

# Actualizing the Responsibility to Protect

43rd Conference on the  
United Nations of the Next Decade

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## Executive Summary

On September 16, 2005, the World Summit at the United Nations unanimously affirmed the “responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.”<sup>1</sup> That action was a politically important step in establishing the significance of the doctrinal Responsibility to Protect (R2P). Putting R2P into practice presents a separate and even more difficult set of challenges.

Because R2P addresses issues of sovereignty, developing countries are particularly sensitive to the way in which the idea is implemented. In many parts of the world, there is wariness if not outright resistance. However, at the Stanley Foundation’s 43rd conference on the United Nations of the Next Decade, held in the Convento do Espinheiro in Évora, Portugal, between June 20 and June 25, 2008, there were clear indications that many developing countries—some living with quite recent atrocities at home or in neighboring countries—are embracing R2P in the spirit of “never again.”

The two R2P paragraphs in the final 2005 Summit Outcome Document put forth the three core pillars of this concept:

1. The responsibility of each individual state to protect its population from genocide, war crimes, ethnic cleansing, and crimes against humanity and their incitement.
2. The responsibility of the international community to undertake peaceful collective action to help states to exercise this responsibility, including concerted long-term capacity-building efforts and short-term preventive diplomacy.
3. The responsibility of the international community to be prepared to take collective action in a timely and decisive manner through the UN Security Council, in accordance with the UN Charter, if national authorities are manifestly failing to protect their populations from these four crimes.

The Stanley Foundation’s Évora conference provided an important forum for representatives of UN member states, Secretariat officials, and experts from think tanks and nongovernmental organizations (NGOs) to reflect on ways of putting the idea into action. The conference was held ahead of consideration of this topic by the UN General Assembly and a few weeks before UN Secretary-General Ban Ki-Moon’s speech about R2P in Berlin. This summary highlights the primary findings, conclusions, and recommendations that surfaced in the course of five days of substantive dialogue. The full report, which follows this summary, delves more deeply into the intricacies of the issues.

### The Conceptual and Normative Dimensions of R2P

- The World Summit Outcome Document addresses R2P in paragraphs 138 and 139. Participants said the language of those paragraphs leaves R2P short of being a new binding norm. Depending on one’s point of view, R2P could be called a “concept,” a “principle,” an “evolving trend,” a “strong political commitment,” an “emerging norm,” or an “obligation with legal significance.” Fundamentally, the provisions in these paragraphs are based on, and reconfirm, preexisting international norms. Therefore, their

legal value is less important than the fact that the paragraphs signal a deeper *political commitment* on the part of all member states.

- The history of post-Cold War international humanitarian crises and the final conceptual formation of the R2P framework in the 1990s and early 2000s are key to understanding where the international community now stands on the issue. That said, the focus for moving forward should be the agreed paragraphs 138-139 if the R2P framework is to be turned into an effective and actionable norm.
- The obligations of the state toward its own citizens in paragraph 138 are stated in a very unequivocal manner, while the international obligations in 139 are phrased in less direct language. The international community will need to clarify the full intent of paragraph 139. It cannot now be seen as a coherent mandate for action in all of its aspects.

### The Politics of Ongoing R2P Debates

There is a great deal of wariness of the efficacy of military interventions that might be employed should preventive diplomacy and other peaceful means under UN Charter Articles VI or VIII fail. Elite political support for actualizing R2P differs by world region. Africa is arguably ahead of the United Nations in developing and making this concept operational. Latin American interest may be growing while Middle Eastern leaders are somewhat skeptical of R2P debates, given the numerous Cold War and contemporary interventions in their regions.

- The character of interstate disagreements on exhibit at the United Nations does not reflect transnational attitudes in civil society. Many groups in the developing world, including domestic NGOs, are focused on humanitarian issues, effectively aligning them with similarly interested large and well-funded Western global NGOs. For instance, indigenous civil society organizations in Latin America are active on R2P as part of their overall focus on human rights. This derives from recent democratic developments and from the reaction against earlier interventions. Notably, such groups not only talk about human rights in their own backyards, but also eagerly discuss issues such as the application of R2P to Sudan. Debates on this concept are also proceeding apace among NGOs in Southeast Asia, and the subject has been broached in the Association of Southeast Asian Nations.
- The de facto coalitions of global, transnational, Western NGOs and indigenous developing country NGOs are demanding more action. If the United Nations does not respond more effectively to mass atrocities, civil society groups will likely seek other avenues for action, including pressuring individual states.
- This gap between the United Nations, individual capitals, and (trans)national civil society will have to be bridged if R2P is to be actualized. Toward that end:
  - Domestic legislatures could be positive international actors in making R2P a part of interparliamentary dialogues. Accordingly, both the UN Special Advisor on R2P and international NGOs should engage the Inter-Parliamentary Union and the Commonwealth Parliaments.
  - In New York, think tanks and NGOs should sensitize UN member states to the issues surrounding R2P by organizing seminars, especially in advance of debates on this subject in the General Assembly.

- The Special Advisor to the secretary-general on R2P should continue consultations with civil society groups with a view to explaining the intergovernmental process on R2P in order to avoid a short-term crisis of expectations.
- Distrust between the Security Council and General Assembly, and between the Global North and South, has bogged down progress on global issues, including R2P. Therefore:
  - At the United Nations, transparency of process, information, and decisions is paramount to keeping R2P debates from becoming needlessly contentious.
  - While civil society can provide pressure, if R2P is to gain international political legitimacy, the General Assembly must be at the center of the global debate and clarify, expand on, and push the concept forward.
  - Further development of R2P over the next several years should be supported by funds from the regular budget rather than by ad hoc, voluntary contributions by individual donors with their own conditionalities. This, in turn, increases the responsibility of the General Assembly to fully and consistently fund posts and programs related to this task.
  - Early R2P efforts should focus on the first two pillars—capacity-building, early warning networks, preventive diplomacy, and other noncoercive means.
  - Activist efforts to expand the scope of R2P beyond the four crimes listed in paragraphs 138-139 are an obstacle to building sustainable global consensus around R2P.

#### Early Warning, Prevention, and Capacity-Building

- Based on the agreement that preventing mass atrocities is preferable to reacting to them, conference participants supported the early warning capability described in paragraph 138, provided that the General Assembly is firmly involved in building trust around future information-gathering and assessments.
- The main challenge will be to establish an assessment capability that will reliably and coherently bring together all the information available in both the far-flung UN system and the global network of NGOs (what one participant called “a network of networks”), followed by a balanced and broadly trusted assessment. Recent methodological advances made by nonstate groups (academia, think tanks, NGOs) should be incorporated as appropriate.
- Participants differed over whether this collection and assessment point belonged in the General Assembly or the Secretariat. But wherever and however this capability is constituted, its results should be shared with all intergovernmental bodies responsible for defining appropriate policy responses in R2P situations. Those include the Security Council, the General Assembly, the Human Rights Council, and the Peacebuilding Commission, as well as regional groups and concerned member states.
- Toward the end of preconflict prevention, the extensive use of the secretary-general’s good offices could be essential, but the secretary-general and his staff would need strong political backing from UN member states. This means that member states must get past the stigma of “naming” those countries that *may* be in a potential downward slide to mass violence.

### The Role of Regions in Prevention

- Conference participants stressed that Chapter VIII (responses by regional actors) is an area of understudied potential for making R2P operational. There is a growing trend in Latin America, Africa, and South East Asia to deal with violent crises at the regional level first, and then to resort to the international level only when those crises cannot be successfully addressed in a regional framework. Therefore, an early preventive response should include an assessment of the comparative advantages of relevant regional organizations and UN capabilities, pointing toward the ideal form of global-regional interactions early in the process.
- The international community should provide more capacity-building assistance to regional intergovernmental organizations and civil society groups for purposes of timely prevention of violence and protection of populations. For instance, there could be more focused funding of nascent efforts by domestic NGOs in the Global South to meet with their counterparts in local settings for crucial information-sharing and mutual empowerment. Currently, most funds for transnational meetings reside in Western capitals or among global NGOs.
- Regional ownership should not be overstretched or result in an abdication of responsibility by the broader international community. Often the major monies and capabilities for humanitarian efforts reside outside the region of concern. Collective security arrangements in some regions are far less developed than in others, and this unevenness means that extra-regional actors will remain important in reaching solutions.
- Sometimes, it is the government elites themselves who are the culprits, and they may promote a purely regional response hoping that local lack of capabilities, and/or the presence of parochial interests, will undermine an effective response. Sudan's requirement of a purely African Union intervention force was noted as one clear example of this approach.
- Thus, the secretary-general—with information flowing in from the multitude of agencies on the ground, as well as from civil society—may need to start preventive diplomatic efforts, bringing in a focus on global R2P principles.

### Protection

- Conference attendees said that it is impossible to make paragraph 139 operational with a one-size-fits-all approach. While the international community should try diplomatic channels before resorting to coercion, no participant interpreted paragraph 139 as establishing a strict temporal sequence of peaceful and forceful means, or as a clear, strict sequence for applying Chapters VI, VII, and VIII of the Charter.
- Not all coercive actions will be military, and conversely, not all military actions will be coercive. The peculiarities of some cases may call for early simultaneous deployment of peacekeepers along with early efforts at humanitarian assistance and preventive diplomacy. The symbolic presence of some blue helmets or regional military missions—as in Macedonia in the late 1990s—may act as a deterrent against further purposeful escalations by hostile groups or leaders. In addition, threats to terminate UN aid by the secretary-general or Security Council, along with international sanctions, may be needed to halt a trend toward violence, and these would constitute

coercive measures that fall well short of actual military action, possibly in league with preventive diplomacy.

### Rebuilding

- Rebuilding priorities includes the reforming of the security sector (both “external” and “internal” soldiers and the police) and improving the rule of law and the judicial system. The return of refugees is another peace-building priority, alongside the buildup of the most basic public services (sanitation, water, electricity), economic stability (especially currency stability), and eventually more inclusive forms of government.
- Sometimes there is a real tension between international economic institutions and UN post-conflict development and peace-building programs. Participants asked whether liberalized financial growth should be an immediate post-conflict goal in fragile societies, arguing that the conditional requirements of such approaches (based on funds often far in excess of than those offered by individual donors or UN programs) could swamp the more nuanced *political and developmental* focus of actors such as the Peacebuilding Commission, United Nations Development Programme, and individual donor states. Some participants underlined the need for simple economic stabilization in fragile post-conflict societies rather than aggressive growth strategies. Dialogue that clarifies the roles and priorities of the various agencies is needed.

### Responsibility and Accountability in the UN System

- Rather than establishing new institutions specific to R2P, an R2P perspective should be integrated into existing work performed by the United Nations and its partners. For instance, education of young people and enhanced free domestic media could dissuade youths from succumbing to extremist appeals by “entrepreneurial” politicians. Therefore, the UN Educational, Scientific and Cultural Organization should offer assistance to states in promoting tolerance through education and the media in order to prevent mass atrocities.
- The ultimate R2P roles of the Human Rights Council, the Economic and Social Council, and the Peacebuilding Commission, and the exact relationship of these General Assembly-grounded bodies to the Secretariat and the Security Council, need additional clarification. For instance, in the rebuilding phase of R2P, the Peacebuilding Commission could help post-conflict governments focus their priorities on few key issues that would help prevent renewed mass violence.
- The General Assembly should play a central role in this process. Some participants cautioned strongly against viewing the General Assembly as the primary implementing body for R2P, noting that the General Assembly’s strength is not quick reaction but rather the creation of new structures or institutional practices around evolving norms. Many participants therefore urged that the outcome or goal of General Assembly discussions be about the budgetary and diplomatic empowerment of the secretary-general and the Secretariat related to this issue. Without broad General Assembly approval (and funding) of the legitimacy of a strong Secretariat role, the secretary-general will inevitably be seen as a biased actor or merely an agent of the Security Council, either of which is a problematic position.

### The International Criminal Court

- Both the International Criminal Court (ICC) and the R2P framework share the objective of giving politicians the incentive to refrain from committing mass atrocities. However, it is not always advisable for the ICC to issue arrest warrants when there is no prospect of taking accused criminals into custody or when peace and reconciliation processes are still ongoing and fragile. Rapid post-conflict indictments might pose a severe irritant to the immediate goal of peace-building, unless such ICC actions are deliberately and strategically integrated in a way that make them part and parcel of the long-term reconciliation process. A sequential strategy for diplomatic and judicial processes at the end of armed conflict could mitigate potential conflicts between the goals of a peace process and the goals of criminal justice.

### Conclusion

While the issues to be navigated are many and complex, conference participants did not despair. It was clear that R2P is happening too quickly for some and too slowly for others. However, the international community seems to be gradually moving toward an embrace of acting sooner rather than later to halt mass atrocities.

### Endnote

- <sup>1</sup> For the full text of paragraph 138 and 139 of the 2005 World Summit Outcome Document, see the appendix of this report. For the full text of the World Summit Outcome Document, see <http://www.un.org/summit2005/>.

## Participant List

### Chair

**Richard H. Stanley**, Chair, The Stanley Foundation

### Rapporteur

**Christoph Roman Mikulaschek**, Program Officer, International Peace Institute

### Participants

**Maged A. Abdelaziz**, Permanent Representative of the Arab Republic of Egypt to the United Nations

**Hamidon Ali**, Permanent Representative of Malaysia to the United Nations



**Seated.** James F. Dobbins, Michael R. Kraig, Augustine Philip Mahiga, Ismat Jahan, Edward C. Luck, Richard H. Stanley, Francis M. Deng, Pauline H. Baker, Hamidon Ali, Robert C. Orr, Nirupam Sen, Vladimir P. Sambaiew

**Standing.** Christoph Roman Mikulaschek, Rachel Davis, Claude Heller, Vanu Gopala Menon, Kwesi Aning, Heraldo B. Muñoz, Mario Bettati, João Guerra Salgueiro, Rodrigo Malmierca Díaz, Richard S. Williamson, Maged A. Abdelaziz, John McNee, Paul Charles Johnston, Frank A. M. Majoor, Gert Rosenthal, Jin Hongjun



**Kwesi Aning**, Head, Conflict Prevention Management and Resolution Department, Kofi Annan International Peacekeeping Training Centre, Ghana

**Pauline H. Baker**, President, The Fund for Peace

**Mario Bettati**, Special Representative of the French Minister of Foreign Affairs, M. Bernard Kouchner

**Rachel Davis**, Associate, International Peace Institute

**Francis M. Deng**, Special Advisor to the Secretary-General on Prevention of Genocide, United Nations

**James F. Dobbins**, Director, International Security and Defense Policy Center, RAND Corporation

**Claude Heller**, Permanent Representative of Mexico to the United Nations

**Ismat Jahan**, Permanent Representative of the People's Republic of Bangladesh to the United Nations

**Jin Hongjun**, Political Counselor, Embassy of the Peoples' Republic of China to Portugal

**Paul Charles Johnston**, Director, International Security, Foreign and Commonwealth Office, United Kingdom

**Michael R. Kraig**, Director, Policy Analysis and Dialogue, The Stanley Foundation

**Edward C. Luck**, Special Adviser to the UN Secretary-General; Senior Vice President and Director of Studies, International Peace Institute

**Augustine Philip Mahiga**, Permanent Representative of the United Republic of Tanzania to the United Nations

**Frank A. M. Majoor**, Permanent Representative of the Kingdom of the Netherlands to the United Nations

**Rodrigo Malmierca Díaz**, Permanent Representative of Cuba to the United Nations

**John McNee**, Permanent Representative of Canada to the United Nations

**Vanu Gopala Menon**, Permanent Representative of the Republic of Singapore to the United Nations

**Heraldo B. Muñoz**, Permanent Representative of Chile to the United Nations

**Robert C. Orr**, Assistant Secretary-General for Strategic Planning and Policy Coordination, Executive Office of the Secretary-General, United Nations

**Gert Rosenthal**, Permanent Representative of Guatemala to the United Nations

**João Guerra Salgueiro**, Permanent Representative of Portugal to the United Nations

**Vladimir P. Sambaiew**, President, The Stanley Foundation

**Nirupam Sen**, Permanent Representative of India to the United Nations

**Richard S. Williamson**, US Special Envoy to Sudan

#### **The Stanley Foundation Staff**

**Betty J. Anders**, Corporate Secretary and Assistant to the Chair

**Susan R. Moore**, Conference Management Associate

**Patty Papke**, Director of Events Management

Affiliations are listed for identification purposes only. Participants attended as individuals rather than as representatives of their governments or organizations.

