

R2P IDEAS in brief



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#R2Pat10: Reflections on the Responsibility to Protect at 10

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A Norm for Our Times

Few ideas have travelled further, faster, than the Responsibility to Protect (RtoP). In the ten years since its adoption by world leaders at the 2005 World Summit, RtoP has become a central part of the way we think about, and respond to, genocide, war crimes, ethnic cleansing and crimes against humanity. Whatever one thinks of its merits, it cannot be said that RtoP has failed to make itself relevant.

RtoP has progressed farthest in its normative development. In its first ten years, the principle has established itself as a political norm. Today, we expect that states will protect their populations from the four atrocity crimes and are critical of them when they fail. Equally, we expect that the international community will do whatever it can to protect people from atrocities when their own state manifestly fails to do so. It was not always thus.

In the 1990s, the UN created a “Protection Force” for Bosnia that was not mandated to protect civilians and drew down its forces from Rwanda when genocide struck; in the 1980s, the international community was absent entirely when the Guatemalan government unleashed genocide on the Mayans; and in the 1970s, the international community sanctioned Vietnam for ending the Khmer Rouge genocide in Cambodia that had claimed the lives of a quarter of that country’s population.

Today we expect better. More than two-thirds of the UN’s Member States voted to “deplore” the UN Security Council’s failure to protect Syrians from the tidal wave of abuse and mass killing that has afflicted their country since 2011. RtoP has appeared in more than thirty UN Security Council resolutions, in resolutions of the General Assembly’s third and fifth committees as well as its plenary sessions, in a series of informal Assembly dialogues and in Human Rights Council resolutions (see them all here). Over the course of these debates, conceptual uncertainty and determined opposition to RtoP have been gradually whittled away, replaced by a now broadly held understanding of what RtoP is that commands the support of a significant majority of states from every corner of the world.



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That RtoP has largely won the battle of ideas about whether the community of states should protect populations from atrocity crimes, and the most appropriate framework for doing so is evident not just in the avalanche of resolutions and government statements, but in practice too. The international community is foregrounding the protection of populations like never before. In addition to referring to RtoP in the context of comprehensive resolutions addressing protection crises in countries such as Libya, Cote d'Ivoire, Darfur and Yemen and resolutions condemning atrocities and reminding actors of their responsibilities, as in the case of Syria, the UN Security Council has begun to specifically task its operations with the job of helping states to protect populations in countries such as South Sudan, Mali and the Central African Republic. Sometimes, as in efforts to prevent the escalation of violence in Kenya and Guinea, or to prevent its recurrence as in Kyrgyzstan, RtoP has proven to be one of the major catalysts for international action.

The principle also played a central role in elevating international attention to the chronic protection crisis in North Korea, to the point where, for the first time, the UN's General Assembly, Human Rights Council and Security Council are all now seized of the issue. Shining a light on the crimes committed by that government and its agents has not only prompted that government to make some concessions, it has also made it more difficult for others to support it. There are unverified reports that late last year China handed a small group of North Korean refugees not back to Pyongyang, as has been its policy, but to the authorities in South Korea. If true, that would be a significant change of heart. Such progress on the human rights situation in the North Korea was unthinkable just a short time ago.

Together, these developments have made states more aware of their protection responsibilities. They have also made it less likely that perpetrators will "get away" with committing genocide and other atrocity crimes and more likely that the international community will take measures to protect vulnerable populations.

But having established itself as an international norm, RtoP now faces the challenge of making more of a difference to people's lives, more of the time. As a practical doctrine, RtoP will be judged not on its ability to inspire warm words and comfortable resolutions but on the extent to which it helps bring real improvements for vulnerable populations. It already has been associated with a more resolute international attitude towards mass atrocity crimes. For example, the international community has not recoiled from Mali and the CAR, despite deliberate attacks on peacekeepers there, and in late 2012 the UN decided to open its gates and protect imperiled civilians in South Sudan.

At the same time, the dramatic rise of internal displacement, the Security Council's failure to respond decisively to the tragedies in Syria and Sri Lanka, the international community's inability to hold Libya together, and ongoing crises in South Sudan, Darfur, and the DRC that daily threaten the civilian population, remind us that there is no room for complacency. We

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need to redouble our efforts to implement what states agreed in 2005. To do that, in the coming decade we will need to address the unfinished conceptual, institutional and operational work of building RtoP.

