

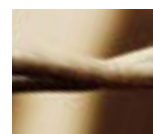
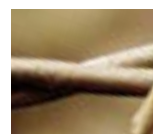
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# SPOTLIGHT ON R2P

## Responses of Asia-Pacific States to the UNSG's Report on Responsibility and Prevention



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On 11 September, some 69 member-states of the United Nations participated in the annual interactive dialogue on R2P held in New York, along with the European Union and two civil society organizations. This year's dialogue—the fifth since 2009—was based on the Secretary General's 2013 Responsibility to Protect Report on State Prevention and Capacity. The Report focused on the first pillar of the R2P principle, which identified a number of risk factors for mass atrocity crimes and the targeted measures that states can adopt in order to strengthen their capacity to prevent these crimes. Thirteen states from the Asia Pacific region participated in the dialogue, which included four members of ASEAN (i.e., Indonesia, Malaysia, Singapore and Thailand), Australia, China, India, Japan, Korea, New Zealand, Pakistan, Papua New Guinea, and Sri Lanka. It is important to note that this is the first time since 2009 that Thailand participated in the dialogue, the second time for Indonesia, and the third time for both Malaysia and Singapore since 2009. (Singapore is the only member of ASEAN that is part of the informal Group of Friends of R2P since it was launched in 2009.) The Philippines and Myanmar participated in the first dialogue in 2009, but no member of ASEAN participated in 2010 and 2011. Vietnam participated in the dialogue in 2012, together with Singapore and Malaysia. South Korea, Pakistan, China and Australia are among only 20 states that have participated in all five debates, which is a relatively strong showing from the Asia Pacific region.

The highlights of responses to the SG Report by states from the region are presented in separate sections below, based on their formal statements read and/or articulated in the UN General Assembly<sup>1</sup>. The conclusion section presents some observations on these responses and recommendations on how to maximize the impact of the SG's Report in this part of the world.

A side event prior to the UNGA interactive dialogue was held in New York on 9 September, organized by the International Coalition for Responsibility to Protect, supported by the Stanley Foundation, Friedrich Ebert Stiftung, and the Auschwitz Institute for Peace and Reconciliation. The one-day meeting on “Civil Society Perspectives: Building State Capacity to Prevent Atrocity Crime” was organized into different panels that focused on influencing national mechanisms and initiatives for prevention and country cases on prevention and practice. Professor Jennifer Welsh, the Secretary General’s Special Adviser on R2P, delivered a luncheon speech on the importance of mass atrocities prevention. Noel Morada, representing the Centre, made a presentation on the state of mass atrocity crime prevention in the Asia Pacific region, focusing on the Centre’s key country programs in Cambodia, Indonesia, the Philippines and Thailand. In his presentation, he highlighted the importance of the “bibingka” or bottom-up approach in promoting R2P through education and training seminars and workshops with various stakeholders (government, civil society, think tanks, and academe) in the region as part of capacity building of states and societies. He also identified a number of challenges and opportunities for mainstreaming and building constituencies around R2P, which needs support through partnerships and collaborative projects with the UN, civil society advocates, and human rights/humanitarian action networks in the region. As well, he pointed to the Centre’s engagement in Africa through various regional and international diplomacy training courses for diplomats with the support of AusAID/DFAT since 2011. These training courses were useful vehicles to mainstream R2P and mass atrocities prevention, with lectures and discussions on these topics along with peace and conflict prevention, and UN peacekeeping. Other presenters in this one-day workshop included representatives from academe and non-government organizations from Africa and Latin America, who also highlighted their efforts in promoting R2P and mass atrocity crime prevention, including those in post-conflict societies.

### **Southeast Asia**

- **Indonesia** expressed support for the purposes and objectives of R2P, which is an important initiative of the UN, its three pillars, and the importance of prevention as a key to protection of populations. It also underscored the significance of assistance by the international community to states in capacity building, which includes providing for good and inclusive governance, enhanced democracy, and rule of law. For Indonesia, the adoption of this approach, together with developing an early warning system, can truly make R2P an operational concept, specifically when the capability to prevent and readiness to respond to mass atrocities have been established.