The rapporteur, Christoph Roman Mikulaschek, prepared this report following the conference. It contains his interpretation of the proceedings and is not merely a descriptive, chronological account. Participants neither reviewed nor approved the report. Therefore, it should not be assumed that every participant subscribes to all recommendations, observations, and conclusions.



*The pictures throughout this publication depict several elements of the United Nations of the Next Decade Conference. The conference features informal roundtable discussion sessions, ample opportunity for individual conversations, and social events in a relaxed setting. Together these elements stimulate thinking and develop relationships that enhance understanding.*

## Opening Remarks

Welcome to the Stanley Foundation's 43rd annual conference on the United Nations of the Next Decade. Since 1965 we have gathered policy experts from around the world to explore and develop multilateral solutions to important global concerns.

In selecting a topic for this year's conference, we noted that this year marks the 60th anniversary of the Universal Declaration of Human Rights and that actualizing Responsibility to Protect (R2P) will advance human protection against the egregious human rights violations by genocide, war crimes, crimes against humanity, and ethnic cleansing. Further, we concluded that this issue—as set forth in paragraphs 138 and 139 of the 2005 Summit Outcome Document—is ripe for open roundtable exploration in a setting like this.

Our goal for the next five days is to explore, through the relatively new prism of Responsibility to Protect, how the international community can better address the threats to peace and security represented by the rise of complex human protection emergencies, including those caused by interstate war, civil wars, and other major intrastate conflicts.

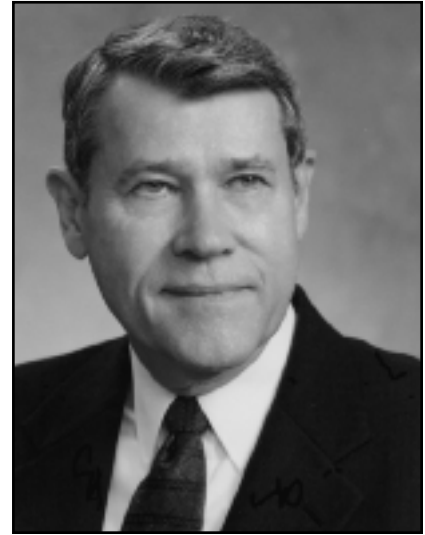
### The State of International Human Rights and Human Protection Law

Before digging into R2P, let me briefly outline the larger moral universe within which R2P exists—that is, the legal and ethical backdrop that provide the principles upon which R2P is based. Of central importance are the four kinds of crimes that human protection is meant to prevent, stop, or punish: genocide, war crimes, crimes against humanity, and ethnic cleansing.

The legal foundation for genocide was laid during the 1945 Nuremberg and other postwar prosecutions, resulting quickly in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. Notably, the original 1948 convention states that genocide is a crime whether committed in a time of peace or a time of war, and it strictly obligates all states-parties to both punish *and* prevent this international crime.

Although the original Convention envisaged the creation of an international court to punish genocide, it was not strictly required. Forty-five years passed before the first international criminal tribunal was established, and it was an ad hoc affair limited to crimes committed in the former Yugoslavia since 1991. A similar ad hoc tribunal was created for Rwanda one year later. Finally, in 2002, the launch of the International Criminal Court (ICC) established a permanent international tribunal to prosecute those responsible for genocide, as well as the other three crimes, signaling that states-parties have at last begun to meet their obligation to punish genocide on a more consistent and predictable basis, if not yet fully accepting their legal duty to prevent it or stop it when it occurs.

Another category of circumscribed behaviors is war crimes. War crimes were first codified by the four Geneva Conventions of 1949, which evolved out of even earlier efforts by major



Richard H. Stanley  
Chair, The Stanley Foundation

powers to constrain the effects of war in the 1899 and 1907 Hague Conventions. Together, these codified the so-called laws of war or international human protection law. Since the first Hague Convention in 1899, the international community has increasingly strengthened the view that there are and should be laws of war, that those laws are intended to limit gross human rights violations during wartime, and that violation of the laws of war does in fact constitute both an individual and a collective criminality.

This body of customary international law protects persons who are not part of the armed conflict as well as soldiers no longer participating in the hostilities. It also restricts the means and methods of warfare. Noncombatants must be protected and treated humanely in all circumstances, with no adverse distinction. Of particular relevance for R2P discussion, international human protection law prohibits all means and methods of warfare that cause superfluous injury or unnecessary suffering, and that fail to discriminate between armed parties and noncombatants.

Also, the four Geneva Conventions cover both interstate and intrastate warfare. Rules applying to internal armed conflicts are laid down in Article 3, which is common to the four Geneva Conventions as well as in the more recent 1977 Additional Protocol II. Despite their relatively narrow scope compared to the overall laws of war, the common Article 3 and Additional Protocol II together cover some of the most horrific acts during recent conflicts. And as with the Genocide Convention, individuals aiding, abetting, or committing war crimes have no impunity from legal action by the global community, including through the operations of the ICC.

Finally, the notion of crimes against humanity has existed in customary international law for more than half a century. This term was used in the 1907 Hague Convention preamble, which itself was based on a body of presumptive values and principles deemed to constitute the “laws of humanity,” as reflected throughout history in different cultures. The central notion of this preamble was to denote or postulate a global body of shared values, upon which the more precise and narrow laws of war and listings of war crimes were to be based. Thus, crimes against humanity are perhaps the most diffusely defined of the three, relating more strongly than either genocide or war crimes to *human rights standards as a whole*—as contrasted with genocide’s narrow focus on attempted exterminations of defined groups, or the relatively limited focus of war crimes on the most egregious behaviors associated with armed combat.

The Nuremberg Charter was the first time that crimes against humanity were established in positive international law. Since then, there has been no international convention on crimes against humanity, although this category of crimes has been included in the statutes of the ICC and the tribunals for Rwanda and the former Yugoslavia. Unlike genocide, crimes against humanity does not require proof of intent to extinguish an identified racial, ethnic, or religious group, but rather focuses on widespread and systematic attempts to target victims with illicit forms of violence, including violent acts referred to as “grave breaches” of the laws of war.

Overall, where does this leave the international community? Clearly, there is a strengthening intent by the global community to prevent, constrain, end, and punish mass atrocities that constitute grave violations of human rights and that challenge a shared intercultural sense of human decency.

### Steps on the Path to R2P: Global Responses to Escalating Conflicts<sup>1</sup>

In the 1990s, consistent with longstanding UN ideals and optimism about global security in a world no longer riven by bipolar ideological conflict, then-UN Secretary-General Boutros-Boutros Ghali oversaw the greatest expansion of UN peacekeeping missions ever to conflict-torn areas of the developing world.

However, this hope for a greater world peace was soon dashed on the rocks of war crimes, genocide, and crimes against humanity in the former Yugoslavia, Somalia, Rwanda, and then Darfur and the Congo later on in the decade. Rather than an expansion of global peace and security, the first post-Cold War decade saw many areas of mass civil conflict both within and beyond state borders, especially in Africa but also in East Timor in Southeast Asia and the Balkans in Southeastern Europe.

Amidst this strife, peacekeepers and troops from major powers alike soon found themselves in untenable situations of neither peace nor all-out interstate warfare, without the necessary doctrine, tools, or training to keep the conflicts from escalating and to prevent or end mass human atrocities. Given the increasing material and moral costs of this unsavory reality, and given the obvious challenge these conflicts presented for universally agreed norms, strong intellectual and conceptual debates quickly blossomed and evolved.

A very early contribution was by Francis Deng and his colleagues at the Brookings Institution, who first developed the concept of “sovereignty as responsibility” in the widely read and respected text, *Sovereignty as Responsibility: Conflict Management in Africa*.<sup>2</sup> Sovereignty, they posited, imposed abiding obligations toward one’s people in regard to fundamental human rights, as well as certain privileges internationally.

Shortly thereafter, in 1998 and 1999, then UN Secretary-General Kofi Annan posed, in a series of speeches, the stark choice between standing by when mass atrocities were unfolding or intervening militarily even if Security Council authorization was blocked.<sup>3</sup> One year later, the Constitutive Act of the African Union (Article 4 (h)) asserted “the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide, and crimes against humanity.”<sup>4</sup> This historically unprecedented agreement among African Union member states to limit their own traditional rights of absolute sovereignty and partially amend the earlier norm of nonintervention in each others’ affairs has come to be known as the “doctrine of non-indifference.”

Meanwhile, in response to continuing debate over human protection intervention and the Security Council’s split over how to address the crisis in Kosovo, the Canadian government launched an independent International Commission on Intervention and State Sovereignty in 2000. In their deliberations, the geographically diverse blue-ribbon commissioners came to see protection from a much broader perspective than simply a tension between state and individual sovereignty. Coining the phrase “responsibility to protect,” their conclusions included a responsibility to prevent, a responsibility to react, and a responsibility to rebuild, seeing a continuum of graduated policy instruments across this spectrum.

Some of the commission’s key recommendations were then incorporated into the 2004 report of Kofi Annan’s High-level Panel on Threats, Challenges and Change, and into his

2005 *In Larger Freedom* report. These, in turn, provided material for consideration by the September 2005 summit that adopted the significant R2P language.

In what was widely hailed as an historic breakthrough, the 2005 World Summit unanimously affirmed the primary and continuing legal obligations of states to protect their own populations—whether their own nationals or not—from genocide, war crimes, ethnic cleansing, and crimes against humanity, and from incitement of these crimes.<sup>5</sup> It charged the international community with helping states to develop their capacity to do this. It called upon the international community to react in situations where the state was unable or unwilling to protect its population. As paragraphs 138 and 139 of the Outcome Document made abundantly clear, the response could involve the whole range of UN tools, from pacific measures under Chapter VI and collaboration with regional and subregional arrangements under Chapter VIII to coercive actions under Chapter VII of the Charter. And as with the 2002 Rome Statute for the ICC, these paragraphs explicitly linked protection of civilians from genocide to the prevention of and protection from war crimes, crimes against humanity, and ethnic cleansing, conferring equal political status on all four crimes.

As already noted, Kofi Annan deserves credit for putting R2P on the global political map. But it has been his successor, Secretary-General Ban Ki-moon, who has spoken repeatedly of his determination to “operationalize” R2P and to translate it “from words to deeds.”<sup>6</sup> To this end, the new UN secretary-general upgraded the post of Special Adviser for the Prevention of Genocide to the under-secretary-general level, made it a full-time position, and gave it a broader mandate and a new title: Special Representative for the Prevention of Genocide and Mass Atrocities. He recruited the widely respected Francis Deng, with a dozen years experience as Special Representative on Internally Displaced Persons between 1992 and 2004, to the expanded post. In addition, he established a new part-time position of Special Adviser on the Responsibility to Protect at the assistant secretary-general level, to lead the efforts to achieve conceptual clarity, to build political support, and to propose ways of improving the performance of the United Nations and its members and partners on R2P. To this post, he recruited highly competent Edward Luck, a seasoned veteran of United Nations operational and development matters.

In 2006, Security Council Resolution 1674 on the protection of civilians in armed conflict endorsed the R2P approach of the Outcome Document. With Resolution 1706 in the same year, the council cited the responsibility to protect principle in the context of a specific situation, making clear “the responsibility of the Government of the Sudan to protect civilians under threat of physical violence.”

Meanwhile, some regional efforts are also advancing. Steps have recently been taken to institutionalize a regional perspective on UN operations, most notably through the establishment of the UN Office for West Africa in Dakar and the new United Nations Regional Centre for Preventive Diplomacy for Central Asia. Also, global-regional collaboration is being tested by the thus far modest and uneven implementation of the Ten-Year Capacity-Building Programme for the African Union.<sup>7</sup>

### R2P Questions and Concerns

R2P recognizes and overcomes the pitfalls of traditional conceptions of human rights-based interventions. But as with any emerging concept or norm, there are legitimate questions and concerns. Let me enumerate two.

First, there is concern in some quarters that R2P is focused excessively on the use of force, at the expense of longer-term capacity- and peacebuilding. As such, it is argued, R2P is simply a new version of traditional humanitarian intervention, which historically has served to legitimate major power or regional power interventions in weaker states, too often favoring the prerogatives and interests of the intervening powers rather than achieving mutually beneficial commitments to protect vulnerable populations. As a result, there have been fierce debates between states that subscribe to the interests and security perceptions of one party and those that subscribe to the strategic views of the other party—with the result that universally agreed values are typically casualties. This has meant ad hoc and inconsistent application, depending on media coverage; cultural affinities; overall ease of the intervention; domestic politics within the intervening state; and a plethora of other situational factors. More often than not, it has meant no action at all. Also, unadorned humanitarian intervention has too often implied that *the main goal is forceful intervention itself*, ignoring the even more pressing need for prevention, early warning, and (after the intervention) true peacebuilding to forestall future atrocities.

How does R2P deal with this concern? As paragraphs 138 and 139 demonstrate, sustainable human protection gives priority to building the capabilities of the sovereign government to better protect its own people. R2P includes establishing an improved early warning mechanism that draws on the insights of all actors involved. Negative political and social developments that might escalate into a human protection emergency are to be carefully and purposefully watched by all concerned.

If, as a last resort, coercive economic, diplomatic, or military measures are ultimately required to protect people, they do not take place in a vacuum, but rather are natural extensions of the ongoing, long-term task of prevention and protection. Thus, R2P envisions a much longer process and larger toolkit than traditional humanitarian interventions.

Also, the R2P focus is squarely on the safety and well-being of vulnerable people, rather than on the strategic and parochial interests of the external states or the domestic government. As with the broader notion of human security, the ultimate focus is on the safety and well-being of the people themselves.

Importantly, R2P emphasizes sovereign *duties*, namely, the moral and legal duty of the domestic sovereign to protect its own people against the four crimes and the duty of external actors to help build the capability of the domestic sovereign to succeed in this task. If all else fails, external actors have the duty to undertake noncoercive and possibly even coercive measures in tandem to protect people from massive violations of their fundamental human rights. Thus, rather than conferring more *rights to intervene*, R2P in fact confers the *burden of upholding universally agreed norms*.

A second concern is that R2P is just another term for greater human security and adds nothing to existing UN and regional missions of refugee protection, disease prevention and control, poverty reduction, and other forms of humanitarian aid and protection. Indeed, it simply adds an unnecessary normative and bureaucratic level to existing development and humanitarian efforts.

It is a mistake to *equate R2P's large toolkit* with its *much narrower mission*. R2P's ultimate goal is far more focused and narrow than that of the entire human security portfolio. R2P

is about operationalizing international human protection law in the here-and-now, regardless of the status or progress of ongoing economic and social development efforts. Its successful application does not and cannot wait for the long-run attainment of broader human security objectives.

The purpose of R2P is totally consistent with the overall legal and moral agenda of the ICC that has been almost unanimously endorsed by UN member states. However, its application comes well prior to the ICC's activities. The goal of R2P is to help create a world where the ICC's enforcement and punishment activities for these four heinous crimes are the exception rather than the rule in international relations in the 21st century.