Unfinished Conceptual Work

Experience in the first ten years has revealed the need for the further conceptual development of RtoP. First, and perhaps most importantly, there is the question of non-state armed groups. As agreed in 2005, RtoP is a state-based principle, yet it has become painfully clear that in many parts of the world the principle threat to civilian populations comes not from states but from non-state armed groups such as the “Islamic State”, Boko Haram, the Lord’s Resistance Army and al-Shabaab. The picture is further complicated by the fact that non-state armed groups can also sometimes play significant roles as protectors of civilian populations, as the Kurds’ stoic defense of Kobane recently demonstrated. Not only do we need to further clarify the relationship between RtoP and non-state armed groups, we should also elucidate carefully the operational relationship between atrocity prevention and doctrines associated with counter-terrorism and counter-insurgency.

This brings us to a related set of questions posed by extremely violent societies where the boundaries between “normal” or “everyday” violence and atrocity crimes are blurred. In these contexts, which include societies where violence linked to organized crime is so common that rates of violent death exceed those recorded in countries experiencing civil war and those where sexual and gender based violence is so endemic as to stretch our capacity to record it, the multiplication of individual crimes amount to patterns of violence not dissimilar to crimes against humanity. The relationship between RtoP and endemic violence needs to be carefully examined but there seems to be a prima facie case for thinking that, at the very least, efforts to reduce endemic violence ought to be considered part of RtoP’s agenda for prevention.

A third set of outstanding conceptual questions relate to the individual responsibility to protect. Thus far, RtoP’s common currency has been the collective: the state’s responsibility to protect; the international community’s duty to assist and take timely and decisive action when needed. Yet these collectivities are comprised of individuals and the courses of action they follow are determined by individual choices. Atrocities occur because military and political leaders choose to authorize them and armed individuals choose to commit them. Sometimes they might choose not to. The international community responds effectively to these crimes because officials choose to highlight them and political leaders choose to invest material and political capital in prevention and response. Equally, of course, they may choose not to. By their actions, countless bystanders can make it easier or more difficult for targeted individuals to survive.

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Ultimately, like all social norms, whether RtoP becomes a daily “lived reality” depends on whether individuals in all parts of the world choose to make it so. In the face of genocide and mass atrocities, everyone – and not just those in the affected areas – has a choice to make about whether to employ their talents to help protect others, whether to stand aside in ambivalence, or whether to assist the perpetrators. RtoP establishes a moral imperative for individuals to do what they can to protect others from atrocities. We need to better understand individual decision-making, the varied contributions that individuals can make, and the factors that push them in these different directions. Civil society should figure large in this work.

Unfinished Institutional Work at the United Nations

After a somewhat laconic start, the institutional development of RtoP gathered pace after the UN Secretary-General’s first report on the subject, outlining his plan for implementation in 2009. Within the UN, there is now a Special Adviser to the Secretary-General on RtoP and a “joint office” covering RtoP and genocide prevention. The Secretary-General has issued six thematic reports on different aspects of the principle’s implementation and these have been debated by the General Assembly through a series of “informal and interactive dialogues”, in which around 150 states have participated (see all thematic reports here). The mainstreaming of RtoP through the UN system is being gradually achieved through initiatives such as the Secretary-General’s “Human Rights Up Front” Action Plan, which aims to place human rights protection at the center of the organization’s work, the proliferation of peacekeeping missions mandated to protect civilians in regions afflicted by atrocities, and the instigation of “due diligence” policies, which aim to limit cooperation between the UN and those accused of atrocity crimes or other violations.

Much of this institutional progress was achieved by the personal commitment of UN Secretary-General Ban Ki-moon and the astute work of his Special Advisers, Edward Luck and Jennifer Welsh. An important priority for the next decade is to create a more secure institutional home for RtoP within the UN system. This is especially important now because the senior leadership of both the UN and the US will change in the next 18 months.