<sup>1</sup> Full text and/or translation of statements are available at:  
[www.responsibilitytoprotect.org/index.php/component/content/article/35-r2pcs-topics/5004-united-nations-general-assembly-holds-fifth-informal-interactive-dialogue-on-the-responsibility-to-protect](http://www.responsibilitytoprotect.org/index.php/component/content/article/35-r2pcs-topics/5004-united-nations-general-assembly-holds-fifth-informal-interactive-dialogue-on-the-responsibility-to-protect)

- **Malaysia** for its part welcomed the SG's Report as it identified the risk factors and policy options for states to prevent mass atrocity crimes. However, it argued these should only serve as guideline "as some elements in the report cannot be applied to all countries consistently." It nonetheless assured the UN that Malaysia would take steps to ensure that atrocity crimes do not take place within its borders, through its laws and policies. The promotion of "1Malaysia" for example is premised on the government's belief that the country's strength lies in its diversity even as the state is committed to upholding and protecting human rights and in actively supporting peace efforts in neighboring countries in the region. While recognizing the relevance of the SG's Report, Malaysia also expressed some concerns about the status of R2P. Specifically, it pointed to: 1) continuing "great differences" in views among states about the concept; 2) the need for R2P to be understood "in the same manner" before it can be considered a norm based on "genuine consultative process" among members; 3) the "selectivity and double standards" in the application of the concept, for which it cited the Report for pointing to the suffering of civilians in Syria but failing to mention the situation in the Occupied Palestinian Territory (OPT); and 4) the presumption that "human rights emergencies may lead to the four crimes associated with R2P" and could justify the use of Chapter VII measures for perceived human rights violations. It stressed that based on the 2005 agreement, Chapter VII measures can only be used when there is "manifest failure" by the state to protect civilians and should not therefore be used for preventive purposes, such as perceived human rights violations.
- **Singapore** expressed support for SG's Report and highlighted the specific measures that it is undertaking to manage communal diversity in the city-state, specifically through the rule of law, economic policies, good governance, and meritocracy. Among other things, Singapore's response also underscored the following regarding R2P in general and prevention of mass atrocities in particular: 1) R2P should be applied according to universally agreed and applicable principles, based on the primacy of the UN system, either through the UN Security Council or the UN General Assembly; 2) there is no "one-size fits all" approach in preventing mass atrocities as each country's circumstances differ; 3) it is the responsibility of governments to intervene and minimize the impact of social tensions; 4) legislation is not enough and government should assist minority groups which have fallen behind; 5) states must ensure minority representation in the electoral system and race-based politics should be avoided; and 6) each government must also determine the appropriate limits to set on freedom of opinion and expression as unfettered free speech could inflame underlying communal tensions and lead to violence.
- **Thailand** for its part affirmed that the primary responsibility rests on states to protect "their own people." However, it also pointed out that how states carry out this task is a fundamental issue that should include: 1) demonstrating political will; 2) addressing key structural elements that lead to mass atrocity crimes; 3) enforcing human rights laws; 4)

promoting social and inter-cultural dialogue to manage and bridge social diversities; and 5) cultivating a culture of peace and enhancing the free flow of knowledge among different cultural and communal groups. It also stressed the importance of closer partnership between states and the media, acknowledging that the latter can play a positive role by narrowing gaps in diverse societies, specifically by avoiding the spread of hate speech or distorting facts that would cause deeper divisions in society. It also acknowledged the necessity for: creating an early warning mechanism at national and regional levels, building national resilience, and viewing prevention in a broader context to include a range of issues including human rights and sustainable development. With regard to Pillar 2 of R2P, it recognized the important role of regional and sub-regional organizations, together with the rest of international community, in providing technical assistance for capacity building to ensure that states fulfill their obligations and protection responsibilities. Ultimately, while states have the primary responsibility to protect its population, the burden of preventing mass atrocities and building peace should be shared by every sector of the nation.

### **Northeast Asia**

- **China** premised its short response to the SG's Report on the following: 1) the limited scope of R2P based on the 2005 WSOD; and 2) that member states "should not expand or interpret this concept at will, even as there are still differences among the about its application and implementation." It also pointed out that states have the primary responsibility to protect "their citizens", and the international community, as necessary, can provide "constructive assistance" focusing on capability building in accordance with the UN Charter, which include "principles and purposes that uphold state sovereignty." With regard to implementing the principle, China stressed that "there is no uniform criterion or model for applying R2P, and countries should choose their own policies and mechanisms in light of their own conditions and needs." It underscored the importance of political settlement of disputes, even as it acknowledged that major interventions are "often productive." With regard to the use of force, it stressed that it should be considered as a last resort, albeit with caution and on a case-by-case basis, when all peaceful means have been exhausted.
- **Japan** also delivered a short statement in the interactive dialogue, expressing support for the SG's Report and its proposal for a follow-up meeting early next year on the prevention of atrocity crimes. As well, it pointed to the current crisis in Syria as a tragic example of failure of states and the international community in preventing mass atrocities. Nonetheless, it expressed hope that the Security Council "will play the role that it should with regard to the situation in Syria." It also stressed that "prevention and response are closely inter-related, and the tragedies that exist require the response of the international community."