### Where Should We Go from Here?—Steps Toward Actualizing R2P

Our discussion agenda outlines several areas where the world community is still weak in understanding, conceptualizing, and institutionalizing R2P. Among these issues are:

- How the international community can best assist individual states to carry out their human protection responsibilities.
- The requirement for, and contours of, an effective early warning mechanism for domestic social and political conflicts that may escalate to the level of mass atrocities.
- The need for better integration and assessment of information gathered from the field by UN agencies, NGOs, regional organizations, individual member states, and others.
- A better understanding of the right mix of tools at various phases of a latent or evolving human protection crisis, including the spectrum of both noncoercive and coercive measures—economic, diplomatic, and military—to effectively prevent escalation of human atrocities before they reach unmanageable and potentially unstoppable levels.
- The persistent challenges of coordination with, and inclusion of, regional and sub-regional actors in prevention and protection efforts.<sup>8</sup>
- The requirement for more capable and effective regional organizations in monitoring and responding to human protection emergencies—and the need for the United Nations and its member states to support regional and subregional bodies in this mission.
- How to more effectively involve civil society groups, including global and local NGOs, in implementing capacity building, prevention, rebuilding, and other aspects of R2P.
- The need for further clarity on the role of the UN Secretariat and UN member states alike in regard to peaceful measures outlined in UN Charter Articles VI and VIII.
- The correct relationship between, and best mix of efforts by, the General Assembly, the Security Council, the Secretariat, the major UN agencies, and the relatively new standing bodies of the Human Rights Council and the Peacebuilding Commission in ensuring successful application of R2P to situations potentially involving massive human rights abuses.

Taken as a whole, the primary question facing us is not whether the international community will undertake an active role in preventing, managing, rebuilding, and avoiding future



human protection threats caused by today's conflicts. That active role is assured. Rather, the question is the nature and dimensions of that role in the increasingly interdependent 21st century, post-Cold War world filled with complex human protection needs.

And for this task, there is cause for optimism. The United Nations and the world community have shown flexibility in dealing with changing conditions and circumstances. Peacekeeping and peacekeepers were neither foreseen by world delegates in San Francisco in 1945 nor outlined in any way in the UN Charter itself. And yet peacekeeping now stands as a universally agreed practice, with its own lead agency, principles, rules, and training regimens. Peacekeeping has become an accepted global institution. It is used to enforce armistices, help feuding nations honor uneasy truces, and prevent new rounds of conflict in sensitive regional disputes. Much the same can be said of creation of new global agencies in New York and Geneva to deal with human rights issues, refugees, poverty, development, and disease, as well as the more recent creation of the UN Environmental Protection Agency to deal with the international community's growing concern with the health of the planet's biosphere.

We who participate here today have the admirable and historically validated task of responding, yet again, to new threats and challenges that face the collective global body politique. As we explore the complexities of Responsibility to Protect, we should take seriously the most central mission of the United Nations—to maintain overall peace and stability so as to foster development and prosperity that honors the aspirations of people and governments alike. In this way, we will help to build a world that is more secure, peaceful, free, and just.

### Endnotes

<sup>1</sup> This section is an edited excerpt from the DRAFT Policy Analysis Brief by Edward Luck and Rachel Davis, "The United Nations and the Responsibility to Protect," May 30, 2008.

<sup>2</sup> See Francis M. Deng, Sadikiel Kimaro, Terrence Lyons, Donald Rothchild, and I. William Zartman, *Sovereignty as Responsibility: Conflict Management in Africa* (Washington, DC: The Brookings Institution, 1996).

<sup>3</sup> For a handy compilation of his key speeches, see *The Question of Intervention: Statements by the Secretary-General* (New York: United Nations, December 1999). It contains, among others, "Reflections on Intervention," Ditchley Park, United Kingdom, June 26, 1998, and "Two Concepts of Sovereignty," Address to the 54th Session of the UN General Assembly, September 20, 1999.

<sup>4</sup> [http://www.africa-union.org/root/au/AboutAU/Constitutive\\_Act\\_en.htm](http://www.africa-union.org/root/au/AboutAU/Constitutive_Act_en.htm)

<sup>5</sup> UN document A/RES/60/1.

<sup>6</sup> See, for example, his speeches to the Center for Strategic and International Studies in Washington, DC, on January 16, 2007, and to the Royal Institute of International Affairs in London on July 11, 2007, as well as his annual address to the General Assembly of September 25, 2007 (UN documents SG/SM/10842, SG/SM/11094, and SG/SM/11182, respectively).

<sup>7</sup> UN Doc. A/61/630, Annex. See also *Meeting Note: The UN-AU Ten-Year Capacity-Building Programme: Towards a Broader Understanding of AU-UN Cooperation* (New York: International Peace Institute, forthcoming 2008).

<sup>8</sup> Taken from the DRAFT Policy Analysis Brief by Edward Luck and Rachel Davis, "The United Nations and the Responsibility to Protect," May 30, 2008.

## Conference Report

### Assuming R2P

On 16 September 2005, at a World Summit that brought together the heads of state and of the United Nations, participating states unanimously affirmed their “responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.”<sup>1</sup> The two paragraphs in the document that dealt with this responsibility put forth the three core pillars of this concept:

1. The responsibility of each individual State to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity and their incitement.
2. The responsibility of the international community to encourage and help States to exercise this responsibility and to help States build capacity to protect their populations, as appropriate.
3. The responsibility of the international community to be prepared for collective action, in a timely and decisive manner in accordance with the UN Charter, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should the above preventive means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

In approving paragraphs 138-139 of the Summit Outcome Document, member states stressed the need for the United Nations General Assembly to continue its consideration of the Responsibility to Protect (R2P).<sup>2</sup> The 43rd Conference on the United Nations of the Next Decade, sponsored by The Stanley Foundation, and held in the Convento do Espinheiro in Évora, Portugal, between June 20 and June 25, 2008, provided a forum for representatives of United Nations member states, secretariat officials, and experts from think tanks and NGOs to reflect on ways to actualize R2P ahead of the United Nation’s upcoming consideration of this topic.

This report summarizes the discussions at the conference. It will address, in turn, the conceptual and normative dimensions of R2P; its international political dimensions; prevention and capacity building for avoiding the mass atrocities covered under R2P framework; the protection of populations from the four mass atrocities; the question of rebuilding societies recovering from mass atrocities; and issues of responsibility and accountability in the United Nations system. Finally, it will offer recommendations on actions needed to actualize R2P.

### The Conceptual and Normative Dimensions of R2P

The conceptual discussions at the conference focused on the specific scope and substance of R2P, as well as its historical roots.

### The Origins of R2P

Several participants pointed out that the affirmation of R2P by the 2005 World Summit did not take place in a political vacuum, and that we needed to keep in mind the historical roots of this framework in order to understand its substance. Undoubtedly the mass atrocities the

international community witnessed during the 1990s provided the background to the emergence of this concept. One participant pointed out that the idea of protecting populations against mass atrocities went back to the early 20th century. R2P was described as a response to longstanding discontent over the international community's failure to take action and its numerous other mistakes in the face of mass atrocities.

The end of the Cold War was portrayed as a historical turning point that opened the opportunity for going beyond the fear of interventions by great powers. In Latin America, for example, since the mid-1980s there has been a trend toward democracy and a respect for human rights that has led states to view sovereignty differently, in part due to the popularity of human rights and humanitarian issues among Latin American citizens and in civil society. Africa has arguably gone even further than the global community in calling for more effective collective action to stem massive human rights abuses and crises, in part due to the events of the 1990s.

In this regard, participants acknowledged the role of the Constitutive Act of the African Union, and of the reports prepared by the International Commission on Intervention and State Sovereignty (ICISS)<sup>3</sup>, by the Secretary-General's High-level Panel on Threats, Challenges and Change,<sup>4</sup> and by the United Nations Secretary-General<sup>5</sup> in developing the concept of R2P. However, at the same time, there was strong agreement that the 2005 World Summit Outcome Document should be the basis of the intergovernmental debate on R2P. Moreover, two participants pointed out that the international community held reservations on some of the concepts expressed in the ICISS report, such as the notion of just cause for military interventions. In general, participants placed strong emphasis on the fact that paragraphs 138-139 were the result of real diplomatic negotiations and interstate political processes, while earlier conceptual efforts were largely led by less accountable "wise men"-oriented commissions and groups, or even individuals such as the Secretary-General himself.

One state representative regretted that R2P has sometimes been erroneously confused with a concept that had been intensely debated during the 1990s, that of humanitarian intervention. A second participant warned that the international community did not support the humanitarian intervention concept, and that it would not accept efforts to reintroduce this concept through the framework of R2P.

### **The Legal and Political Significance of the Provisions on R2P in the 2005 World Summit Outcome Document**

There was consensus among the conference participants that paragraphs 138 and 139 of the 2005 World Summit Outcome Document did not create new binding norms as such. In the discussions the two provisions were characterized as concepts, as principles, as evolving trends, as political commitments, as political norms or emerging moral norms, or as obligations with legal significance. One expert referred to these provisions as *prima facie* evidence of a developing international practice, but this proposition was explicitly rejected by a national official from a developing country. A few speakers raised the prospect that R2P might become a legal norm in the future.

Numerous conference participants stressed that provisions of the paragraphs 138 and 139 of the 2005 World Summit Outcome Document were based on, and reconfirm, pre-existing international norms. There was almost full consensus on the existence of international

norms shunning genocide, war crimes, ethnic cleansing and crimes against humanity as international crimes. One speaker noted that the addition of ethnic cleansing to the list of crimes in the Outcome Document constituted a novelty; another one maintained that the instances of ethnic cleansing the drafters of the Outcome Document had in mind would always constitute a crime against humanity as defined by international law. Speakers referred to the Genocide Convention of 1948, which specifies the obligation to prevent and punish genocide and its incitement, to the Geneva Conventions of 1949, to the United Nations Charter, to the body of human rights law and international humanitarian law, to the Constitutive Act of the African Union and to Security Council Resolutions as sources of pre-existing obligations dealing with R2P.

One expert expressed the view that the obligation of states to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity laid out in the first sentence of paragraph 138 restated a positive binding obligation. A few state representatives cautiously shared this view. However, there was less agreement on the converse: that either paragraph represented a positive binding obligation and duty for collective international action—where the word “responsibility” means not just a duty to protect one’s own citizens, but equally and just as strongly, the citizens of other states. One of these representatives stressed that the provisions on international assistance and collective action in paragraphs 138 and 139 were of a different nature than the notion of sovereignty as responsibility, the latter of which is primarily about a state or government’s responsibility toward its own people. He expressed skepticism as to whether the provisions on international assistance and collective action could ever be transformed into legal norms. He also wondered whether it was even advisable to turn the collective action pillar of R2P into an absolute norm.

Two national officials discussed whether past military interventions and peace operations frequently deployed by the United Nations Security Council to stop mass atrocities would create an international practice that could qualify as a ‘general practice accepted as law.’<sup>6</sup> One of them rejected this idea by referring to the international condemnations that had followed military interventions in Uganda, Cambodia and elsewhere. The other one affirmed the existence of a general practice of establishing peace operations in R2P situations while leaving open the question as to whether this practice set an international precedent.

One participant pointed out that the question of the legal value of the provisions on R2P in the 2005 World Summit Outcome Document was far less important than the fact that they constituted a strong political commitment on the part of all United Nations member states. According to one African official, the adoption of paragraphs 138 and 139 amounted to a political breakthrough because it provided a new framework for understanding and applying existing legal obligations concerning the four international crimes. In a similar vein, the merit of these provisions was described as offering a new focus while drawing on existing instruments established in the Chapters VI, VII and VIII of the United Nations Charter. Several participants emphasized that the central value of paragraphs 138 and 139 lay in their emphasis on prevention and capacity-building that counters the false impression that R2P construct is equivalent to military intervention. It was also noted that the inclusion of R2P in the World Summit Outcome Document made related pre-existing obligations less controversial. According to one participant, strict legality and strong definitions matter in terms of the overall “cogency” of a norm or concept, but the latter is not absolutely required for concerted action to take place. Indeed, it is in the future actions themselves—possible reactions to new instances of these four atrocities—that a legal status may slowly develop.

### Enhancing Conceptual Clarity of R2P

The discussions at the conference attested to a lack of clarity as to what R2P demands from each actor. The concept needs to be refined and clarified in order to guide those who implement it. One state representative pointed out that it was not surprising that some aspects of R2P required further clarification since the concept had been developed at an extraordinary speed through several consecutive reports. According to one view, the concept should have been more thoroughly discussed in the negotiations leading up to the 2005 World Summit. One participant alluded to the perennial problem of turbulent negotiations in political bodies by citing the saying that “you do not want to watch sausage or legislation being made.” A Secretariat official observed that many actors held widely divergent views of what R2P entailed.

Thus, to salvage this concept, and the practice of preventing future victims of egregious international crimes, we need further conceptual clarification. However, two participants warned that, in the quest for this clarity, we should not let the search for the perfect drive out the good. The United Nations Global Counter-Terrorism Strategy was cited as a good example of a pragmatic framework that was operationalized even though the United Nations could not agree on a final shared definition of terrorism. At the same time, however, a majority of participants agreed that if the international community (including civil society) want R2P to gain true, long-term, sustainable traction, the General Assembly (GA) is the central body at the global level to debate, clarify, expand on, and push this concept forward, with guidance provided by the Secretary-General and various key posts in the Secretariat.

One participant identified the news event-driven character of the conceptual debate on R2P as a complicating factor for attaining clarity and consensus. According to him, the recent dispute between Colombia and Ecuador reinforced the nonintervention paradigm in Latin America, and might have constituted a setback for R2P in the region. In the same vein, the recent debate surrounding propositions to apply R2P to Myanmar was said to have created conceptual confusion and enhanced the need for more clarity.

Participants seemed to agree that paragraph 139 required more clarification than paragraph 138.<sup>7</sup> One state representative pointed out that the obligations of the state toward its own population were stated in a very unequivocal manner while the international obligations were phrased rather ambiguously. Another national official argued that the three main elements of paragraph 138—i.e., the primary responsibility of the state; capacity building; and early warning—were very clear, while the collective obligations enshrined in article 139 remained a work in progress.

### The Scope of R2P

Almost all conference participants insisted that R2P should be applied only to the four crimes listed in the 2005 World Summit Outcome Document. One participant reminded the conference that R2P was “developed on the



backs of millions of victims” of genocides, war crimes, ethnic cleansing and crimes against humanity, and that it should focus on preventing and addressing those crimes in the future. Many participants warned that the concept would be undermined if its scope was expanded beyond the four crimes listed in the Outcome Document. Establishing a new concept always entailed the need to keep its focus narrow. Accordingly, R2P is not a silver bullet that can or should solve all problems in the world. One participant pointedly noted that while there are “many unsavory characters in the world, R2P cannot be used to get rid of all of them.”

Several state representatives held the view that propositions favoring the application of R2P concept in the context of Cyclone Nargis in Myanmar, or to the protection of Inuits in Northern Canada from the impact of global warming, did not help the cause of R2P. One of them specified that evoking this concept in relation to Myanmar evoked the worst fears of developing countries about an over-extensive interpretation of this new notion.

One participant from a developed state presented the opinion that the scope should also include natural and industrial disasters, and he referred to a United Nations General Assembly Resolution of 1988 dealing with free access to the victims of such catastrophes.<sup>8</sup> But a UN official stated that R2P should not be applied to such situations, reasoning that the existence of separate mechanisms for natural disasters (such as the General Assembly Resolution of 1988) showed that there was no need for introducing R2P in this area. One East Asian participant added that while R2P should be applied only to the four crimes listed in the Outcome Document for now, the United Nations might decide to go beyond this scope in the future.

Conference participants briefly discussed whether illegal immigrants (in addition to refugees) fell within the scope of the provisions on R2P in the Outcome Document. One United Nations official opined that the term “populations” used in the resolution included illegal immigrants. A Western European state representative cautioned that the drafters of paragraphs 138 and 139 had the protection of their native populations in mind. One African official referred to the 1951 United Nations Convention Relating to the Status of Refugees as a framework for the protection of refugees, and he outlined the need for increasing capacity building and cooperation in this area. Another African representative held that problems in the relationship with minorities in developed countries should be discussed within a R2P framework, even though he warned that it did not create a risk of future genocides.

### The Political and Social Dimensions of R2P

Participants agreed that there is a great deal of political motion around R2P. At the same time, they disagreed on the question of whether international support for this concept has increased or declined since the adoption of the 2005 World Summit Outcome Document. They also discussed the factors driving support for and opposition to R2P.