In the immediate term, the UN General Assembly could place RtoP on a surer institutional footing by placing the principle’s implementation onto its formal agenda, recognizing the Secretary-General’s work on advancing a strategy for RtoP, and supporting the UN’s joint office on genocide prevention and RtoP. Coming 10 years after the Assembly’s commitment to RtoP, these relatively modest steps, which could be achieved in a General Assembly resolution, would reaffirm its commitment, help the Assembly “catch-up” with the UN Security Council (which has proceeded apace with implementing RtoP), send a strong signal of intent to candidates for the position of UN Secretary-General, and afford the General Assembly a more direct role in reviewing and overseeing the principle’s implementation. In

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the longer term, a General Assembly resolution would be catalytic for further implementation by deepening the engagement of Member States, raising the stakes of their annual consideration of the principle, and opening opportunities for deliberation about the practical measures needed to make the protection of populations from genocide, war crimes, ethnic cleansing and crimes against humanity a “lived reality” and agreement on tangible policies and steps.

There is also more work to be done to “mainstream” RtoP across the UN system. Although the Secretary-General specifically called for “mainstreaming” in his 2009 report, thus far the organization has stopped short of developing explicit policies or strategies to achieve this goal, preferring instead the gradual dissemination of RtoP principles through allied projects such as “Human Rights Up Front”, partnerships between the joint office and other UN departments and organizations, and the provision of advice by the special advisers to the UN’s senior leadership. All this has helped improve the UN Secretariat’s capacity to detect the early signs of atrocity crime risk and develop appropriate responses, utilizing its capacities for fact-finding, public messaging, diplomacy, human rights promotion, and humanitarian assistance that do not require case-by-case approval by its political organs.

The Secretariat’s response to the unfolding crisis in the CAR provides a case in point inasmuch as the risk of atrocity crimes was identified and communicated early, though there were still concerns that appropriate humanitarian, political and military responses were slow to materialize. Other times, atrocity prevention concerns have struggled to find the prominence they deserve when atrocities are imminent. It is still not uncommon for these concerns to be overridden by political imperatives or other priorities such as humanitarian access.

An additional problem is that, whilst its links to human rights, preventive diplomacy, and refugee protection, are quite well understood within the UN system, the institutional relationship between RtoP and other key UN agendas such as peacebuilding, women, peace and security, the protection of civilians, the rule of law, and economic development, remains underdeveloped. For example, whilst widespread and systematic sexual and gender based violence constitutes a crime against humanity, functional cooperation between the UN’s Special Adviser on RtoP and Special Representative on the Prevention of Sexual Violence remains limited and ad hoc. Likewise, although there is a clear empirical connection between the risk of future atrocities and a recent history of past atrocities, there is only a modest degree of functional cooperation between the UN’s RtoP officials and those that work on peacebuilding. As such, whilst significant improvements have been made, the UN system is still not doing all that it could to use its existing capital to advance the goals of RtoP.

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One way of addressing these challenges would be to augment the organic processes already under way within the UN system with clear guidance from the Secretary-General detailing a comprehensive strategy for the prevention of genocide, war crimes, ethnic cleansing and crimes against humanity and instructing the UN system on how to mainstream RtoP. The Secretary-General could also usefully set benchmarks for implementation and review progress.

Unfinished Institutional Work at the Regional Level

Although it is natural to focus on the UN, since it provided the context for the international community's commitment to RtoP in 2005, it is important that we avoid an entirely UN-centric view of how the principle should be implemented. Practically speaking, the international community is at its most effective when different actors, such as the UN, regional organizations, neighboring states, and prominent individuals, support each other. The UN cannot solve all the world's problems by itself, and was not established to do so.

Outside the UN, the institutionalization of RtoP has been patchier, perhaps befitting the significant differences between regions. The African Union has developed an impressive range of institutions and mechanisms designed to facilitate decisive responses to emerging protection crises. Guided by Article 4(h) of its Constitutive Act, which affords the Union a right to interfere in its members' affairs in the event of a genocide or other mass atrocities, the African Union has developed a Peace and Security Council, a Continental Early Warning System, a capacity for peacemaking and mediation, and capacities for peacekeeping with the aspiration of establishing a standing peacekeeping force in the future. Africa's challenge is not one of building the institutions needed to deliver on RtoP, but of ensuring that the institutions it has are capable of fulfilling their promise.

Elsewhere, Latin America has developed a strong track record when it comes to the regional promotion of human rights and has also established a network of governments committed to strengthening their capacity to prevent genocide. Things are more nascent in East Asia, but there are signs here too that governments and regional organizations are beginning to think about how to achieve RtoP's goals in their own neighborhood. The challenge in Europe is somewhat different: whilst individual states are keen advocates of RtoP, the region's highly developed institutions have not as yet advanced their own strategies for implementing the principle, preferring instead to support protection goals and atrocity prevention through existing programming.

