth reminding ourselves – and the sceptics – where we have come from. Does anyone, anywhere, really want to go back to where we were a decade and more ago? It wasn't a good place:

- Even after the horrors of the Holocaust and all the many developments in international human rights law and international humanitarian law that followed World War II, catastrophic mass atrocity crimes were a regular occurrence behind sovereign state walls, with men, women and children being murdered, tortured, raped, starved or forcibly expelled for no other reason than their race, ethnicity, religion, nationality, caste, class or ideology.
- When it came to reacting to cases like Cambodia, East Pakistan, and Uganda in the 1970s and '80s, and Rwanda, Bosnia and Kosovo in the '90s, there were no commonly accepted principles at all as to how the international community should react. By the '90s there was at least a debate about the issues but the appropriate policy response was a consensus-free zone.
- The only debate was about 'humanitarian intervention': the so-called 'right to intervene' militarily. Hardly anyone talked about prevention or less extreme forms of engagement and intervention. The options were 'Send in the Marines' or do nothing. The global North often rallied to the 'right to intervene' cry, but the global South was understandably deeply reluctant – after all its unhappy historical experience – to accept the idea that big powers had the right to throw their weight around in this way. And so we had all the division or inaction, or both, in the face of catastrophe that we can all remember.

It was to find a way through this agonizing lack of consensus – this consensus-free zone – that the concept of the responsibility to protect was born: initiated in the 2001 report of the International Commission on Intervention and State Sovereignty (ICISS); and then, after a long, complicated and often cantankerous diplomatic process, endorsed unanimously by the UN General Assembly sitting at head of state and government level at the 2005 World Summit.

Does anyone really want to throw away what was achieved in 2005, and has been further achieved since? In my judgement that has been three big things – at the conceptual level, the institutional level, and the political level – and again I think we should remind ourselves, and the sceptics, what those have been.

Conceptually, the big breakthrough was to replace the impossibly divisive language of 'humanitarian intervention' (HI) with the inherently non-confrontational language of 'responsibility to protect', and recast the content of the debate accordingly.

There are crucial differences between R2P and the 'right of humanitarian intervention', and it is a fundamental mistake to maintain, as some still do, that R2P is no more than old humanitarian intervention wine in a new bottle:

- First, R2P is primarily about prevention, whereas humanitarian intervention is only about reaction.
- Second, R2P is about a whole continuum of reactive responses – from diplomatic persuasion, to pressure, to non-military measures like sanctions and International Criminal Court process, and only in extreme, exceptional and last resort cases military action, whereas humanitarian intervention is *only* about military reaction.
- And third, R2P is about a wide range of actors, [1] starting very much with the sovereign state itself where the problem exists, and others in the international community able and willing to assist that state prevent mass atrocities, whereas humanitarian intervention focuses only on the role of those able and willing to apply coercive military force.

For supporters of R2P to continue to use 'humanitarian intervention' language, even just to describe the really sharp

end of the R2P response continuum, is to blur these critical distinctions between HI and R2P.

Since 2005, there has been a long period of international discussion and argument about the meaning, scope and limits of R2P, in a variety of contexts, and without going into detail here, I think it is fair to say that as a result of those many debates – about Darfur, the Congo, Georgia, Myanmar, Sri Lanka, Kenya, Guinea and others as well – there is a lot more understanding of what R2P is and isn't about than there was at the outset.

Institutionally, we've come a long way, with the UN Joint Office of the Special Advisers on Genocide and the Responsibility up and running and making its voice increasingly heard (a trend which I hope will continue under the Office's new leadership); the steady development of other 'focal points' within key governments and regional organizations – officials whose day job it is to worry about early warning and effective response to new situations as they arise; the continuing effort to professionalise mediation resources; the gradual consolidation of the new international criminal justice system around the ICC, not associated with R2P as such, but an important element in the R2P response toolbox; and the attention that is going into ensuring that militaries have the proper force configurations, doctrine, rules of engagement and training to assist with mass atrocity response operations should they be invited by a host government or mandated by the Security Council to do so.