### Current Trends

In the words of one participant, “the pond is not frozen” for R2P. The concept is frequently discussed in New York, in capitals, in editorials around the world, and even the Pope extensively commented on it in his recent speech before the UN GA. The very positive attitude toward this concept in civil society and in the United Nations Secretariat led one national official from a developing country to conclude that the current political atmosphere is in favor of this concept.

One United Nations Secretariat official was struck by what he characterized as an increasing rapprochement of member states' positions on R2P since 2005. Member states entered into the negotiations ahead of the 2005 World Summit with diametrically opposed positions, and they approximated their views in the course of those discussions. An understanding among member states was in much closer reach today.

Some participants, however, thought that it was impossible to tell whether support for R2P among member states was growing or shrinking. A state representative from Africa noted that support for this concept was merely ebbing, not increasing, while an Asian official perceived a slide in political will, particularly among the permanent Security Council members. An American expert observed that there had been a push back in the wake of the 2003 invasion of Iraq, which led some states to put a stronger emphasis on the principle of nonintervention and conservative interpretations of sovereignty.

Several participants noted that member state support for R2P differed by world region. One African participant explained that this concept has evolved positively in Africa. According to him, the adoption of the Constitutive Act of the African Union, which proclaimed the member states' intention to intervene collectively in situations of mass atrocities, triggered a quantum shift that broke with the tradition of holding sovereignty sacrosanct, as in the days of the Organization of African Unity. The establishment of the International Conference on the Great Lakes Region was cited as a concrete manifestation of this paradigmatic shift. Two participants described Africa as leading the way on R2P and as being ahead of the United Nations in developing and operationalizing this concept. Other world regions, including Latin America and the Middle East, were characterized as rather wary of R2P, given past Cold War interventions or even current interventions in their regions. However, at the same time, some participants from Latin America noted that civil society groups, including human rights groups indigenous to the sub-continent, are strongly committed to R2P as a global norm as part of a broader focus on human rights. This highly popular human rights agenda in Latin America is not only based on the painful history of the Cold War but also current democratization drives that have created real societal changes. Darfur and other global cases are part of intense debates among Latin American publics.

A Latin American state representative attributed the strong emphasis on nonintervention in his region to the memory of a long history of unfortunate foreign interventions. But another speaker from Latin America emphasized that wariness of international interventions did not prevent the drafters of the Charter of the Organization of American States from balancing nonintervention with the pursuit of collective action to protect morality. Another Latin American participant remarked that states in his region were more amenable to regional human rights promotion initiatives, and he cited the example of Mercosur's proactive efforts to promote democracy. An Asian participant explained that Asian states had decided against incorporating R2P into the Charters of regional organizations.

Within civil society, support for R2P was consistently described as growing. One participant pointed out that a worldwide movement for human rights has emerged, but she also warned that this constituency might turn away from the United Nations if it did not see the organization as effectively defending human rights. Public support for R2P could only be sustained if the United Nations dealt successfully with situations of mass atrocities. Three speakers addressed the need to reach out to civil society to build a constituency for R2P, to carefully explain the concept, and to warn against unrealistically high expectations. One

participant warned that civil society would enter a crisis of expectations in the United Nations if it did not understand the possibilities and limitations of the organization's efforts to deal with mass atrocities.

### Issues Driving Support and Lack of Support for R2P

Support for R2P primarily stems from the universal agreement with its objectives. At the conference, nobody rejected the notion that sovereign states had a responsibility to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity, nor did anyone oppose the view that the international community had responsibilities to prevent and respond to those four crimes. One expert pointed out that R2P should not be seen as interfering with sovereignty, but rather that it should be located within the notion of sovereignty.

One speaker stated that the debate on R2P reflected the dilemma of having to choose between morality and prudence. While member states appreciated the noble objectives of R2P, historical memories of politically motivated interventions in internal affairs led many of them to adopt very defensive and narrow definitions of sovereignty. One representative of a developing country specified that weak states were particularly afraid that strong ones would take unfair advantage of R2P to intervene in their internal affairs. He specified that powerful states that can intervene in other states' affairs would do so with or without R2P. They might use this concept to justify such interventions even when they occurred outside the United Nations. Other participants explained that these concerns are particularly salient with regard to the third pillar of the concept dealing with collective action. Some also noted that even in the developed North, many officials and experts are wary of the utility of military interventions should preventive diplomacy under Charter Articles VI or VIII fail.

Many participants therefore stressed the need for broad-based development programs prior to crises, and should a crisis occur, more sustainable and effective commitment to post-conflict peacebuilding and reconstruction by major powers and the United Nations. One participant noted that it is not only members of the so-called G-77 who are leery of such interventions, but also many Western analysts and politicians, including "Realists." This participant pointed out that peace enforcement actions—meant to prevent the first real crisis—are ten times more costly in terms of manpower and money than post-conflict prevention, in part because in a post-conflict period, disputants have truly decided that the fighting must end and are looking for help in rebuilding a peaceful society. This view—which is found in the developed North as well as in the South and in UN circles—is still widespread among government officials and experts, and tends to marry or blur together peacebuilding and R2P notions of prevention. In this view, the best "early warning" is simply the fact that a given society has already experienced one major crisis, and therefore is the most likely to experience yet another. Thus, there was relatively more agreement behind the international duty to prevent, including rebuilding efforts *after* a first crisis as perhaps the most effective form of prevention available.

However, others responded that a focus on post-conflict forms of prevention alone would undermine the whole R2P framework by abandoning any possibility of stopping the first instances of mass atrocities. Given the heinous nature of the four crimes being debated, if R2P is to mean anything, it must involve both pre- and post-conflict preventive efforts, including, if necessary, forceful actions to stop the first instance of mass atrocities from happening.



Some participants pointed out that in addition to great power interventionism, great power indifference toward certain mass atrocities constituted a problem for the implementation of R2P. One speaker worried that the Security Council would not be able to adopt the impartial approach that was inherent to R2P. Two others agreed that R2P may never be applied consistently as great power interests, and the lack thereof, would affect the Security Council's decision making in specific cases. As more than one participant wryly noted, if the P-5 are indifferent, then nothing happens, and if they have central interests, then they either block action to protect those interests, or they intervene in ways that serve narrow strategic goals rather than a wider good. Participants cited both the failure of the international community to put an end to atrocities in Darfur and the lack of an adequate peace operation in Rwanda before the genocide as pertinent examples of this dynamic in action. Three speakers contended that the Security Council put more emphasis on the situations in Myanmar and Zimbabwe than on the situation in Palestine.

One participant presented the view that such selectivity in the work of the Security Council raised important questions about the justice in the system. A representative of a permanent member of the Security Council explained that he was not worried about a case-by-case approach to decision making on R2P as long as a few countries remained willing to assert their power in pursuit of the objectives of this principle. Under this view, the problem of selective interests among Security Council members is something to be managed, as it will never entirely disappear. Another representative of a permanent Council member underlined that the Security Council wanted to retain its freedom of action in all cases. One state representative pointed out that both the permanent and the elected members of the Security Council had to act responsibly and to live up to the task of implementing R2P. He added that the wider United Nations membership held high expectations about how the Security Council should perform its work.

One participant put the debate on the operationalization of R2P into the context of a broad debate at the United Nations on how to deal with human rights. According to him, some member states wanted to emphasize a confrontational approach that involved naming, shaming, and sanctions while others favored a cooperative approach. He held that the difficulties of the United Nations in dealing with human rights would also complicate the operationalization of R2P. Another participant described a separate but related fundamental question underlying the debate on R2P. He held that the General Assembly, the Security Council, and the Human Rights Council were politicized along the lines of the question whether the rights of states or the rights of citizens within those states should take precedence. According to another speaker, developing countries feared that the discussion on R2P would be used to introduce new norms into the human rights agenda, and to push the envelope on other human rights issues.

The fear of politically motivated interventions under the pretext of R2P, concerns about the Security Council's case-by-case approach, and the repercussions of the debate on human rights all contribute to a lack of trust at the United Nations. According to one speaker, distrust between developed countries and developing countries, and between developing countries and the Secretariat, made it difficult to look constructively at the protection of populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This distrust was described as going far beyond the issue of R2P, and it was blamed for the United Nations' inability to resolve a number of political crises, including those in Kosovo and Myanmar. Several Conference participants stressed the need to build confidence before

or during the operationalization of R2P. One of them said that member states' confidence in the concept needed to be enhanced before it could be operationalized. One state representative laid out that the Special Advisors of the Secretary-General addressing R2P and on the Prevention of Genocide, respectively, required the full confidence of member states to work effectively, including those states that were not in full agreement with the Secretary-General on all aspects of the concept.

However, as more than one participant noted, Southern civil society is enamored of humanitarian issues, and divisions over R2P exist within and among Northern and Southern states. With regard to the latter, several participants argued that the stark, black-and-white, traditional notion of developed world and G-77 divides was simply inaccurate when speaking of either R2P or broader humanitarian and human rights issues.

Along these lines, several participants reminded others of the uncomfortable reality that both global, transnational (Western-oriented) NGOs and indigenous Southern NGOs are rapidly outpacing individual capitals and the United Nations, and that this fast-growing civil network is growing impatient with inaction on not just R2P principles but on human rights and humanitarian goals in general by (intergovernmental organization) IGOs and their members. These participants warned that, if the United Nations and individual capitals do not move meaningfully on such principles soon, global transnational civil society in particular will try to find other avenues for acting on their increasingly accurate pre-crisis information networks, which are already meeting annually to discuss methodologies for early warning and prevention.

Indeed, these participants argued that both civil society actors and state legislative bodies (the peoples' domestic representatives) should be viewed as positive international actors in politically actualizing R2P. Involvement of foreign ministries, national parliaments, the Inter-parliamentary Union and the Commonwealth Parliaments was recommended, particularly inter-parliamentary dialogues. Finally, one participant called for more focused funding of nascent efforts by regional and indigenous NGOs to meet with their counterparts in local settings, noting that most of the money for international or transnational meetings still resides in Western capitals or Western NGOs. Finally, some participants were optimistic in saying that the GA-Secretariat process of dialogue and debate in 2008-2009—now planned—could invigorate and inform larger discussions in capitals and regions.

### Prevention and Capacity Building

Several conference participants pointed out that the strong focus on prevention and capacity building was one of the novel aspects of the 2005 World Summit Outcome Document. Several speakers held that the debate on operationalizing R2P should focus on the first and second pillars of R2P: prevention and capacity building. One of them pointed out that the overarching objective of R2P was to prevent the acts of violence listed in the



Outcome Document from happening in the first place, not just to stop them when they occur. Prevention could also minimize the need to respond to impending or actual mass atrocities. Moreover, focusing on the operationalization of the first two pillars of R2P was described as a way to build consensus around this new concept before focusing on its more problematic parts.

### **The Root Causes of Mass Atrocities**

As one expert pointed out, it was very difficult to identify systemic root causes of the four crimes R2P seeks to address. According to her, there was no consensus in academia on the causes and precursors to such violence. At the same time, she outlined that the root causes for genocide were broader than those for war crimes. While the former invariably relate to the society as a whole, the latter often deal with the structure of, and discipline within, armed forces.

In the discussions at the conference, several speakers identified the following root causes, or negative structural background conditions, of mass atrocities: social marginalization or armed conflict based on religious or ethnic identity; economic underdevelopment; organized crime; demographic trends; colonial legacies; and the divisive politics of demagogues.

According to one African participant, gross social imbalances among different identity groups often led to violent reactions by disenfranchised groups. He pointed out that the only unifying factor among the Sudanese rebels was their sense of victimization. Another speaker explained that socio-economic exclusion and exploitation of East Pakistanis by the West Pakistani population minority was at the root of the genocidal mass killings of 1971.

Participants agreed that a healthier society with better economic conditions was less vulnerable to mass violence. At the same time, the majority of the participants did not see economic status as a determinant for the risk of genocide, war crimes, ethnic cleansing, and crimes against humanity. Two participants warned against economic determinism that equated underdevelopment with vulnerability to those four crimes. Indeed, some participants argued strongly against attaching genocide to these structural background conditions because Germany and Yugoslavia were highly-developed states. Material conditions, in this view, are not the determinant of mass atrocities, and it dishonors the victims of genocide to claim that the causal link should be reduced to underdevelopment alone, without individual culpability.

In response, the dissenting minority noted that a financial and economic collapse brought Adolf Hitler to power, and developmental root causes had been central to the Balkan Wars of the 1990s, arguing that this is a very strong link between underdevelopment and mass violence. They also explained that flawed financial policies of the Bretton Woods Institutions sometimes created crises that escalated into mass atrocities.

One participant maintained that the violent break-up of Yugoslavia occurred as a result of divisions between ethnic and religious identity groups. Another speaker argued that existing ethnic and religious hatred had been enflamed by demagogic politicians like Slobodan Milosevic. He explained that politicians sometimes incited genocide and ethnic cleansing as means for staying in power.

Two other participants referred to problems inherited from the colonial era as further root causes for genocides, war crimes, ethnic cleansing and crimes against humanity. Pervasive

organized crime was also listed as a cause of such violence, particularly in West Africa. Finally, one speaker noted the destabilizing impact of large youth bulges in a society.

One expert contrasted those long-term root causes of R2P situations with conflict triggers that operate in the short term, causing volatile situations to degenerate into mass violence. According to this participant, immediate conflict triggers include mismanagement of public resources, rigged elections, lack of access to food or water, an upsurge in violations of minority rights, dysfunctional judicial systems, insufficient inter-communal revenue sharing, environmental degradation, refugee flows, and small arms proliferation. Another participant added the absence of elections to this list. A third speaker noted that some of these conflict triggers may operate in the short term, but they could only be remedied in the long term.

The role of elections as a potential conflict trigger sparked a discussion among the conference participants. One participant listed Côte d'Ivoire, Nigeria, and Togo as countries that have recently experienced post-election violence. One expert argued that accepting low levels of human rights abuses, such as cancelled elections, may be a viable way to prevent large-scale abuses in the short term. Another participant rejected this proposition, and underlining the escalatory potential of postponing elections. Another expert pointed to the successful organization of elections by the United Nations as a possible solution to this dilemma.

Overall, participants disagreed as to whether R2P should be thought of as focused on the long-term, structural background variables listed above (which would suggest humanitarian assistance and development programs as the main methods of operationalizing R2P), or whether R2P was more properly thought of as focused on the more immediate, short-term triggers—regardless of the state of development in a given polity and society.

### **The Prevention of Mass Atrocities**

State representatives from developing countries and from developed countries agreed that preventing mass atrocities was a more appealing strategy than merely responding to them. One speaker noted that conflict prevention had been a core function of the United Nations since its inception.

One state representative observed that the area in which the United Nations could make the biggest contribution to the prevention of mass atrocities was norm setting. The most important step was already taken when paragraphs 138 and 139 of the Outcome Document were adopted by the 2005 World Summit. The very affirmation of R2P constituted a significant incentive for states to prevent these crimes. The creation of the International Criminal Court (ICC) was also described as an important step to establish the notion that the failure to observe R2P had consequences. One participant observed that the United Nations' norm setting already made it harder for demagogic politicians to inflame tensions.

In a similar vein, three participants addressed the preventive role of international humanitarian law. One representative of a Western nation urged states to ratify the Genocide Convention, the Geneva Convention, and its Additional Protocols. He also asked them to introduce the conventions' provisions into domestic law by criminalizing the incitement and perpetration of genocide, war crimes, ethnic cleansing and crimes against humanity. Two national officials from Latin America and Asia recommended amending and enhancing treaties dealing with international crimes.

Education was identified as a long-term preventive engagement that could inoculate youths from extremist appeals. One participant observed that the United Nations Educational, Scientific and Cultural Organization (UNESCO) could make valuable contributions to the promotion of tolerance. Another speaker mentioned that the media could also play an important role in the prevention of mass atrocities. Overall, participants that disagreed strongly with the definition of R2P primarily as a development problem did agree on the strong preventive aspects of an open civil society based on education of youth, free media, and support for indigenous or local NGOs, which together could help prevent manipulation of societal rifts for personal gain by “entrepreneurial” politicians.