- For its part, **South Korea** supported the SG's Report that focused on prevention as a priority of R2P and the need for states to address the risk factors and adopt policy options that are suitable for each country in preventing mass atrocity crimes. It cited its own effort to enact a domestic law in 2007 on punishment of crimes that are within the jurisdiction of the International Criminal Court (ICC). It also expressed its continuing concern over the unacceptable suffering of victims around the world, especially in Syria even as it also supported the proposal in the SG's Report to focus the discussion in next year's dialogue on Pillar 2 of R2P.

### **South Asia**

- **India** emphasized three issues in response to the SG's Report, namely: 1) R2P must be confined to the four crimes and the UN Human Rights Council could play a role in flagging problem areas for international action and response; 2) coercive measures, including Chapter VII of the UN Charter, cannot be the default response of the international community even as it should be used as a last resort within the framework of the UN; and 3) R2P should not be used as "a tool in the hands of the powerful to pressure weaker states and bring about regime change." It also pointed out that implementing R2P should be calibrated, using at all times dialogue and peaceful resolution, and must be based on "Impartiality, neutrality, and proportionality." In this regard, India expressed support for Brazil's initiative—the Responsibility while Protecting (RwP)—as a necessary anchor for implementing R2P where monitoring and reporting measures must be undertaken. It also pointed to the importance of religious tolerance and adherence to the rule of law as factors that can contribute to preventing mass atrocity crimes both at the national and international levels. As well, it argued that the effective implementation of R2P is connected to the "balanced and impartial discharge of obligations and responsibilities" of member states as well as reform of the governance system of the UN.
- For its part, **Pakistan's** response echoed some of the points made by India. Specifically, it underscored the importance of: 1) limiting the scope of R2P as agreed in the 2005 WSOD to the four crimes; 2) "consistency, impartiality, transparency and a non-political approach without double standards" in responding to international issues; and 3) "prudence, transparency, and caution" given the burden of historical trust deficit. It criticized the way that the international community has been inconsistent in responding to various grave situations and pointed to "inequities in the international system" where the most powerful acted based more on their geopolitical interests than out of pure humanitarian concern. While it reaffirmed the idea that the primary responsibility to protect populations rests on sovereign states, it also argued that R2P as "a yet to be defined concept" can only operate within the principles of Article 2, paragraph 7 of the UN Charter.

- **Sri Lanka's** response to the SG's Report also echoed the concerns of India and Pakistan, specifically with regard to the application of the principle. In particular, it asserted that R2P as a concept: 1) "still needs to be clearly defined in a manner acceptable to the entirety of the international community"; 2) "did not seek to facilitate arbitrary intervention"; and 3) "remains to be clarified through intergovernmental negotiations" including its "scope, implications, and ways of implementation." Accordingly, as an evolving concept, discussions about R2P should continue at the state level in order "to elaborate rules that are widely supported by the international community." It argued that the country has strong fundamental rights chapter in its constitution and that it is in the process of formulating laws against hate crimes. Hence, it took exception to the "unsubstantiated inclusion" of Sri Lanka in the conclusion part of the SG's Report that identified several countries where manifest failure of states to protect their populations were evident in the 20th century.

## **Pacific**

- **Australia's** response to the SG's Report basically asserted that prevention is at the heart of R2P even as it also reinforces the idea that the principle is "a friend of sovereignty." It welcomed the Report's emphasis on targeted measures to prevent atrocity crimes, including the important role of the R2P Focal Point in developing an atrocity prevention perspective in national policies and strategies. While recognizing that there are indeed challenges in implementing R2P, this should not overshadow the value of the principle particularly in dealing with states under stress. It reaffirmed the country's commitment to R2P and the importance of international cooperation in preventing mass atrocity crimes. With regard to the Syrian crisis, it expressed concern over the widespread and systemic violence in the country including the 21 August chemical weapons attack and asserted that, given the manifest failure of the Syrian government to protect its people, the international community has the responsibility to take appropriate action.
- For its part, **New Zealand** pointed out that prevention of atrocities must begin far ahead of just preventing armed conflicts, even as it also agreed with the SG's Report that atrocity crimes outside of or unrelated to armed conflicts could also happen. In particular, it underscored the importance of: 1) comprehensive and integrated atrocity crime prevention strategies; 2) law is not sufficient to build resilience; and 3) identifying the variety of structural and operational measures that can contribute to reducing the risks of mass atrocity crimes. As well, the significance of WPS (women, peace, and security) agenda in fulfilling R2P was highlighted in New Zealand's response. Specifically, it pointed to fundamental principles on women's participation and representation in the political process and decision-making at various levels and the need to incorporate gender perspectives in developing national atrocity prevention strategies. It also recognized the importance of consulting with NGOs and regional/sub-regional organizations in

developing early warning mechanisms and building national resilience as part of preparing national and UN strategies.