Politically, I think it is fair to say that – even taking into account the controversy about Libya and the paralysis on Syria which I will come to in a moment – the story since 2005 has been one of steady progress. When one looks closely at the contributions to the major debates in the UN General Assembly in 2009 and 2010 – and even in 2011 when anxiety about the conduct of the Libyan intervention was alive and well – it is impossible to deny that there is now a remarkable degree of acceptance of the basic principles of R2P, a steady increase in the number of instances in which those principles have been explicitly invoked, and now practically no voices at all challenging its foundations.

Secretary General Ban Ki-Moon may have been gilding the lily a little in September last year when he said that 'No government questions the principle', but he was not exaggerating at all when he said that now 'Our debates are about how, not whether to implement the Responsibility to Protect.'

But, and it's a very big 'but' indeed – to come now directly to the subject of today's discussion – we have to acknowledge that a good deal of the debate about how to implement R2P in practice, at least at the sharp end, when prevention has manifestly failed and violence is actually occurring – is still very fierce and very divisive.

From the high point of consensus and cooperation we reached in the Security Council in February and March last year, we have now plunged to a very low point indeed. I and many others hailed the Council resolutions on Cote d'Ivoire, and especially Libya, as the coming of age of R2P, a textbook example of the doctrine working as it was supposed to when prevention failed, saving lives imminently at risk, and at last decisively cutting across centuries of state practice treating sovereignty almost as a license to kill. If the Council had acted as decisively and robustly in the 1990s as it did in Libya, the lives of 8,000 others would have been saved in Srebrenica and 800,000 in Rwanda.

But then, over Syria, despite a rapidly climbing death toll and a situation – even before the present descent into full scale civil war – manifestly worse than that which had prompted the military intervention in Libya, the Security Council found itself almost completely paralysed, barely able to agree even on a condemnation of the violence and a diplomatic mission to address it, and totally unable to agree on any more robust response, even non-military measures like targeted sanctions, an arms embargo, or reference to the International Criminal Court (ICC) which had been the first line of response in Libya.

So why did consensus fall away, and what can be done to re-establish it?

Part of the reason for hesitation in Syria – and certainly the unwillingness of anyone in the Council to *begin* to argue for direct coercive military intervention – is that the geopolitics of the Syrian crisis are very different: complex internal sectarian divisions with potentially explosive regional implications, anxiety about the democratic credentials of many of those in opposition, no Arab League unanimity in favour of tough action, a long Russian commitment to the Assad regime, and a strong Syrian army meaning that any conceivable intervention would be difficult and bloody.

But there's more to it than that. We have to explain why it is that it took until February this year for the Security Council to even formally resolve to condemn the violence, and why there has been no consensus whatever even about non-military coercive measures. The truth of the matter is that consensus *has* simply evaporated in a welter of recrimination about how the NATO-led implementation of the Council's Libya mandate in UNSCR 1973 "to protect civilians and civilian populated areas under threat of attack" was actually carried out. We have to frankly recognize that there has been some infection of the whole R2P concept by the perception, accurate or otherwise, that the civilian protection mandate granted by the Council, with no dissenting voices, was manifestly exceeded by that military operation.

Leading the critical charge over the last year has not just been Russia – about whose motivations some cynicism is possible, because of its close economic and military connections with the Syrian governing regime – and China, which has always been highly sensitive on the sovereignty/intervention issue, but of course the whole 'BRICS' group (Brazil, Russia, India, China and South Africa), all of whom were sitting on the Security Council last year – in an interesting foretaste of the kind of Security Council membership more representative of current world power balances that many of us have been arguing for.

I have not understood the BRICS complaints as being about the initial military response – attacking from the air Libyan air force infrastructure, and the ground forces advancing on Benghazi. Although there were some grumbles about the West ignoring a last-minute ceasefire offer from Gaddafi, the more general view was that he had by his conduct and language over preceding days demonstrated his total unreliability, and that a show of actual force was necessary to stop an imminent massacre and demonstrate the international community's resolve. Certainly I understand that

neither Russia nor China, who did not veto the Libyan 'all necessary measures' resolution 1973, nor the other BRICS who abstained on this vote, were under any illusions about the nature of the action which would follow in those first few days.