### **Capacity-building and Development to Strengthen State Capability**

A state representative from a developing country emphasized that it was impossible to prevent infractions of R2P without looking at the sensitive issue of governance. A fellow official from a member of the Non-Aligned Movement concurred that good government structures and sound leadership were the most important determinants of success. A third state representative from the Global South explained that the onus for running the state effectively lay with the government, and that this task involves meeting the challenges of nation-building and dealing with different constituencies among the population. One representative of a Western European country cited over-funded militaries in under-resourced countries as an example of bad governance.

One African participant identified a need to strengthen the organization of free and fair elections on his continent. Others pointed out that the United Nations Development Programme (UNDP) and the United Nations Democracy Fund (UNDEF) were already undertaking pertinent capacity-building efforts. One Asian participant criticized the lack of a United Nations training institute that could offer capacity building assistance to close quality gaps in national judiciaries.

One state representative wondered whether the review of the UN Millennium Development Goals should lead to the introduction of a R2P paradigm into this development framework. Such an adjustment of the UN Millennium Development Goals would allow them to make a greater contribution to the prevention of these crimes. The same speaker also urged the international community not only to talk about the kinds of capacity needed but also to answer the question of to whom it was provided. When donors built the capacity of nongovernmental organizations because they lacked confidence in the government, they did not strengthen the capacity of the state to fulfill its primary R2P.

However, there was some disagreement over whether the state government itself should be the sole or main locus of capacity building, whether via long-range development programs or short-term preventive actions. Some participants argued that in both pre-crisis capacity-building and post-crisis rebuilding efforts, the sovereign government should be the main gatekeeper and focus of interventions, both with UN agencies (UNDP, [United Nations High Commissioner for Refugees] UNHCR, others) and individual donor states. However, other participants noted that in many cases involving the four mass atrocities covered within the R2P framework, it is exactly the government itself—or a part of the government—that is committing, planning, equipping, or simply tacitly allowing the tragedies to unfold. Thus, in the latter situations, civil society actors might be as important to capacity-building and post-conflict rebuilding as the government elites.

State representatives and Secretariat officials widely agreed that economic development was closely related to the topic of capacity building for purposes of R2P. One participant argued that the concepts of prevention and the early warning capability enshrined in paragraph 138 presupposed a basic responsibility of the international community to address the root causes of the four crimes listed in this provision. Those root causes were closely linked to the right to development.

One state representative described the root causes of the conflict in Darfur as economic. He contended that the international community had been unwilling to make preventive investments to alleviate Darfur's developmental problems while it is now willing to pay approximately US\$1.3 billion on peacekeeping in this area. He presented the view that development assistance could have prevented the mass violence in Darfur. Another national official disagreed with this analysis, pointing out that numerous developed countries had been investing in the economic development of Southern Sudan for decades. When they tried to extend their assistance in Northern Sudan they were presented with few opportunities to provide help.

One speaker underlined that internal government structures grew out of the socio-economic situation of the state. He went on to explain that after the Second World War, the Marshall Plan allowed states to rebuild their capacity. More recently, recommendations from international financial institutions to weak states tended to undermine state capacity. A second participant agreed that the international community needed to address the issue of international financial governance to succeed in capacity building aiming to prevent mass atrocities. Another speaker, however, doubted that international financial governance was significantly related to those volatile situations that R2P seeks to address.

### **Systemwide Coherence on Prevention, Capacity-building and Development**

One recurring theme at the conference was the participants' intention not to establish new institutions and mechanisms specific to R2P, but rather to integrate a R2P perspective into existing work performed by the United Nations and its partners. Along these lines, several participants reiterated the importance of system-wide coherence in actualizing R2P. Appreciation was expressed for the pertinent work of the co-chairs of United Nations General Assembly consultations on system-wide coherence.

One participant explained that agencies, regional commissions, and other actors in the United Nations system sometimes competed for access to a country. He concluded that the United Nations needed a coordination mechanism to address this problem, possibly at the level of the Deputy Secretary-General. But not all participants agreed with the idea that the topic of system-wide coherence was strongly related to R2P.

Participants briefly discussed whether the Peacebuilding Commission should become involved in preventing mass atrocities in countries that have not yet experienced armed conflict. The Commission brings together all relevant actors to marshal resources and to advise on the proposed integrated strategies for peacebuilding. Two participants held that nothing in the Commission's mandate prevented it from doing so. One of them specified that the Commission could work on situations before they were added to the agenda of the United Nations General Assembly.

However, some participants rejected the idea of endowing the Peacebuilding Commission with preventive work. One national official explained that it had been impossible to reach

consensus on preventive engagement during the negotiations on the establishment of this body. For this reason, the Commission was working strictly from a post-conflict perspective. He added that fears of interventionism by the Peacebuilding Commission seemed to have decreased, raising the possibility that the role of this body could be reconsidered.

### Protection

Participants agreed that we needed to differentiate among dissimilar types of crises that required international help to protect populations from the four international crimes. Different situations needed to be addressed with a wide range of different instruments, and the international responsibilities assumed under article 139 of the 2005 World Summit Outcome Document should not be operationalized with a one-size-fits-all approach.

Four typological situations for mass atrocities were outlined in discussions. First, a state undergoing a crisis that raised the prospect of mass atrocities might be willing to be helped by the international community. In this case, the state primarily needed international assistance to strengthen its own response capabilities. Second, a state might be unwilling to accept international assistance. An international response to such a case would be more difficult than a response to a situation falling into the first category, but the international community would probably still be able to initiate a diplomatic dialogue with the government on the protection of the population. Third, a state may itself be responsible for the perpetration of mass atrocities, raising some doubts about the efficacy of a purely preventive and capacity-building approach. Undoubtedly this is the hardest case, but the international community should not shy away from responding to it. Finally, there may be situations in which a government that bore the responsibility for mass atrocities had been assisted by a foreign power.

One participant held that these typological cases were part of a continuum implicit in the articles 138 and 139 of the 2005 World Summit Outcome Document. A United Nations Secretariat official emphasized that those three or four categories were not static but dynamic. Over time, a state could move from one category to the other. The international community needed to keep track of such developments, and to adjust its response accordingly.

### Early-warning

Paragraph 138 of the 2005 World Summit Outcome Document asked the international community to support the United Nations in establishing an early warning capability. Among the conference participants there was clear support for the idea that such an early warning capability was needed. Participants generally recommended making the establishment of this early warning capability a central element in the effort to operationalize R2P, underlining that decisions to engage in preventive or protective activities had to be based on reliable information. The United Nations presently lacks the capacity to ascertain the credibility of such information. Some participants asserted that early warning in the recent crisis in Kenya and in the current global food crisis has been deficient.

One speaker noted that early warning systems had been established within the United Nations system on a number of issues such as climate change. However, some member states had historically been wary of establishing early warning systems at the United Nations since they feared either the disclosure of their own policies, or additional financial burdens and duplications of their national intelligence capabilities.

It was recognized that the Charter itself provided a legal and political foundation for the building of stronger early warning capabilities. One participant drew attention to the fact that article 34 of the United Nations Charter entitled the Security Council to investigate any situation which might lead to international friction or give rise to a dispute. Another added that the reference to article 34 in article 52 indicated that the Charter envisioned Security Council investigations to occur at a very early stage.

One participant pointed out that nongovernmental organizations that monitored emerging or ongoing crises demonstrated an early warning capability. Another speaker characterized the reporting activities of the International Crisis Group as a *de facto* early warning capability.

Participants agreed that in the age of globalization a lack of information was hardly ever a problem for United Nations decision-makers. The media, civil society groups, national intelligence services, regional organizations, think tanks such as the International Crisis Group and the International Institute of Strategic Studies are constantly feeding information into the United Nations' organs. The Office for the Coordination of Humanitarian Affairs (OCHA), UNDP, Department of Political Affairs (DPA), Department of Peacekeeping Operations (DPKO), and other departments and agencies maintained their own information gathering channels, and the Human Right Council's universal periodic review mechanism, the Special Rapporteurs of the High Commissioner for Human Rights, and United Nations country teams aggregated additional information within the United Nations system. Consequently, some participants believed that there was no need for an additional information gathering channel specifically for R2P. One expert proposed that R2P should rather be integrated into reports produced by Secretariat departments and agencies. He explained that those reports should routinely indicate higher or lower risk factors for the occurrence of mass atrocities.

Another expert recommended that the United Nations make better use of publicly available information, especially reliable information published on the Internet. The Secretariat was also advised to reveal the sources of the information it passes on to intergovernmental organs in New York, which revealed a theme that was woven throughout discussions: the need for transparency to engender trust and combat unhealthy competition between organs. Two participants discussed the idea of an intergovernmental review of information gathering by the Secretariat, disagreeing on the advisability and feasibility of this proposal.

Participants agreed that the main challenge for an early warning system was to establish an *assessment capability* that would bring together all the information available in the United Nations system before assessing its reliability and compiling a balanced assessment. Several participants supported the idea of creating a collection point for collating and assessing information related to R2P from multiple sources. Several participants stressed the need for the Secretariat to verify, in a balanced manner, the reliability of the collected information to avoid politicized assessments.

Thus, ensuring that the informational basis of the assessments delivered to the United Nations organs was not manipulated for political purposes would be a crucial task of the early warning capability. One participant pointed out that the veracity of media stories related to R2P needed to be critically assessed since media companies might be reporting in biased ways for any number of reasons. He asserted that member states would only develop confidence in assessments by the Secretariat when these assessments were both timely and



in accordance with the highest standards of quality control. Ultimately, *the credibility of R2P would be strongly related to the United Nations' success in avoiding politicized analyses of specific situations.*

Regardless of mechanisms, methodologies, or sources of such information, many participants expressed wariness over how such an evaluation or assessment of a country-specific pre-crisis situation may be used. They underlined the need for high confidence among the General Assembly that the information would be used by either the Secretary-General (SG) or the Security Council (SC) in ways reflecting R2P principles rather than parochial interests.

Several participants recommended that early warning related to R2P be distinguished from extant monitoring activities. Rather than adding to existing layers of monitoring, the early warning capability should focus on channeling information in a timely manner to the decision-making organs of the United Nations. One participant sharing this view explained that monitoring was often associated with meddling in the internal affairs of a country. This concern explained the reticence within Group of Latin America and Caribbean Countries (GRULAC) toward the recent proposal to establish regional offices of the DPA. One speaker who shared such concerns about monitoring conceded that it was hard to draw a clear distinction between early warning and monitoring. A United Nations Secretariat official presented the view that an element of monitoring was invariably necessary for obtaining the information that would be the basis on which an early warning capability could work. He added that any such monitoring activities should occur in a constructive way that was not perceived as interfering with the state's sovereignty.

One participant pointed out that concerns about the possible lack of inclusiveness were at the root of concerns about monitoring. A second United Nations official pointed out that monitoring the implementation of Security Council resolutions could be a separate function for the early warning capability. In this way, the early warning capability could also be used as an accountability mechanism for the United Nations system itself.

Several conference participants made methodological and substantive suggestions for the work of a possible future early warning capability. Three participants stressed that the early warning capability should adopt a social science methodology based on universal criteria, objectivity, constant methodological updates, and the rejection of politically motivated double standards. One of them stressed that this social science approach should be based on the analysis of the root causes and triggers of mass atrocities outlined in the previous section of this report. Another speaker stressed the need to be very specific about the information required to assess actions, trends and developments that may lead to mass atrocities. He named human rights violations, especially those against ethnic or religious minority groups, hate media and propaganda, the



formation of militias and armed groups, and dysfunctional judiciaries as relevant pieces of information. According to this participant, the early warning capability should be set in motion when healthy states develop cracks. Those cracks could only be detected by collating information from a wide range of early warning systems covering risk factors such as rising unemployment or growing ideological divisions.

While most of the discussions on early warning capabilities focused on international mechanisms, several speakers pointed out that a domestic early warning capability was the first step in an effective response to the threat of future mass atrocities. In order to protect its population, each state needed structures and capacities that allowed the government to learn about potential threats before they became unmanageable. The structure of the constitution, the rule of law, well-organized ministries and security forces, as well as well-functioning oversight institutions (such as parliamentary intelligence and public accounts committees) were identified as determinants of the strength of the domestic early warning capability. One participant noted that, in the early stages of a crisis, the international community could provide early warning capability building assistance to help governments that were in denial of a looming threat.

The conference participants also discussed with whom the early warning capability should share its information. The general sense among participants was that the Security Council should not be the sole beneficiary of the early warning capability's output. One participant specified that the information should be gathered by the Secretariat and made available to the Security Council, the Human Rights Council and the Peacebuilding Commission, since it those three bodies would be the ones to devise appropriate responses. Another speaker listed cited the need to include regional groups and member states as consumers of this information. One expert pleaded in favor of devising informal mechanisms for sharing information with the intergovernmental United Nations organs that were responsible for devising responses.

Participants agreed that early warning could only be a meaningful innovation when the intergovernmental organs *reacted* to early warnings in a timely and adequate manner. One of them cited the example of the report of the Special Rapporteur of the United Nations High Commissioner for Human Rights that had presented the international community with serious warning about the political development in Rwanda as early as 1993. Three participants agreed that early warnings on the deterioration of the situation in Zimbabwe had been available, and they described the reaction of intergovernmental organs to this information as insufficient.

**Use of Appropriate Diplomatic, Humanitarian, and Other Peaceful Means under Chapter VI**  
Paragraph 139 of the 2005 World Summit Outcome Document described the responsibility of the international community to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. The conference participants agreed that early peaceful international engagement was essential for the successful pursuit of this objective. When international actors became engaged early, they could gauge more easily whether mass atrocities were happening, whether they could occur in the future, which strategies of engagement were working, and how the international community should proceed. It was pointed out that early involvement should occur before the positions of local actors harden and before they go into denial over the threat of

mass atrocities. One speaker used the examples of the Eastern Democratic Republic of the Congo and Darfur to explain that the international community should become engaged in deteriorating situations before governments lose their control of proxy militias which cause entrenched violence and chaos when they are no longer responsive to state actors. Another participant declared that the international community should develop the preset intention to respond to a particular situation as soon as local actors are set to commit atrocities.

One expert pointed out that the summit document paragraphs included incitement as something to be combated early on. Accordingly, the international community would not have to wait until it possessed precise information on the actual commission of the crimes before engaging in an escalating crisis. A state representative postulated an evolving change of culture at the United Nations that would put an emphasis on early preventive diplomacy. However, one obstacle to timely preventive diplomacy at the United Nations is the fact that governments confronted with an incipient crisis almost invariably find a Security Council member willing to block international preventive engagement in the name of national sovereignty.

Several conference participants pointed out that the United Nations Secretary-General could make an important contribution to an early response to R2P situations by extensively using his good offices. Among other things, he could pressure the belligerent parties to prevent crisis situations from degenerating. Numerous state representatives and Secretariat officials agreed that the Secretary-General needed the backing from the member states, especially from the Security Council. The case of Kosovo showed that the Secretary-General would not act without the support from the membership of the United Nations.

While the Secretary-General was warned not to freelance without consulting with the Security Council and the General Assembly, member states were urged to provide guidance to him, and to allow him some degree of freedom in the exercise of his good offices. One representative of a permanent member of the Security Council noted that, in order to break deadlocks over R2P situations, the Secretary-General should even consider undertaking mediation without the support of all permanent Council members. The Secretary-General was advised to seek the endorsement by regional organizations when he exercised his good offices in the absence of a Security Council resolution as his framework of action. He should also seek the support of important regional powers and neighbors that have a stake in the conflict. Several participants shared the view that regional organizations sometimes had a comparative advantage vis-à-vis the United Nations in offering good offices. Developing countries might even suspect hidden agendas behind politically sensitive initiatives of the United Nations, and regional organizations often were more likely to enjoy their trust.