With so much variation, there can be no "one size fits all" way of thinking about the role played by regional arrangements in institutionalizing RtoP. Indeed, it is the very fact that they are grounded in the values, norms and interests of the regions they inhabit that make regional organizations so significant. In the coming decade, we should pay more attention to

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the ways in which regional organizations can support the goals of RtoP, mindful of the different entry-points they provide. We should also pay attention to deepening the partnership between regions and the UN, by building the “anticipatory relationships” and habits of cooperation that are so often needed to prevent, or respond effectively to, genocide and mass atrocities.

Unfinished Institutional Work at the State Level

Ultimately, of course, the basic building block for institutionalization is the individual state. There are a number of measures that states can take to better deliver on the commitment they made in 2005. These include the designation of a responsibility to protect focal point. These focal points can help to coordinate national efforts to mainstream and operationalize the responsibility to protect concept, which can spur the establishment of national atrocity prevention action plans tailored to the national context. Some 43 states from every region of the world have already taken this step, with several states such as Ghana and Tanzania establishing their own “National Peace Councils” to support atrocity prevention at home.

As with any national initiative, each state has approached this function from its own perspective and many different models have been developed in different countries. Focal points participate in a global network, which advances dialogue and cooperation on the full range of issues relating RtoP. The principal tasks of the national focal point are to coordinate national efforts to protect populations from genocide and mass atrocities and lead national engagement in regional and global dialogue. One key task for the next decade of RtoP is to broaden the membership of the Focal Points network and deepen their involvement in the practical work of atrocities prevention and response.

But focal points are only one manifestation of a state’s commitment to implementing RtoP. Equally important is the need to forge national constituencies of governments, officials, parliamentarians, civil society groups and individuals who work together, using their own unique skills, to develop authentic national approaches to fulfilling RtoP. Many countries, including Ghana and Kenya in Africa and Indonesia and The Philippines in Southeast Asia have already begun to build their own national constituencies for RtoP.

This brings us to the most glaring piece of unfinished work – the challenge of delivering on the ground.

Unfinished Operational Work

In its first decade, the progress of RtoP was judged mainly on its normative and institutional development. In its second decade RtoP will be judged on the difference it makes to people’s lives.

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There are a number of reasons why this is a much more difficult challenge, among them the political complications that arise when states disagree about their priorities and the nature of the crises they confront. These challenges are compounded by the often quite limited influence that outsiders have on the conflicts that give rise to genocide and mass atrocities. Although concerted international action can sometimes prevent mass atrocities, the so-called “structural” or “root” causes of genocide and mass atrocities are often deeply ingrained in societies, economies and national institutions. Whilst outsiders can play important enabling and facilitative roles, foreign assistance cannot by itself achieve structural change except through massive interventions that are rarely contemplated. Well-targeted programs can sometimes support local sources of resilience but cannot manufacture it out of thin air. At the later stages of a crisis, international actors can use punishments and incentives to persuade armed actors to refrain from committing atrocities, deploy peacekeepers to provide physical protection, provide humanitarian assistance and negotiate respites in the violence. These efforts can reduce violence and protect sections of the community but they will always struggle to provide comprehensive protection.

The problem is compounded by the fact that global demand for protection is already coming close to exceeding the global supply of relevant resources. With more missions, deployed with more peacekeepers, with more complex mandates, in more difficult environments, UN peacekeeping is already stretched to the limit. And with the developed world still recovering from the Global Financial Crisis there is little appetite for spending added money on saving populations overseas. After all, in an age of austerity governments have to make tough choices about their priorities – funding protection efforts overseas necessarily means that states have fewer resources with which to fund their domestic priorities.

When we think about the operational challenges associated with implementing RtoP, we should therefore be modest about what we expect the international community to achieve and the timeframes for achieving it. Some situations do not lend themselves to simple solutions or easily achievable remedies – they are simply too complex and too difficult. That does not mean that the international community should not do everything it can to protect vulnerable populations only that we should recognize that even with the best of intentions it will sometimes come up short because there is often no solution that suits everybody, equally.

How, then, do we start to close some of the most pronounced operational gaps? Three challenges in particular are worth highlighting.