The real complaints related to the days, weeks and months which came after the initial attacks, when it became rapidly apparent that the three permanent member states driving the intervention (the US, UK and France, or 'P3') would settle for nothing less than regime change, and do whatever it took to achieve that.

Particular concerns have been that the interveners rejected later ceasefire offers that may have been serious, and which certainly should at least have been explored; struck fleeing personnel that posed no immediate risk to civilians; struck locations that had no obvious military significance (like the compound in which Gaddafi relatives were killed); and, more generally, comprehensively supported the rebel side in what rapidly became a civil war, ignoring the very explicit arms embargo in the process.

The P3 does have some strong answers to these criticisms. If civilians were to be protected house-to-house in areas like Tripoli under Gaddafi's direct control, they say, that could only be by overturning his whole regime. If one side was taken in a civil war, it was because one-sided regime killing sometimes leads (as now in Syria) to civilians acquiring arms to fight back and recruiting army defectors. Military operations cannot be micromanaged with a '1,000 mile screwdriver'. And a more limited 'monitor and swoop' concept of operations would have led to longer and messier conflict, politically impossible to sustain in the US and Europe, and likely to have produced many more civilian casualties.

And yet. These arguments all have force, but my understanding is that the P3 resisted debate on them at any stage in the Security Council itself, and other Council members were never given sufficient information to enable them to be evaluated. Maybe not all the BRICS are to be believed when they say that, had better process been followed, more common ground could have been achieved. But they can be when they say they feel bruised by the P3's dismissiveness during the Libyan campaign – and that those bruises will have to heal before any consensus can be expected on tough responses to such situations in the future.

It is directly to address these concerns that Brazil has advanced its 'Responsibility While Protecting' idea. I have seen this as involving – when stripped down to its bare essentials – three core propositions:

- R2P, as endorsed in 2005 and as refined since, remains a valuable normative advance, not least in its strong focus on prevention of, as well as reaction to mass atrocity crimes, and whatever the issues involved in some aspects of its practical implementation, the baby should not be thrown out with the bathwater: RWP is designed to complement R2P, not replace it;
- Before acting under Pillar III of R2P, and under Chapter VII of the UN Charter, to endorse any use of coercive military force, more formal and systematic attention needs to be paid by the Security Council to relevant prudential criteria or guidelines; and
- After such action has been taken, there should be enhanced UN Security Council procedures to monitor and assess the manner in which such mandates are interpreted and implemented.

In the form in which RWP was originally floated by the Brazilian President in the UNGA general debate last September, and more particularly in the subsequent 'Elements' note circulated by Brazil in November (which still remains the only formal expression of the concept) these basic propositions became a little lost sight of, with a lot of immediate attention – and criticism – focusing on two specific themes (which I notice the Stanley program note for today's workshop continues to describe as 'major issues' in the RWP proposal):

- the proposition that the three R2P pillars were temporally *sequential* in their operation, which suggests that Pillar III is only about more forceful measures and that the state's own responsibility ceases to be central once the wider international community becomes engaged; and
- the proposition that there was a need to exhaust all peaceful means before considering the use of force, which could be read as institutionalizing inaction, by requiring interminable waiting for lesser measures like sanctions to be tried and fail.

But my understanding is that, in the various forums in which RWP has been discussed this year the debate has moved on, with the view being accepted that:

- as clearly spelt out in the latest SG's report, the three R2P pillars should not be viewed as sequential: rather all remain equally applicable, albeit with different emphases reflecting changing circumstances; and
- on the 'last resort' question, it is not a matter of waiting for sanctions or whatever to fail, but rather making a reasonable judgement based on all available evidence that no lesser measures could succeed in halting or averting the threat of atrocity crimes.

So let me focus my remaining remarks on what I would regard as the two major substantive new elements in the RWP proposal, and the two big themes on which I think we should concentrate in our discussion today – viz. first, a set of criteria or guidelines to be fully debated and taken into account before the Security Council mandates any use of military force; and secondly, for some kind of enhanced monitoring and review processes which would enable such mandates to be seriously debated by all Council members during their implementation phase.