Security Council resolutions backing the good offices of the Secretary-General often added momentum to mediation processes, but they could also backfire by reducing the cooperation of the target state. One Asian representative held that the relative success of the good offices in Myanmar could be explained by the fact that they were mandated by the General Assembly rather than the Security Council. Several conference participants pointed out that it was sometimes better to undertake informal preventive engagement than to seize the competent intergovernmental organ. One of them said that in many cases there was no need for the Secretary-General to invoke article 99 of the Charter.

### Roles of Regional Arrangement Means Under Chapter VIII

Today regional organizations have become more actively involved in the maintenance of international peace and security than the founding fathers of the United Nations had envisaged in 1945. The African Union, the European Union, the Association of Southeast Asian Nations and others have developed collective security mechanisms that play increasingly active roles in implementing R2P. Two participants outlined a trend in Latin America, Africa and South East Asia to deal with violent crises first at the regional level, and to revert to the international level only when those crises could not be successfully addressed in a regional framework. The recent dispute between Colombia and Ecuador was cited as an example of this tendency.

One participant commented that regional efforts undertaken in the name of R2P typically faced less skepticism than similar United Nations engagement. But collective security arrangements in some other regions were described as far less developed. Factors determining the effectiveness of regional cooperation on peace and security matters included bilateral relations in the region and the role of regional hegemon.

In the Western hemisphere, for instance, both the United States and Latin American states had long objected to developing peacekeeping capabilities under the aegis of the Organization of American States. The opposition from Latin American states was motivated by the relative political weight of the United States in this organization. The United States held reservations vis-à-vis regional peacekeeping in the Western Hemisphere since it financed approximately half of the budget of the Organization of American States while their contributions to the United Nations only accounted for twenty-two percent of the organizations' peacekeeping expenditures.

In Africa, the collective security arrangements of sub-regional organizations had achieved varying degrees of success. While the Economic Community of West African States had proven very effective and the Southern African Development Community had also been successful in some cases, the Intergovernmental Authority on Development had faced some overwhelming challenges.

Chapter VIII was characterized by a United Nations Secretariat official as an area of undervalued potential for operationalizing R2P. On the one hand, one participant stressed that strong regional involvement in responding to R2P situations was helpful when it was motivated by the comparative advantage of regional mechanisms. On the other hand, the merits of regional leadership in addressing a crisis were less clear when the region took the lead merely because a lack of trust in the United Nations precluded a different solution. In the same vein, one United Nations Secretariat official stated that considerations of comparative advantage should in any given situation guide the choice between United Nations and regional mechanisms as the framework for international responses. He added that the Government of the Sudan was very satisfied with African leadership in early international efforts to respond to mass atrocities in Darfur since it was well aware of the capability gaps of the new African Union.

One participant explained that regional actors were often faster than the United Nations in establishing peacekeeping operations, and he cited the example of the deployment of Australian and Malaysian troops in Timor-Leste within twenty-four hours. It took the United Nations ninety days from the adoption of a Security Council Resolution mandating a peace operation to establish the force. This participant proposed treating peacekeeping as

a two-stage process in which quick regional intervention preceded the establishment of a United Nations operation that required a longer decision-making and planning process but also offered better capabilities and higher staying power than most regional peacekeeping mechanisms. One participant recommended establishing a comprehensive inventory of regional peacekeeping capabilities.

Participants identified the question of authority as a potential challenge for the cooperation between the United Nations and regional organizations. Article 53 of the United Nations Charter stipulates that no enforcement action shall be taken under regional arrangements without the authorization of the Security Council. One African participant noted that the African Union intervened in Somalia without a prior authorization from the United Nations Security Council. According to another speaker, it was also doubtful whether the United Nations was sufficiently involved in the recent establishment of a peacekeeping operation in the Comoros. A third participant pointed out that a lack of coordination between the United Nations and regional organizations simultaneously engaging in efforts to address a R2P situation could be exploited by uncooperative parties in a conflict.

Several participants underlined the utility of intensifying best practices learning efforts jointly held by the United Nations and regional organizations, and by multiple regional organizations. One participant recommended adding more substantive discussions to the agenda of meetings between the United Nations Secretary-General and regional organizations. Those meetings should provide a forum for discussing substantive cooperation and for establishing best practices. Different regions could learn, for instance, from experiences with preventive diplomacy and the suspension of the membership of uncooperative member states. One participant described that the suspension of Peru's membership from the Rio Group and the recommendation to impose sanctions by the Organization of American States had succeeded in isolating the Fujimori government in Peru and encouraged it to return to constitutional normalcy. This success story was contrasted with unsuccessful efforts of the Commonwealth to isolate Zimbabwe through the suspension of its membership in the organization.

Two participants drew attention to the need to specify the relationship between the United Nations and regional organizations that play a role in operationalizing R2P *beyond their own region*, most notably the European Union and the North Atlantic Treaty Organization (NATO). One of them outlined that NATO was deeply involved in assisting the African Union Mission in Sudan (AMIS) with transport and training. In September, a cooperation agreement would be concluded between the United Nations and NATO after concerns within the United Nations membership had postponed this step in the past.

Another participant noted the role of cross-regional organizations such as the Commonwealth and the Non-Aligned Movement and stressed the need for coordination between those institutions and the United Nations. She described that the Commonwealth had been rather successful in intervening in crises in Nigeria, Fiji, Pakistan and Zimbabwe. The Non-Aligned Movement had established committees and contact groups related to R2P situations, and it had opened a dialogue between the parties to the intrastate armed conflict in the Philippines.

Several participants identified a need to strengthen the capabilities of some regional arrangements dealing with R2P. One speaker brought attention to the Framework for the

Ten Year Capacity-Building Programme the United Nations and the African Union agreed on in 2006, as well as the European Union's African Peace Facility. These programs have made positive contributions to building regional collective security capacity in Africa that will help operationalize R2P. Another speaker proposed providing additional international assistance to strengthen the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights so they could become more effective sources of information on massive human rights violations and become leveraging tools for the promotion of respect for those rights.

Overall, greater emphasis on regions was recommended alongside cautionary notes about over-reliance on regional actors alone. The concept of regional ownership should not be overstretched and equated with an abdication of responsibility by the United Nations, because while superior local contextual knowledge of geopolitical dynamics resides among the regional neighbors and organizations, often the humanitarian monies and capabilities resided elsewhere, in the United Nations or among individual donor states.

In addition, several participants remarked that regional neighbors are hardly themselves pristine moral actors, in terms of being free from quite immediate strategic interests associated with refugee flows, economic destabilization, ethnic divides that cross boundaries, and other collateral effects of such crises. Thus, the SG in particular could be in a position—with information flowing in from the multitude of agencies on the ground, as well as civil society—to start preventive diplomatic efforts in league with regional organizations, with the SG focusing on global R2P principles and regional actors focusing on best practical and effective approaches on the ground, blending the best aspects of both actors and respecting the core national interests of neighboring states. In the end, as one participant pointed out, regional neighbors *will* naturally intervene in the affected states' affairs, whether diplomatically, economically, or militarily, and the question is therefore how, when, and to what ultimate end those regional interventions will occur.

### Role of Coercive Actions Under Chapter VII

The provisions on R2P in the 2005 World Summit Outcome Document established a clear preference for peaceful means of international engagement for the protection of populations from the four crimes listed in the document. However, the text also expressed the preparedness of the international community to pursue this purpose through collective action, including under Chapter VII of the Charter. Some conference participants interpreted the existence of these separate points to mean that the General Assembly would continue to consider the modalities of protective intervention, and while the General Assembly is still considering R2P and its implications, it would therefore be premature to use force in the framework of this concept.

One participant claimed that the United Nations Charter characterized the use of force as a last resort, and he recommended that the international community try to help



protect populations from mass atrocities using the instruments available under Chapter VI of the United Nations Charter before applying coercive measures. He added that paragraph 139 of the 2005 World Summit Outcome Document specified that the international community was prepared to use force “should peaceful means be inadequate” for the protection of the population.

While no conference participant interpreted this clause as establishing a strict temporal sequence of peaceful and forceful means, some of them recommended that the international community should typically try using diplomatic channels before resorting to coercion. All of them seemed to agree that decisions needed to be taken on a case-by-case basis. According to a Latin American participant, there might be cases where the gravity of human rights violations was so urgent that the international community would, in a consensual way, use force immediately because the use of force constituted the only adequate response. Another Latin American speaker added that a gradual response to R2P situations could even be adopted, as appropriate, under Chapter VII.

Two participants referred to the negotiating history of the United Nations Charter and the 2005 World Summit Outcome Document to argue that neither document established the principle of a temporal sequence of peaceful and forceful responses to address threats to international peace and security. One of those speakers described the Charter system as providing for a very pragmatic case-by-case judgment rather than a sequence of actions. At the San Francisco Conference, an amendment to establish such a sequence had been rejected at the initiative of small states that were pushing for early forceful collective responses because they were worried about interventions by more powerful states. According to one participant, the negotiations on paragraphs 138 and 139 of the Outcome Document ahead of the 2005 World Summit, the clause ‘after all peaceful means have proven inadequate’ had figured in early drafts until it was taken out of the text. Another speaker recalled that the negotiations on the draft Outcome Document did not deal with proposals to establish a clear sequence of different collective responses. He explained that the only pertinent proposal involved the establishment of a continuum of action rather than a sequence.

Several speakers warned against establishing inflexible trip wires for collective action that could ultimately complicate timely engagement. One of them named the establishment of a preventive military-based peace operation in Macedonia as a positive example of early collective action that did not involve actual use of coercive force, even though NATO troops were deployed. Another stressed that delaying the use of force in the face of the Rwandan genocide would have been unacceptable. One participant even argued that the collective use of force should be considered as soon as signs of the commission of the four crimes were perceptible. Finally, one participant recommended applying traditional precautionary principles to the use of force in cases of mass atrocities. These principles included right intention, last resort, proportional means, and reasonable prospects, as studied and defined by experts in the past.

Several participants drew analytic distinctions between two forms of forceful collective action: coercive enforcement and consensual peacekeeping. One state representative stressed that peacekeeping mandates should be specifically geared toward the protection of civilians. He argued that the fatal inaction by United Nations peacekeepers in Rwanda at the time of the genocide resulted from the inadequacy of their mandate. Some peacekeeping mandates in West Africa had also proven inadequate. When the United Nations deploys

peacekeeping operations alongside regional peacekeeping missions, their civilian protection mandates should be coordinated.

But according to one expert, peacekeeping was not likely to stop genocides, war crimes, ethnic cleansings or crimes against humanity that were already under way. Only enforcement action could attain this objective. However, enforcement action is very expensive in terms of cost and resources needed. On average, looking across a comprehensive set of cases since World War II, enforcement action has been ten times more demanding than peacekeeping. Two participants agreed that enforcement action was only possible in a limited number of cases, and only in small societies, such as Timor-Leste. One of them added that enforcement action required the willingness of a major power to take the lead. Powerful nations would muster the political will to respond with enforcement action to ongoing mass atrocities when refugee flows from a crisis region affected Florida or Western Europe, but not when refugees fled from the Sudan to Chad. According to this expert, situations comparable to the latter case could only trigger other international responses, such as the indictment of individuals who were responsible for the commission of international crimes, or the imposition of economic sanctions. Neither measures were likely to display a positive effect in the short term and both could even exacerbate the crisis. Moreover, economic sanctions came at a high cost. For instance, they disrupted the economy of Haiti over a three-year period, and they created a new, illicit black market economy based on an entire generation of criminals in the Balkans that focused on circumventing embargoes. But, when sanctions are accompanied by other political pressures, targeted sanctions such as travel restrictions for the political leadership or bans on the participation in sports events could be a helpful instrument available to the international community.

Overall, several participants argued against assuming that all coercive actions would be military in nature, or conversely, that all military actions would be innately coercive. The peculiarities of some cases may call for early simultaneous deployment of peacekeepers or international police along with early efforts at humanitarian assistance and preventive diplomacy, in essence as part of de-escalation measures. The symbolic presence of some blue helmets may in such situations act as a deterrent to further purposeful escalations by key hostile groups. Moreover, threats of termination of UN humanitarian and development aid by the SG or SC, combined with international sanctions, may be needed to halt a negative trend toward violence, and these would constitute *nonmilitary but coercive measures* well short of actual military engagement, possibly in league with SG-led preventive diplomacy under Article VI or actions by regional organizations under Article VIII.

### **The International Criminal Court and R2P**

Conference participants were divided in their assessments of the contributions of the International Criminal Court to the operationalization of R2P. Several participants underlined that the Rome Statute of the International Criminal Court reaffirmed that the primary responsibility to prosecute genocide, war crimes, and crimes against humanity lay with the states.<sup>9</sup> This provision reinforced the first pillar of R2P, which assigned the primary responsibility for protecting populations from those mass atrocities to each individual state.

Both R2P and the International Criminal Court sought to convey a warning that masterminds of mass atrocities could not get away with their crimes. Both sought to give national leaders an incentive to refrain from mass atrocities when they were considering the use of the instruments of the state against the population.



Two participants raised the question of whether it was advisable for the International Criminal Court to issue arrest warrants when there was no prospect of taking the indicted into custody. One speaker explained that one Sudanese government official indicted by the court in The Hague has even been promoted since his indictment.

Several participants agreed that the arrest warrants against leaders of the Lord's Resistance Army were now complicating the peace process in Northern Uganda. They agreed that such problems during peace processes could often be mitigated by adopting a sequential strategy for diplomatic and judicial processes at the end of armed conflict. One expert referred to the case of Charles Taylor as an example of how the interests of a peace process and the interests of criminal justice could be brought in line. Another speaker added that it was critical that Charles Taylor had left Liberia for exile in Nigeria before he was indicted by the Special Court for Sierra Leone.

One participant warned that such a sequencing strategy could compromise the credibility of promises of amnesty or exile in future peace processes. Putting Charles Taylor and Augusto Pinochet on trial despite prior assurances of immunity would make it more difficult to gain the consent of future leaders with a record of serious human rights violations to leave office. Several speakers pointed out that a purposeful strategy for diplomatic and judicial processes at the end of armed conflict could mitigate potential conflicts between the goals of a peace process and the interests of criminal justice. Some were concerned that rapid post-conflict indictments might pose a severe irritant to the immediate goal of peace-building, unless such ICC actions were purposefully and strategically integrated in a way that made them part and parcel of the long-term reconciliation process.

For instance, one expert pointed out that decisions on the design, comprehensiveness and sequencing of the peacebuilding and justice processes needed to be in line with the amount of international assistance available to the country in transition. When international resources and commitment have been insufficient to prosecute people who have been responsible for past crimes, a more conciliatory approach has been taken, at least in the intermediary term. For instance, at the end of the Cambodian civil war the United Nations sought to bring the Khmer Rouge into the national government rather than saddling it with the responsibility for its past crimes because the international community was not willing to apply the level of military force necessary to pursue an approach based on retributive justice.

According to one participant, one of the merits of the International Criminal Court was to put all state parties on the same playing field before the law. In a similar vein, the jurisdiction of the International Criminal Tribunal for the former Yugoslavia encompassed all militaries including those of the United States and other countries. R2P was similarly applied to all states. But one state representative held that the United Nations Security Council's ability to defer investigations or prosecutions by the International Criminal Court proved that not all states were equal before the court.<sup>10</sup> Another expert opined that the International Criminal Court would not be effective unless its actions had the support of the Security Council. Therefore, the Security Council's approval of the exercise of the court's jurisdiction should be a prerequisite for the court's involvement in a country. This proposal, which had been presented by the United States at the 1999 Rome Conference, was rejected by two other participants.

## Rebuilding

A good way of identifying societies at high risk for the perpetration of mass atrocities is to look at places where those crimes have been committed in the recent past. The likelihood of their reoccurrence in such places is exponentially higher than the likelihood of their perpetration in countries where they had not happened. One participant noted that half of the conflicts on the agenda of the United Nations Security Council relapsed into conflict after the withdrawal of a peace operation. In this regard, one speaker argued that the 1994 genocide in Rwanda could have been prevented through rebuilding efforts after the two previous outbreaks of mass violence in the country.