- **Papua New Guinea**, in its short response, reaffirmed support for the R2P principle and pointed to the importance of developing an early warning system as an important tool for mass atrocity crime prevention. It asserted that, in order to maximize the effectiveness of this tool, coordination and cooperation with other stakeholders, such as the UN and civil society organizations, are essential. As well it recognized the important role played by regional and sub-regional organizations in developing such system as part of capacity building of states for prevention of mass atrocity crimes.

## **Conclusion**

Statements made by Asia Pacific states indicate the following trends. First, in general, there is no serious opposition to the importance of prevention as a key pillar of R2P; second, notwithstanding some states (in particular those from South Asia) asserting that there is still no international consensus on the definition and scope of R2P, participants in the dialogue acknowledged that states bear the primary responsibility to protect populations (although some of them erroneously used the term “citizens”) within their territory; and third, the continuing conflict in Syria—and what happened in Libya before that—is still a source of disagreement and division between states that support the use of international coercive measures in responding to atrocity crimes and those that remain reluctant about its efficacy or legitimacy. In particular, Malaysia together with China, India, and Pakistan underscored their view that the use of force should be a last resort after all peaceful means have failed, and should be carried out strictly under the UN framework. While some states focused on some specific policies and strategies that they have adopted as part of preventing mass atrocity crimes, it is notable that New Zealand is the only one that underscored the value of incorporating WPS and gender perspectives in developing national policies in preventing these crimes. A majority of states in the region that participated in the dialogue this year also expressed their willingness to participate in the follow-up meeting on the SG’s Report that will be held in early 2014.

In order to maximize the impact of the SG’s Report in the region, three recommendations are in order:

1) Regional and national dialogues on the Report should also be held regularly, which can serve not just as a useful feedback to the SG’s Report but also in benchmarking the R2P commitment and obligations of member states. For example, the creation of a regional High Level Advisory Panel on R2P—which is already in place in Southeast Asia—can contribute to building regional and national mechanisms for discussions on mass atrocity crime prevention. A number of academic, civil society, and Track II networks (e.g., Consortium of Non-Traditional Security Studies in Asia, Forum-Asia, and the Council for Security Cooperation in the Asia Pacific) could also facilitate these regional dialogues, with a view towards mainstreaming R2P and mass atrocity crime

prevention in the human security and rights protection agenda of ASEAN, East Asia Summit, and South Asian Association for Regional Cooperation (SAARC), for example. The R2P national focal points of Australia and New Zealand can also initiate bilateral dialogues with respective governments in the Asia Pacific region on mass atrocity crime prevention, focusing on key recommendations in the SG's Report that may be the basis for partnership in capacity building and information exchange. As well, Australia's humanitarian action and development assistance programs to a number of countries in the region may be utilized to encourage states to adopt atrocity prevention lens in their policies, especially those that are dealing with internal conflicts, communal tensions or ethnic violence.

2) Developing regional and national action plans based on the recommendations of the SG's R2P Report should be part of the agenda of the follow-up meeting early next year in the UN General Assembly. In the context of ASEAN, for example, regional action plans may include developing early warning or risk reduction mechanisms for preventing and responding to mass atrocity crimes; enhancing cooperation between the UN and ASEAN in the area of genocide and mass atrocities prevention; and creating regional peer review mechanisms related to human rights protection, particularly in relation to minority groups. At the national level, action plans can include enacting domestic laws against genocide and mass atrocity crimes; strengthening human rights protection through creation or enhancement of human rights bodies; creating mechanisms for protection of women and children especially in conflict areas; and acceding to and/or ratifying international conventions and treaties related to genocide, international humanitarian law, and the International Criminal Court.

3) Translation of relevant UN documents and the SG's Report on R2P for the last five years into local languages should be given priority as part of building awareness and constituencies in the Asia Pacific on mass atrocity crime prevention. Stakeholders and potential champions of R2P in ASEAN and other sub-regions in the Asia Pacific should also be encouraged to think of innovative ways on how to contextualize the principle and initiate mass atrocity crime prevention measures, with due regard to variations in the cultural and historical experiences of states and societies in this part of the world.

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