Criteria. One way of approaching the criteria issue, which I certainly favour, would be not just to single out, as the November 2011 Brazilian Elements note does, two or three criteria, but to return directly and deliberately to the so-far-unimplemented recommendations of my ICISS Commission and the reports which followed it, from the High Level Panel on Threats Challenges and Change, and from Secretary-General Kofi Annan himself, which are that the Security

Council apply *five specific prudential guidelines* whenever considering *any* authorization of coercive military action (not just in R2P cases) under Chapter VII of the Charter:

- First, seriousness of risk: is the harm occurring or being threatened of such a kind and scale as to justify *prima facie* the use of force?
- Second, primary purpose: is the use of force primarily intended to halt or avert the threat in question, whatever secondary motives might be in play for different states?
- Third, last resort: has every non-military option been fully explored and the judgment reasonably made that nothing less than military force could halt or avert the harm in question?
- Fourth, proportionality: are the scale, duration, and intensity of the proposed military action the minimum necessary to meet the threat?
- And fifth, balance of consequences: will those at risk ultimately be better or worse off, and the scale of suffering greater or less? Will more good than harm be done?

I think it's important to note at the outset that while the immediately recognisable pedigree of these criteria is to be found in Christian 'just war' theory going back to the early Middle Ages, these themes do resonate equally with other major world religious and intellectual traditions, including Islam, Judaism, Buddhism and Hinduism and Sikhism, and there is a whole body of literature describing this.[2]

For all the universal values which such benchmarks clearly seem to embody, talk of adopting them as any kind of a basis for Security Council decision making tends to generate an immediate backlash, with states saying 'rigid criteria' would be impossible to apply given all the variability and fluidity of real world situations, and that (and this language is in the latest SG's report) 'templates' are to be avoided. But these objections in my view greatly overstate the case, and sometimes simply conceal a preference for behaving in a completely *ad hoc* fashion, in accordance with perceptions of immediate national interest involved rather than the real objective needs of the situation on the ground.

I would envisage the criteria I have listed being described simply as 'guidelines' to which 'the Security Council should have regard' in making decisions under Chapter VII authorising the coercive use of military force. If the Security Council were able to reach an informal understanding among its members to so act case by case, this would be almost as useful as embodying such guidelines in a formal Security Council or General Assembly resolution, and would avoid what could possibly be a painful and protracted debate about abstractions.

What would actually be achieved by the Security Council 'having regard' to these guidelines? Clearly they could not *guarantee* consensus in any particular case, but by requiring systematic attention to all the relevant issues – which simply does not happen at the moment – they would hopefully make the achievement of consensus much more likely. Would anyone really want to argue that any one of these guidelines are irrelevant or wrong-headed, and should be ignored or overridden – that military force should be used although it *wasn't* demonstrably necessary to halt or avert the harm in question, that *disproportionate* force should be used, or that military force should be used though it would do more *harm* than good?

It is not a matter of satisfying a court of *law* about any of these guidelines -- last resort, proportionality, the balance of consequences and so on. The courts in question are of rationality, public opinion, and peer group understanding – and if a strong, credible and articulate case cannot be publicly made and defended under all five of the headings I have mentioned, then scepticism and cynicism about the proposed use of force in any particular case is likely to be justified.

There is one further virtue in spelling out these guideline. It would make it abundantly clear from the outset just how different coercive military action is to other response mechanisms, and how many hurdles should have to be jumped before ever authorizing it: that it is something that should not be contemplated as a routine escalation, but only in the most extreme and exceptional circumstances.

If such criteria were able to be agreed, and applied with some rigour and consistency to new situations as they arise, it should be a lot easier to avoid the "slippery slide" argument which has contributed to the Security Council paralysis on Syria, making some countries unwilling to even foreshadow non-military measures like targeted sanctions or ICC investigation because of their concern that military coercion would be the inevitable next step if lesser measures failed.

Process. I will be much briefer about the issue of an appropriate process for monitoring and reviewing use of force mandates once granted, although this is an issue which again tends to generate more heat than light.