Participants agreed that international assistance in rebuilding could strengthen the post-conflict society's resilience against relapsing into conflict. One expert explained that the general objective of peacebuilding after intrastate wars was to make violent societies peaceful, and to redirect the societal competition on wealth and power from violent to peaceful means. This objective coincided with the preventive goals of R2P.

While underlining the linkages between peacebuilding and R2P, conference participants also warned against equating peacebuilding with the prevention of genocide, war crimes, ethnic cleansing and crimes against humanity. One participant stated that not all situations of peacebuilding were also situations of mass atrocity prevention. Only in societies with inter-communal tensions, such as those in Lebanon, Iraq, and the Sudan, could rebuilding efforts be located within the framework of R2P. Furthermore, as one participant pointed out, if one equates peacebuilding with R2P, this strongly implies that efforts of the international community to actualize R2P should be focused on prevention through *post-conflict* measures (peacebuilding and peacekeeping) rather than through concerted efforts to prevent the first major crisis from happening. Traditional post-conflict peacekeeping missions are the best approach according to this view, focused on creating a space for buildup of public services, economic stability, professionalization of internal police forces, and eventually inclusive forms of government. But while this latter approach aligns well with many officials' and analysts' arguments in the United States and other Northern states in addition to many G-77 countries, other participants stressed that it is simply not possible to equate post-conflict peacebuilding and peacekeeping with the full intent of the R2P framework.

One United Nations Secretariat official raised the question which rebuilding activities served the purpose of R2P in addition to promoting other unrelated peacebuilding objectives. Which capabilities would states need to have in order to protect their populations from mass atrocities, and what would be the best sequence for rebuilding these capabilities? To answer these two questions he recommended looking at past instances of mass atrocities.

Participants offered different yet similar lists of issues that needed to be addressed to prevent post-conflict countries from relapsing into violence and mass atrocities. They agreed that reforming the security sector, improving the rule of law and the judicial system, creating a reconciliation process and strengthening other state structures were among the priorities. Security sector reform would have to encompass the military and police forces. Judicial reform should give people the confidence that their grievances would be given a fair hearing. It should also address the living conditions in prisons and the quality of the work of public prosecutors. Avoiding impunity for past crimes might involve action by national and international courts. A reconciliation process should address past crimes as well as

issues of redistributive justice, including land ownership. State structures that might have to be reformed included the constitution, the penal code, the leadership capacity of the executive and legislative branches, and law schools. One participant referred to the example of Rwanda to prove his point that the return of refugees would be another priority for peacebuilding from a R2P perspective.

Participants disagreed on the importance of providing basic public services such as water and electricity for the prevention of renewed mass atrocities. Some speakers pointed out that the public expected improvements in the public services sector, and they raised the prospect of growing popular frustration if those expectations were not met during the rebuilding process. Other participants emphasized the need to keep the list of activities short, to set priorities, to focus on the reform of the security and justice sectors, and to sequence peacebuilding activities.

Participants also disagreed on whether or not economic development was a crucial aspect of preventing renewed mass atrocities. One of them held that unemployment was a key challenge to political stability in post-conflict situations, and a second speaker pointed to economic disparities and youth bulges in many developing countries as drivers of recidivism. Other participants questioned the strengths of the linkages between economic development and the risk of relapses into mass atrocities. According to them, economic development was the last part in the sequence of peacebuilding activities. For instance, some participants strongly critiqued the assumption of Bretton Woods international economic institutions that liberalized financial practices and fast rates of economic growth should be an immediate post-conflict goal in fragile societies, arguing that such conditionalities—tied to the large checks written by the International Monetary Fund (IMF) and The World Bank—could swamp the more nuanced political and development focus of actors such as the Peacebuilding Commission, UNDP, individual donor states, and others, as well as the more simple goal of *basic economic stabilization* (as opposed to growth). One Western participant noted that intensive case studies have shown that predictable economic stabilization must be achieved before aggressive growth strategies are implemented.

### The United Nations' Necessary Coordinating Role

Participants agreed that the United Nations should concentrate on acting as a coordinator where it cannot provide peacebuilding assistance itself. International peacebuilding assistance that helps prevent relapses into mass atrocities involves a great variety and confusing array of actors, including bilateral and multilateral donors, the Bretton Woods Institutions, regional organizations, the United Nations Peacebuilding Commission, the United Nations Democracy Fund, the United Nations Department of Peacekeeping Operations, the Department of Political Affairs, and the Rule of Law Coordination and Resource Group chaired by the United Nations Deputy Secretary-General. In those areas, it could make recommendations and mobilize other actors.

However, others thought that the United Nations should be a bit more ambitious in its post-conflict roles. One state representative recommended that the organization focus on providing assistance that directly impacted on international peace and security. Another argued that it emphasize developing the leadership and policy planning skills of the government of the post-conflict country. In particular, the UN Peacebuilding Commission should help the governments of countries emerging from mass atrocities focus on a limited number of priorities that would help them prevent renewed mass violence. However, from the

inception of this new body, a capacity limit of five countries had been agreed for the Peacebuilding Commission's agenda, limiting its potential contribution to the operationalization of R2P. One participant was broadly supportive of a decisive post-conflict role for the United Nations but also noted that there was severe (and perhaps dysfunctional) competition among actors: "Everyone wants in at the post-conflict stage. People throw money at it. Rebuilding could be the United Nations' most important role, but everyone else wants to get in it as well."

This same participant tried to identify precisely what rebuilding factors are most important to avoid recidivism, advocating a "two track" approach. First, the United Nations and others should identify the drivers of conflict. Is it deep grievances? Is it a youth bulge? Is it economic inequalities? So international actors should craft short-to-medium programs that are rigorously and purposely focused on what is absolutely needed up-front for the unique local context. This leads to the second track, and to a problem: the international community loses interest once the short-term emergency is taken care of (i.e., quick disarmament of militias, nascent job creation), and then leaves. The United Nations could therefore be instrumental in emphasizing five core state institution-building tasks for the long term as well:

- Professional military—focused on external security
- Professional police—focused on internal security
- System of justice—external judges may be needed initially for things like land disputes, to build confidence over time that grievances will be addressed in a neutral and effective fashion
- Infrastructure—health, roads, electricity, water, food, sanitation
- Institution-building in a political sense—the longest-term task

Overall, conference participants agreed that the Peacebuilding Commission's primary role was to mobilize resources from other donors to finance the peacebuilding process in post-conflict countries, not to come up with the financial resources itself. The involvement of the Peacebuilding Commission in a recovery process was also described as a signal to private investors that the international community was committed to securing stability and development in this country—in essence, offering a form of "insurance" for private investments.

## Responsibility and Accountability in the United Nations System

### **The Roles of the Security Council, General Assembly, and other UN Bodies in the Implementation of R2P**

Paragraph 139 of the outcome document states that the international community was prepared to take collective action through the United Nations Security Council to respond to failures to protect populations. At the same time, numerous participants held that the UN General Assembly should also play a role in asserting this responsibility in specific situations.

One state representative argued that the decision to intervene in pursuit of R2P should be taken by the General Assembly and be implemented by the Security Council. He based his argument on the observation that human rights should strictly remain in the competence of the GA. The same speaker explained that the GA's intention to be involved in certain areas of the implementation of R2P was partially based on its perception that the Security

Council had mishandled some past cases of mass atrocities. Another national official underlined that the Security Council was working in an international peace and security paradigm put forth in Chapters VI and VII of the Charter. Working in a R2P paradigm implied reserving a role for the General Assembly in addition to recalibrating the balance between the Security Council and the General Assembly. According to this official, the General Assembly should be able to deal with situations related to R2P while they were also on the agenda of the Security Council. But other state representatives and a United Nations Secretariat official emphasized that collective action in the framework of R2P would have to comply with the separation of powers between the Council and the Assembly as laid out in the Charter. Both organs would have to share responsibilities in accordance with the United Nations' founding document.

Along these lines, one participant noted that the and other United Nations organs need to play a strong role when veto threats block the Council from responding to actual or potential mass atrocities. Another participant observed that, in line with this recommendation, the Non-Aligned Movement had already proposed granting binding power to Resolutions of the General Assembly when they pertained to situations involving mass atrocities, if and when a divided Security Council failed to address the problem. However, this proposal was flatly rejected by some permanent Security Council members.

Several speakers agreed that other intergovernmental organs of the United Nations, besides the Security Council and the General Assembly, should also be involved in applying R2P to specific situations, and they named the Human Rights Council, the Economic and Social Council, and the Peacebuilding Commission as potential policy development fora. Their involvement would reflect that this concept was as strongly related to human rights and development because of its links to international peace and security. Moreover, it could help avoid the creation of a conflictual dichotomy between the General Assembly and the Security Council in this area.

One critical response was that the best way for the General Assembly to assert its authority vis-à-vis the Security Council would be to live up to its responsibilities. According to this viewpoint, there is actually no tension between the Security Council and the General Assembly when the latter fulfills the tasks assigned to it. When the General Assembly adopts mandates without approving funding, as it did in the area of counterterrorism, tensions with the Security Council will naturally arise.

Another criticism of the “multiple UN organ” approach was that a multiplicity of actors and mandates entailed the risk of creating overlaps and gaps as well as a lack of accountability. A clear delegation of responsibilities could have prevented the response to mass atrocities, such as the genocide in Rwanda, from being shuffled among intergovernmental bodies and the Secretariat.

Many conference participants described various aspects of the Security Council's working methods as obstacles for an unbiased exercise of its responsibilities related to R2P. Their biggest concern was related to the veto power of the permanent Council members. One participant claimed that the threat to use the veto prevented the Council from taking effective collective action on the situation in Darfur. Moreover, the veto power implied that the permanent members could escape all sanctions for failures in protecting their own populations. But one speaker pointed out the merits of the veto, explaining that a veto blocked the

adoption of infamous cease-fire resolutions by the Council during the genocidal mass killings in East Pakistan in 1971.

Despite these continuing divisions, the political costs of casting a veto preventing collective action to stop mass atrocities were described as constantly rising. In the present international context the veto powers want to be seen as caring about mass atrocities. An expert pointed out that the veto prevented the establishment of only three peace operations after the end of the Cold War. One state representative proposed that the permanent members make a commitment not to use the veto in situations of mass atrocities. This promise would be similar to the commitment to disarmament the nuclear powers give at each Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. Another national official referred to the proposal of the 'S5 initiative' comprising Switzerland, Costa Rica, Jordan, Liechtenstein and Singapore, that would require explanations for vetoes on Resolutions addressing genocide, war crimes, ethnic cleansing and crimes against humanity.

Other factors identified by conference participants as potentially impairing the Security Council's ability to implement collective action in the framework of R2P included the lack of due process in the Council, the absence of opportunities for nonstate actors to participate in the Council's work, nontransparency and the provisional nature of its rules of procedure. When a Security Council member was involved in a dispute it would act as judge and jury. Increasing the membership of the Council could enhance the trust of the General Assembly in this body, and it could persuade the new members to commit more financial and military resources to the work of the Council. At the same time, enlarging the Security Council would complicate decision making.

While all participants acknowledged that the Council faced structural and procedural challenges, they also agreed that the operationalization of R2P should not be postponed until all of those problems were solved. Participants underlined that linking the operationalization of R2P to the reform of the Security Council membership or veto would be the end of R2P.

#### **The Scope and Schedule for the Continuing Consideration of R2P by the General Assembly**

The conference participants agreed that the General Assembly should continue its clarification of R2P. Several participants mentioned that the Security Council should be involved in this debate, possibly at a later time, and that the Human Rights Council, the Peacebuilding Commission and Economic and Social Council (ECOSOC) should also play a role in this process. According to one speaker, the main challenges ahead are to advance our thinking on R2P legally, politically, and operationally, on the basis of the Outcome Document, as well as to flesh out the concept in practical terms. Moreover, clarifying R2P would avoid potential abuses of this concept, and it would ensure the buy-in from member states. One state representative introduced the idea of reviewing the principles of R2P in three- to four-year intervals in the General Assembly.

One participant pointed out that the debate in the United Nations as a very decentralized organization needed a concept master. He held that the Special Advisors to the Secretary-General addressing R2P and the Prevention of Genocide, respectively, should fulfill the crucial role of guiding the intergovernmental discussion clarifying the concept of R2P. A United Nations Secretariat official explained that the Secretary-General intended to draft a report on the operationalization of R2P by the end of September 2008. The Secretary-General would

engage in consultations with member states throughout the summer and during the fall before presenting the final report at the end of the year. This schedule would allow for the possibility of amending the draft report in light of the informal discussions during the fall. This report was intended to feed into the discussions in the General Assembly which are scheduled to take place early in 2009. A large number of conference participants expressed their support for this tentative schedule. Several of them reiterated the importance of intensive consultations with the member states to avoid misunderstandings and criticism of the final report. Participants also recommended that the Secretary-General involve the incoming President of the General Assembly early in those consultations. Two speakers warned the Secretary-General not to rush the discussions of his draft report.

Asked by a state representative whether the report would be presented to the General Assembly or to the General Assembly and the Security Council, a Secretariat official indicated that this decision remained to be taken by the Secretary-General. He added that the report would primarily constitute a response to the General Assembly. The report might also be sent to the Security Council, either at the same time or at later. Several participants recommended presenting the report only to the General Assembly. One state representative cautioned that the Secretary-General might have good reasons for presenting the report to both organs.

Two speakers recommended organizing a thematic debate on R2P and an interactive session with the Secretary-General before he completes his first draft in September 2008. Such an early debate would not produce an outcome, but it would prepare member states for the discussions on R2P planned for the fall of 2008 and early 2009.

One participant recommended inviting capitals to join the discussions on the operationalization of R2P. According to another speaker, there was a disconnect between what capitals wanted the General Assembly to agree on and the positions adopted by some representatives in New York. In general, capitals held a more favorable view on R2P than some of their representatives at the United Nations.

Overall, a majority of participants agreed that if the international community (including civil society) want R2P to gain true, long-term, sustainable traction, the General Assembly is the central body at the global level to debate, clarify, expand on, and advance this concept, with guidance from the Secretary-General and various key officials in the Secretariat. In particular, some participants believed that the GA-Secretariat process of dialogue and debate in 2008-2009—now planned—could invigorate and inform larger discussions in capitals and regions.

#### **A Designated Focal Point for R2P Within the United Nations**

At the conference there was strong support for the United Nations to have a single focal point for R2P and the prevention of genocide. It was suggested that the Secretariat was the natural location for this focal point. One speaker introduced the idea of creating a focal point in the form of a single office for R2P and the prevention of genocide. The decision to establish the focal point would be incumbent on the General Assembly. Obviously, the establishment of such a focal point should not detract from the responsibilities of a diverse range of United Nations bodies including the Security Council, the General Assembly, and the Human Rights Council.

Participants expressed the view that the focal point should provide a channel of communication with member states and civil society. In addition, it should serve as a traffic hub for activities related to R2P that were taken within the United Nations system. One participant recommended that some kind of mechanism to enhance interaction between the Secretariat and member states should be established, in which the primary purpose of the focal point might be to build relationships with member states, or to perform good offices. Another national official underlined that the focal point should seek to trigger action by the competent intergovernmental bodies on ongoing or impending mass atrocities.

An expert recommended that the Special Advisor of the Secretary-General for the Prevention of Genocide should make recommendations to the Security Council on the use of force. A state representative from the western hemisphere agreed with this proposal, and he added that the Special Advisor should also alert the United Nations membership about ongoing or impending mass atrocities. Another state representative from the Americas agreed that the Secretariat should alert member states to situations that posed the threat of mass atrocities. He added that this task should be performed by a group of experts of the stature of Professor Francis Deng who enjoy a high level of confidence in several regions of the world. Having such a team of experts would assuage certain suspicions of member states vis-à-vis the Secretariat.