To the extent that an R2P issue arises in the context of a Protection of Civilians (POC) situation, as it occasionally will – as with Cote d'Ivoire last year, where what was involved was adding extra dimensions of force authorisation to an already mandated UN mission – then the issue of monitoring and reviewing the mandate in question is unlikely to be problematic: the performance of the mission is already regularly scrutinised under existing Security Council procedures.

The trickier situation is when an explicit R2P mandate like that in Libya under UNSCR 1973 is given, which leaves the responsibility to implement it to member states acting otherwise than through a specifically endorsed and DPKO-organised mission. The member states in question will almost by definition be large and powerful, and may be unlikely – as was the P3 with Libya – to welcome regular close scrutiny of what they are doing. But they should be prepared to accept, at least informally, the obligation to report back to the Council at regular intervals, describing fully how the mandate in question is being interpreted and applied, and the progress of the situation on the ground, allowing full debate in the process on whether the continuance of the mandate in its present form is justified, and whether its terms require modification in some way.

Again it is not so much a matter of holding member states in some way legally to account: it's a matter of recognising that unless the courts of rationality, public opinion and peer group understanding can be broadly satisfied, then

destructive cynicism and scepticism about these interventions is bound to grow. And the prospect of being able to repeat them in future, with the support and authority of the Security Council, which is what a rule based international order requires, will be negligible.

The initial reaction to the Brazilian RWP proposal by the P3 powers was dismissive – 'these countries would want all those delaying and spoiling options, wouldn't they' – but has begun to soften, as it must. They have begun to realize, as they must, that if an un-vetoed majority vote is ever going to be secured again for tough action in a hard mass atrocity case, even action falling considerably short of military action, the issues at the heart of the backlash that has accompanied the implementation of the Libyan mandate, and the concerns of the BRICS states in particular – voicing as they do the concerns of a much wider swathe of the developing world – simply have to be taken seriously.

The completely effective implementation of R2P is going to be work in progress for some time yet. Renewed consensus on how to implement it in the hardest of cases in future is going to be hard to achieve, and will take time to achieve: it will certainly come too late to be very helpful in solving the present crisis in Syria.

But I think it can be achieved, with the RWP proposal, further refined and developed, playing a critical role as a circuit-breaker. I don't think there is any policymaker in the world who fails to understand that if the Security Council does *not* find a way of genuinely cooperating to resolve these cases, working within the nuanced and multidimensional framework of the R2P principle, the alternative is a return to the bad old days of Rwanda, Srebrenica and Kosovo.

That means either total, disastrous, inaction in the face of mass atrocity crimes, or action being taken to stop them without authorization by the Security Council, in defiance of the UN Charter and every principle of a rule based international order. After all that has been achieved over the last decade, that would be heartbreaking. And, congenital optimist as I am, I believe it won't happen.

[1] More specifically, R2P involves three distinct 'pillars' of responsibility, as articulated in the SG's report of 2009. The primary responsibility is that of the sovereign state itself to its own people – one that is absolute, unconditional, and continuing – not to perpetrate or allow atrocity crimes on its territory (the so-called 'Pillar I'). The second responsibility is that of others in the international community – including other states and intergovernmental organizations – to assist states to discharge that primary responsibility, if they are willing to be so assisted ('Pillar II'). The third responsibility is that of others – if prevention fails, and a state is manifestly failing to protect its own people – to then provide that protection by every means prescribed, and circumscribed, by the United Nations Charter ('Pillar III').

[2] Summarised in footnote 26 to page 140 of my book *The Responsibility to Protect* (Brookings, 2009)

Report of the UN Secretary-General on the Responsibility to Protect: *Timely and Decisive Response*

Executive Summary

The 2012 report of the UN Secretary-General on the Responsibility to Protect addresses the concerns stemming from the increased application of R2P to situations during the past two years and the challenges ahead for the emerging norm, particularly with regard to Pillar 3. Following the recent experiences of Libya, Côte d'Ivoire and Syria the report assesses the lessons learned and systematically covers the wide range of measures available to operationalize R2P. While stressing the preference for preventive measures and non-coercive tools, it emphasizes the importance of timely and decisive action once prevention has failed. The report details the non-sequential nature of the Pillar framework and the intrinsic relationship between prevention and response. The UN Secretary-General (UNSG) welcomes the 2011 Brazilian initiative *Responsibility while Protecting (RWP)* in the report and calls for greater accountability in R2P implementation. He stresses the need for consistency in application and calls upon member states to demonstrate more unity and understanding of the different pillars to ensure greater legitimacy and credibility of future actions. Similar to previous reports, the 2012 report highlights the role that partners can play in assisting the UN in halting mass atrocity crimes while underlining the importance of early warning mechanisms and preventive action.

Key Points

1. Preventive and non-coercive measures are the most preferable options to addressing mass atrocity crimes.
2. Timely and decisive response is required when prevention has failed and peaceful measures are deemed inadequate.
3. Pillar III action can help national governments to meet first pillar responsibilities.
4. The Pillar framework is not sequential and measures do not fall exclusively under one pillar.
5. All pillars can be considered to be both prevention and response. Prevention must not be seen as distinct from response; they are mutually reinforcing and elements of both should be integrated into any effective future strategy.
6. There is a need for greater management and oversight of R2P implementation.
7. Member states must show greater consistency in application.
8. The international community needs to speak with one voice; the success of coercive and non-coercive measures requires political unity in the design, consistency and operational coordination in application.

Chapter Summary

I. Genesis of the Responsibility to Protect

- The three pillars are not sequential; they are of equal importance and must be consistent with the principles, purposes and provisions of the UN Charter.
- Mass atrocity crimes frequently stem from identity-related conflicts. Risks to populations are increased through the accentuation of the inherent differences between national, ethnic, racial and religious groups, including through: discrimination, marginalization, exclusion, stigmatization, de-humanization and denial of fundamental human rights.
- The most effective form of prevention is the constructive management of diversity to promote: good governance, equality, inclusivity, respect for human rights/freedoms and observance of democratic values and practices.

II. The Implementation Strategy

- In the 2005 World Summit Outcome Document, world leaders allowed for a wide interpretation of the responsibility to protect and for the UN Security Council (UNSC) to have an extensive range of coercive and non-coercive measures to use.
- A measure can be deemed to be both preventive and response and can fall under different pillars, e.g. In Guinea (2009) the use of Commissions of Inquiry (CoI) is an example of Pillar II (international assistance to prevent further crimes) and Pillar III (international community responding in a timely and decisive manner).
- Peacekeeping is based upon the principle of consent, assists political transitions and works to build national protection capacity and is therefore an example of a Pillar II measure.
- The concepts of *Protection of Civilians* and R2P have separate and distinct prerequisites and objectives.
- Responsibility is an ally of sovereignty: collective action by the international community to protect populations is unnecessary when a state fulfills its primary obligations to protect its own population.

- 5 lessons learned from experiences:
 1. Each situation is distinct.
 2. Double standards and selective application must be avoided.
 3. There is increasing awareness of differences among the pillars.
 4. An effective and integrated strategy will include a mix of preventive and response elements.
 5. Partners assisting the UN are crucial.

III. Tools Available for Implementation

- **Chapter VI** range of non-coercive responses which can be undertaken via the good offices of UN or partners:

Negotiation	Conciliation	Resort to regional agencies or arrangements
Enquiry	Arbitration	Other peaceful means
Mediation	Judicial settlement	
- **Non-Coercive Measures**

Preventive Diplomacy	Fact-finding Missions and Commissions of Inquiry
Special Envoys/Eminent Persons	Monitoring/Observer Missions
Public Advocacy	International Criminal Court
Measures to tackle incitement	
- **Coercive Measures**

<u>Article 41</u>	
Asset freezes	Luxury goods and weapons embargoes
Travel restrictions	Limiting diplomatic contact
Credit/aid suspension	Ban from international sports
Restriction of other financial services	Restriction of scientific cooperation
<u>Article 42</u>	
Establishing security zones	Establishing a military presence on land and at sea for protection/deterrence purposes.
Imposing no-fly zones	

IV. Partners Available for Implementation

- UN organs/bodies with protection mandates:

Human Rights Committee	OHCHR
Committee against Torture	UNICEF
Committee on the Elimination of Racial Discrimination (CERD)	UNHCR
- Regional Organizations: EU, AU, ECOWAS, IAS, NATO, OSCE have recently acted to protect populations.
- Humanitarian agencies: play a critical role in responding in a timely and decisive manner.
- Civil Society: can mobilize support for R2P implementation on a national and international level.