However, others cautioned that the power to bring serious issues directly before the Security Council should be used with careful judgment and only on rare occasions, while one Secretariat official pointed out that the current mandate of the Special Advisor for the prevention of genocide in fact does not allow the person occupying this post to formally characterize any situation as genocide. Indeed, this inability to “name genocide” could be a positive feature, in that it should allow the post to avoid politicization.

Unfortunately, the preventive nature of this post’s current mandate is often overlooked, and its involvement in a situation is already being misperceived among member states as an indication that genocide is already underway. For instance, in order to avoid such misunderstandings, the Special Advisor has already been actively discouraged by regional officials from holding talks in Kenya and Myanmar during their recent crises.

One participant, responding to this discussion, stressed the need to get past the stigma of “naming” those countries that may be in a potential downward slide to violence, noting that future Secretariat interest in preventive diplomacy under Articles VI and VIII should be seen as *reacting to objective precursors* identified through balanced methods and sources,<sup>11</sup> rather than a negative political or moral judgment about a particular society. The point is not to punish, blame, or humiliate a government that is potentially failing but rather to help it as early as possible during a potential buildup to mass violence.

Conference participants strongly supported the idea of endowing the Special Advisor for the Prevention of Genocide with a new mandate originating from the General Assembly. According to one speaker, having a General Assembly mandate would enhance his credibility in the eyes of the United Nations membership. Several participants pointed out that the scope of his mandate should be expanded to include genocide in addition to war crimes, ethnic cleansing and crimes against humanity. This expansion would align his mandate with the terms of office of the Special Advisor of the Secretary-General on R2P. However, one state representative cautioned that no structural changes should be made before the



deliberations on R2P in the General Assembly. Reforming titles or mandates ahead of the General Assembly debate would cause suspicions.

### **Budgets and Funding for an R2P Post**

So far the General Assembly has not approved any funding for the post of the Special Advisor of the Secretary-General on R2P. Several speakers issued calls to provide funding for this position through the regular budget. Several state representatives were opposed to financing this post through voluntary contributions. One speaker explained that earmarks for voluntary contributions, which could create bias in the politically sensitive work financed by those funds, has already caused suspicions in the General Assembly. Two state representatives recommended considering accepting voluntary contributions if the Fifth Committee of the General Assembly continued to refrain from appropriating funds for this post. At the same time, both agreed that financing the position through the regular budget would be the better way to proceed.

### **The Locus of New R2P-focused Early Warning Capabilities**

Several participants pointed out that the early warning capability envisaged by paragraph 138 of the 2005 World Summit Outcome Document should be established within the United Nations Secretariat. One state representative presented the view that it should be located in the General Assembly, and several other speakers recommended that the General Assembly be involved in the assessments made by the early warning capability. Several participants warned against viewing the General Assembly as the primary implementing body for R2P, noting that the GA's strengths were not quick reaction but rather creation of new structures or institutional practices around evolving norms that themselves would constitute the real implementing mechanisms.

To break the time-intensive logjams that can result from General Assembly negotiations and diplomacy, one participant recommended gathering a group of wise men who could work with the General Assembly to determine criteria for identifying actual and potential situations of genocide, war crimes, ethnic cleansing and crimes against humanity. He cited a similar mechanism in the area of United Nations budgeting, where wise men are tasked with developing a methodology for determining the scale of assessments prior to the intergovernmental negotiations on the actual scale of assessments in the General Assembly. This proposal, however, was met by skepticism by two state representatives. One of them cautioned that the experience of the Secretary-General's High Level Panel on Threats, Challenges and Change had shown that most of the work had been performed by the Secretariat instead of the panel.

Overall, many participants urged that the outcome or goal of General Assembly discussions be the budgetary and diplomatic empowerment of the Secretary-General (SG) and the Secretariat as a whole on this issue, so the SG could play the roles of (1) networker of bureaucracies, creating synergies among extent information flows and on-site capabilities through (Special Representative of the Secretary-General) SRSGs and others; (2) point of contact for final assessment and evaluation of the potential for specific situations to slide into one or more of the mass atrocities; and (3) preventive global diplomat, under Articles VI and VIII of the Charter. According to many participants, without broad General Assembly approval of the legitimacy of these roles, the SG would be seen as a puppet of the Security Council and create additional rifts among organs.

### Conclusion: Actions Needed and Next Steps

The affirmation of R2P by the 2005 World Summit signaled a strong political commitment of all United Nations member states to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. Three years later, this concept has fired the imagination of civil society groups around the world, and it has raised high, and sometimes unrealistic, public expectations. On numerous occasions the United Nations Secretary-General has expressed his strong personal sympathy for R2P and for a sensitive interpretation of this concept.<sup>12</sup> Support for R2P within the United Nations membership has been uneven in different world regions.

The challenge ahead is to synchronize the intergovernmental process, which is at the heart of efforts to actualize R2P, the bureaucratic process in the Secretariat, and the simultaneous processes in civil society. Spectacular successes or failures of the United Nations may heighten political energy and attention for R2P, and they may either promote or block the clarification and operationalization of this concept.

Conference participants made the following short- and medium-term recommendations for the actualization of R2P:

#### Short term

- The General Assembly should continue its consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications as specified in paragraph 139 of the 2005 World Summit Outcome Document. For this purpose, it should hold a debate on this topic in early 2009.
- The Secretary-General should prepare a draft for a report on R2P before the end of September, and present the final report to the member states before the end of the year.
- The Secretary-General should engage in intense consultations with member states during the summer and the fall, and he should allow for the possibility of amending the draft report in light of the informal discussions during the fall.
- Think tanks should sensitize the member states to R2P by organizing seminars in New York ahead of the debate in the General Assembly.
- Both the Special Advisor of the Secretary-General on R2P and think tanks should engage capitals, national parliaments, the Inter-Parliamentary Union, and the Commonwealth Parliaments into the considerations of R2P.
- There should be more focused funding of nascent efforts by regional and indigenous domestic NGOs in the Global South to meet with their local counterparts for crucial information sharing, mutual empowerment, and lessons learned; currently, most monies for international and transnational R2P dialogues are located in Western global NGOs, foundations, or governments, rather than in regional organizations or other indigenous actors.
- The Special Advisor of the Secretary-General on R2P and think tanks should continue their consultations with civil society groups with a view to explaining the possibilities and limitations of R2P in order to avoid crises of expectations.

- The United Nations should emphasize the early operationalization of the first and second pillars of R2P, including prevention and capacity building. Avoiding mass atrocities in the first place is the best protection for populations, and focusing on those two aspects of R2P will facilitate consensus building around this new concept.

#### Medium term

- The General Assembly should enhance the conceptual clarity of R2P. It should specify what is expected from each actor, but at the same time it should be pragmatic and eager not let the search for the perfect drive out the good.
- The international community should aim for greater coherence on the interpretation of the scope of R2P, which should be strictly limited to genocide, war crimes, ethnic cleansing and crimes against humanity.
- Western activists should focus on pressuring their governments to commit resources for the successful application of the second and third pillars of R2P in concrete situations rather than arguing for an extension of the scope of this concept.
- Member states should reflect further on ways to integrate the responsibility to protect their populations from those four crimes into their domestic law and political practice.
- Member states should consider early ratification of the humanitarian conventions dealing with mass atrocities, and they should introduce their rules into domestic law.
- The United Nations should continue reflecting on ways to link the second and third pillars of R2P to concrete instruments and policies to ensure their implementation.
- The United Nations should integrate the R2P paradigm into a wide range of existing work of the organization. For instance, the United Nations Educational, Scientific and Cultural Organization and other actors should offer assistance to states in promoting tolerance through education and the media in order to prevent genocide, war crimes, ethnic cleansing and crimes against humanity. Assistance in training the judiciary sector should aim at strengthening the state's resilience to situations that might degrade into mass atrocities. Moreover, the upcoming review of the Millennium Development Goals could lead to the introduction of an R2P paradigm into this development framework.
- International organizations and bilateral donors should work toward closing the divides between their security and development communities. The development community should reorient its activities in ways that prevents mass atrocities.
- The global academic community should conduct further research into the root causes and triggers of genocide, war crimes, ethnic cleansing and crimes against humanity. Identifying these root causes and triggers will facilitate prevention, capacity-building and early warning.
- Taking into account that elections may sometimes trigger conflicts, the United Nations should provide more assistance in the conduct of free and fair elections.
- The United Nations should establish an early warning capability as specified in paragraph 138 of the 2005 World Summit Outcome Document. The early warning capability should

bring together information available in the United Nations system, assess it with a social science methodology based on universal and objective criteria, and make it available in as transparent a fashion as possible to the intergovernmental bodies responsible for defining appropriate policy responses in R2P situations.

- Member states should build and maintain domestic early warning capabilities based on the rule of law, well-organized ministries and security forces, and parliamentary oversight committees. Domestic early warning allows them to identify threats of genocide, war crimes, ethnic cleansing and crimes against humanity.
- Civil society institutions should engage in capacity-building for nongovernmental organizations in developing countries that could perform an important early warning function.
- The United Nations should create a basic operational capacity for R2P in the Secretariat. This office should combine the work of the Special Advisors of the Secretary-General addressing R2P and the Prevention of Genocide, respectively. It should provide a channel of communication with member states and civil society and a traffic hub for activities dealing with this concept within the United Nations system.
- The competent organs of the United Nations should act responsibly on a case-by-case basis to choose the right tools at the right time from a wide range of diplomatic, humanitarian, other peaceful or forceful means to protect populations from mass atrocities in accordance with paragraph 139 of the 2005 World Summit Outcome Document.
- The competent organs of the United Nations should respond early, peacefully, and informally to crises that display an escalatory potential before genocide, war crimes, ethnic cleansing and crimes against humanity occur.
- The international community should choose, on a case-by-case basis, between the United Nations and regional arrangements under Chapter VIII of the Charter as the framework for international responses to those four crimes on the basis of their comparative advantage.
- The international community should assist governments of countries emerging from mass atrocities to focus their rebuilding efforts on improving those capabilities that are most needed to prevent a relapse into violence, including the security sector, the rule of law and the judicial system, other state structures and a reconciliation process.
- Think tanks should produce a professional television documentary on R2P in a historical perspective as a public education resource that would be made available to governments and civic groups around the world. Several such documentaries already exist, for example, in relation to the Holocaust during World War II, and they can be highly effective in increasing awareness and galvanizing general support.

## Endnotes

- <sup>1</sup> See the full text of paragraph 138 and 139 of the World Summit Outcome document see the Appendix of this report. For the full text of the World Summit Outcome document, see <http://www.un.org/summit2005/>.
- <sup>2</sup> In the interest of simplicity, the term Responsibility to Protect or R2P is used throughout this report instead of the full title ‘responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.’ Also, from herein, instead of listing all four of these core crimes repeatedly, the report will refer to “mass atrocities” or “the four types of mass atrocities covered by R2P,” or words to that effect.
- <sup>3</sup> International Commission on Intervention and State Sovereignty, by the High-level Panel on Threats, Challenges and Change, *The R2P* (2001), text available at <http://www.iciss-ciise.gc.ca/>.
- <sup>4</sup> Secretary-General’s High-level Panel on Threats, Challenges and Change, *A more secure world. Our shared responsibility*, UN Doc. A/59/565, text available at <http://www.un.org/secureworld/>.
- <sup>5</sup> UN Secretary-General, *In Larger Freedom: Towards Development, Security and Human Rights for All*, UN Doc. A/59/2005, text available at <http://www.un.org/largerfreedom/>.
- <sup>6</sup> General practice accepted as law, i.e. international custom, is a source of law under article 38(1)(b) of the Statute of the International Court of Justice.
- <sup>7</sup> See the text of paragraph 139 in Appendix 1.
- <sup>8</sup> UN General Assembly Resolution 43/ 131 on humanitarian assistance to victims of natural disasters and similar emergency situations of 8 December 1988.
- <sup>9</sup> See article 17 of the Rome Statute of 17 July 1998, UN Doc. A/CONF.183/9, dealing with the complementarity of the International Criminal Court to national investigations and prosecutions. The full text of the treaty is available at <http://www.icc-cpi.int/about.html>.
- <sup>10</sup> See article 16 of the Rome Statute.
- <sup>11</sup> Indeed, this point is closely related to the entire discussion about the purpose, location, and nature of a *new R2P Early Warning Mechanism at the UN*. See Section IV of this report, as well as the next page.
- <sup>12</sup> See, for instance, the Secretary-General’s speech at an event on “Responsible Sovereignty: International Cooperation for a Changed World,” delivered in Berlin on 15 July 2008, UN Doc. SG/SM/11701.

## Chairman's Observations

Our discussions in Evora, Portugal, were substantive and energetic. We intended to facilitate actualizing the Responsibility to Protect (R2P) in the United Nations System and the international community. I hope and believe that the dialogue and networking contributed toward this. Reflecting on the conference, I draw several conclusions.

First, fully operationalizing R2P as an international norm is urgent. Genocide, war crimes, crimes against humanity, and ethnic cleansing have no place in modern society. The international community must work expeditiously to build the capacity to prevent and deal with these egregious human rights crimes. Those perpetrating them must be held culpable and accountable for their actions, whether they are individuals, nonstate actors, or governments. Paragraphs 138 and 139 of the 2005 World Summit Outcome Document recognize this and give direction for moving forward. Civil society around the world is increasingly calling for R2P implementation. Secretary-General Ban Ki-moon has wisely taken initiatives and urged action to this end.

As stated in the Outcome Document, the UN General Assembly is the right venue for moving this forward and consideration of it is planned for the next session, particularly in early 2009. As the General Assembly takes up R2P, the World Summit Outcome Document should be the starting point—it captures the agreed posture on R2P. Also, it is important that deliberations remained narrowly focused on the four crimes enumerated in the Outcome Document. Even though well-meaning, proposals to broaden application of R2P to a wide spectrum of humanitarian issues will not be productive and will likely undermine implementation.

Next, R2P should be considered on its own merits and not allowed to become enmeshed with or held hostage to other UN issues. Divides and distrust between the General Assembly and the Security Council remain, as well as divides and distrust within and between developed and developing countries and groups representing them. While attention to them is needed, R2P actualization will not resolve them, nor is their resolution a necessary precondition for establishing the new norm.

Consideration of R2P will be most productive if it gives greatest attention to capacity-building and peaceful means. Discussions of R2P often tend to be drawn to the last resort—forceful coercive action. In actuality, the greatest gains from establishing R2P as a norm will come from individual states accepting responsibility to protect their populations from these four crimes and their incitement, from the international community acting to help states exercise their responsibility by means of long-term capacity-building and short-term preventive diplomacy, and from international pacific settlement actions that include use of the good offices of the secretary-general and peaceful moral suasion. Regional organizations and individual countries should have important contributing roles in these peaceful means and these need attention. Used effectively, peaceful means will greatly minimize the need for any use of force.

R2P concepts and philosophy should be integrated into UN and international community actions and activities at all levels. For example, capacity-building efforts will benefit greatly from the progress being made toward UN System-wide Coherence including lessons being

learned from the "One UN" pilot countries. "Early warning" information-gathering should be integrated into existing streams for synthesis and assessment in a neutral and objective place. Fully actualizing R2P within the UN System is more a matter of integration than of creating new structures.

Over the next few months, the General Assembly has a great opportunity to advance and implement R2P. It can and should be an international norm, potentially freeing millions from fear of genocide, war crimes, crimes against humanity, and ethnic cleansing. May the General Assembly and the entire international community be equal to the task.

## Appendix

Resolution adopted by the General Assembly  
2005 World Summit Outcome

### **Responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity**

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.
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, to help to 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 organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing 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.

For the full text of the World Summit Outcome document, see <http://www.un.org/summit2005/>.

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The Stanley Foundation  
209 Iowa Avenue  
Muscatine, IA 52761 USA  
563-264-1500  
563-264-0864 fax  
[info@stanleyfoundation.org](mailto:info@stanleyfoundation.org)

Production: Amy Bakke, Anne Drinkall, and Jeff Martin