V. 'Responsibility while Protecting'

- There is a need to ensure that R2P is operationalized in a responsible, sustainable and effective manner.
- Effective implementation requires accurate and well-informed analysis, consistent reporting and avoidance of false alarms.
- Assessments are required at every stage of implementation in a prudent manner without political interference.
- RWP still stresses the need for early identification, engagement and preventive action.
- An early, flexible response strategy requires dynamic assessment, focusing on trends and developments.
- Libya: The UNSC authorized force after it concluded that peaceful measures had proved inadequate. The CoI found that NATO had "conducted a highly precise campaign with a demonstrable determination to avoid casualties."
- Use of Force:
 - Prior to enforcement measures, necessary to assess the likely consequences of action and inaction.
 - Assessment must be timely and should facilitate and never inhibit effective responses.
 - Past experiences must not inhibit action in the present.

VI. Conclusion

- Prevention and decisive early action saves lives and reduce the need for more coercive action to protect populations.
- The 2012 Informal Interactive Dialogue is an opportunity to discuss Pillar III experiences and the relationship between all pillars.



Kingdom of the Netherlands



Invitation

Ministerial Meeting on the Responsibility to Protect

Responsibility to Protect:
Deepening our Commitment to Mass Atrocity Prevention

Friday, 28 September 2012, 8:15 am - 9:30 a.m.

Breakfast available at 8:00 a.m.

W Hotel New York

541 Lexington Avenue, Entrance between 49th and 50th Streets

New York, N.Y. 10022

The Minister for Foreign Affairs and International Cooperation of the Republic of Botswana, H.E. Mr. Phandu T. C. Skelemani, Minister for External Relations of the Federative Republic of Brazil, H.E. Mr. Antonio de Aguiar Patriota, the Minister for Foreign Affairs of Denmark, H.E. Mr. Villy Søvndal, and the Minister for Foreign Affairs of the Kingdom of the Netherlands, H.E. Dr. U. Rosenthal, in association with the Global Centre for the Responsibility to Protect, cordially invite your Foreign Minister to a ministerial level breakfast meeting on: **"Responsibility to Protect: Deepening our Commitment to Mass Atrocity Prevention."**

The Responsibility to Protect has come a long way since the World Summit in 2005. The commitment to protect populations from genocide, war crimes, crimes against humanity and ethnic cleansing has now become an operational reality. The advocacy of ministers from all regions of the world has been vital in shifting the debate on Responsibility to Protect. At this meeting of a cross-regional group of ministers we would like to share ideas and discuss how we can operationalize the preventive dimension of the Responsibility to Protect, and deepen our understanding of effective national and international responses to the threat of mass atrocities.

The accompanying background note seeks to inform this discussion.

We would appreciate the honour of the participation of your Foreign Minister in this important meeting of ministerial colleagues and would be grateful for your early response – preferably by 21 September 2012.

Please be advised that this event is by invitation only. For further information about the meeting and to RSVP please contact: **Savita Pawnday at the Global Centre for the Responsibility to Protect** via email at spawnday@gc.cuny.edu or telephone at +1 212-817-2104.





Concept Note for Ministerial Roundtable Discussion **Responsibility to Protect: Deepening our Commitment to Mass Atrocity Prevention**

28 September 2012, 8:15 am - 9:30 am

W Hotel, New York

Introduction

In 2005 at the United Nations World Summit, states unanimously committed to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity by adopting the Responsibility to Protect. The Responsibility to Protect affirms an individual state's primary responsibility to protect its population from these four crimes along with the collective international responsibility to take appropriate measures to help protect populations at risk.

In recent years the international community has accepted the Responsibility to Protect both conceptually and in practice as demonstrated by three debates in the United Nations General Assembly and multiple UN Security Council resolutions. In Kenya and Guinea sustained engagement by regional and international actors using a range of measures, including mediation and targeted sanctions, limited the further commission of mass atrocity crimes. However, such success stories are far too rare.

The UN Secretary-General Ban Ki-Moon has declared 2012 to be the year of prevention. Prevention is at the core of the Responsibility to Protect. The aim of this year's Ministerial Roundtable is to discuss how we can operationalize the preventive dimension of the Responsibility to Protect, and deepen our understanding of effective national and international responses to the threat of mass atrocities.

Prevention of mass atrocities has a structural and long term character. It is grounded upon national policies that enhance good governance, security, human rights and promote socioeconomic development. The international community can support countries in the development or implementation of such policies. Prevention also has a short term operational component. National governments, regional organizations and/or the international community should take measures to respond to imminent threats of mass atrocities and avoid further escalation.

Capacities, institutions and cooperation

The structural and long-term component requires sustained capacity building, institutional development and adequate policies for managing diversity and reducing inequalities between people, regions, and genders. It includes ratification of international human rights treaties, an accountable security sector, conflict resolution mechanisms, promotion of good governance, creating a climate of tolerance and mutual respect. However, our understanding of the relationship between these long-term policies and the preventive aspects of the Responsibility to Protect remain underdeveloped.

Central question: What national institutions and policies are required for the long-term prevention of mass atrocities?

Operational prevention of mass atrocities

Preventing escalation and responding to imminent threats of mass atrocities involves measures that cross the spectrum from persuasive to intrusive, and from less coercive to more coercive. These measures could be implemented by national governments themselves, regional organizations and the international community at large, including the UN Security Council.

The measures include:

- Early warning, assessment and monitoring for mass atrocity crimes.
- Mediation, preventive diplomacy, fact finding missions, human rights monitors, economic incentives, political mediation, legal arbitration, etc.
- Commissions of inquiry, targeted sanctions, arms embargoes, referrals to the ICC, diplomatic isolation, etc.

Central question: How can the international community make use of these measures in a timely and decisive manner to avoid crisis escalation and prevent mass atrocities?

'Responsibility while Protecting'

The 'Responsibility while Protecting,' initiative introduced by the President of Brazil during the UN General Debate in September 2011, states that 'prevention is always the best policy.' It also notes that an emphasis on preventive diplomacy reduces the risk of armed conflict and the human costs associated with it. As the Secretary-General affirmed in his report on 'Timely and Decisive Response,' "'Responsibility while Protecting' calls for vigilance and sober judgment in identifying where threats of magnitude exist and are growing," it also presupposes knowledge, understanding and careful reflection.

Central question: What tools should the international community utilize to foster prevention and avoid both inaction and precipitous coercive measures?

Focal Points Initiative

An important first step for member states could be the appointment of a high-level government official as a national Focal Point for the Responsibility to Protect. Launched at the Ministerial Roundtable in 2010, Focal Points are responsible for the promotion of the Responsibility to Protect at the national level and will work to support international cooperation through a global network. Their appointment is an important step that governments can take to improve intra-governmental and inter-governmental efforts to prevent mass atrocity crimes.

Format of the discussion

The discussion will begin with breakfast at 8am and the official meeting commences at 8.15am. It will be held under Chatham House rule. Participants are free to use the information received, but neither identity nor the affiliation of the speakers, nor of any other participant, may be revealed. Participation is limited to a small regionally-balanced group of ministers (+2). This invitation is transferable only to vice-minister or national equivalents. Civil servants may attend the meeting as observers only. Some observers from countries and regional organizations will also be invited.

The meeting will be opened by short addresses from the co-hosts to be followed by a roundtable discussion. We would highly welcome your intervention during the discussion and would appreciate short comments of a maximum of three minutes. No translation facilities will be available at the meeting.