Major Operational Challenges

First, the need to prioritize protection. Whatever else may be going on in a particular situation, when genocide, war crimes, ethnic cleansing or crimes against humanity are

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perpetrated or imminently apprehended, the overriding objective of the UN and its partners must be to protect populations from these crimes as far as it is possible to do. RtoP is not a “tool” to be employed to achieve other ends, but a master principle to which the energies of the UN, its Member States, other international and regional organizations, and individuals should be directed. The operational gaps will be filled only when RtoP is seen as fundamental to the way the UN and its partners do business.

In practice, this means that debates about how to respond to individual crises should focus squarely on what is needed to best protect the civilian population in harm’s way and that—as a matter of principle—protection needs should never be sacrificed to achieve other goals. This does not mean states should act without heed for the wider consequences. Nor does it remove the need to make difficult choices. In situations like Mali or Syria, for instance, where comprehensive protection cannot be provided without first ending a civil war, the prioritization of protection might dictate a strategy focused on ending the violence no matter what the cost to justice further down the road.

Prioritizing protection involves understanding when atrocities are likely and having the capacity to assess situations from an atrocity prevention perspective and devise strategies that can be resourced and implemented. Although there is no sure way of guaranteeing adequate resources, governments tend to be more willing to support options backed by clear plans. Developing a comprehensive strategy for prevention and promoting the mainstreaming of RtoP across the UN and its partners are two ways in which the institutional development of RtoP could support its operational development.

Among the more important practical challenges is overcoming the tendency to see RtoP as disconnected from associated programs of work in areas such as conflict prevention, peacebuilding, the protection of civilians, international criminal justice, and the protection and empowerment of women and girls. Thus far, practitioners and analysts have tended to treat these agendas as “solitudes” within the UN system because of their differences, rather than recognizing their overlapping issues and mutual interdependence. This has limited the international community’s ability to develop comprehensive responses to genocide and mass atrocities.

Second, we need to ensure that the international community delivers on the protection mandates it already has. This calls for the matching of means to ends. If our priority is to protect populations from genocide and mass atrocities it follows that the policies and strategies adopted should be aimed at achieving the greatest protection for the greatest number of people possible in the affected area and as quickly as possible. For instance, if the principal source of threat is a civil war, then means should be directed at ending it; and if the principal source is a particular armed group, then the means should focus on impeding its ability to commit mass atrocities or on persuading it to cease and desist; if perpetrators

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cannot be persuaded, deterred or neutralized, then the means should focus on facilitating the escape of potential victims or their in situ protection.

This involves something of a change in mindset and a commitment to the careful assessment of situations prior to the articulation of policy options. To close the operational gap, we need to make better use of the resources already provided by the international community through a more targeted approach. This involves understanding the nature of each protection problem and the most effective and feasible way of supporting as much protection as possible. Matching means to ends simply means understanding the causes of civilian suffering in each individual case, tailoring appropriate responses to address those issues, and ensuring that once adopted policies are properly resourced. This latter point involves more than just the level of material resources provided. It also involves building the expertise needed to conduct peacekeeping and other types of activities in ways that maximize their capacity to protect populations through doctrine, training, operational guidance, planning and the conducting of operations themselves. It also involves joined up thinking and policy responses across the UN system and its partners, in order to ensure that responses are comprehensive.

Third, we need to manage the controversies arising from the use of force and other means of coercion. The use of coercive measures remains deeply controversial. This, of course, is not unique to RtoP. Nor, by itself, is it undesirable. Coercion and force should be controversial. A key challenge is to improve the legitimacy and effectiveness of the Security Council's performance. On this question, RtoP finds itself wedged between two positions. One, arising from Libya, holds that the Security Council and states acting on its mandates need to be held more accountable for their actions. The implementation of Resolution 1973 by NATO and its partners drew sharp criticism from states complaining that the Alliance overstepped its mandate. It is not surprising that as the Council becomes more proactive in its pursuit of RtoP, demands for political accountability are becoming more significant. Future agreement about the use of force to protect populations from genocide and mass atrocities will likely depend upon concomitant steps to address accountability questions such as those raised by the "Responsibility while Protecting" concept advanced by Brazil.

The other critical issue for the Security Council, arising from Syria, stems from calls for more decisiveness and demands for the restraining of the veto in situations where genocide and mass atrocities are perpetrated. It is not surprising that after four vetoes blocked action on Syria, demands for veto restraint have gained traction with some 60 states supporting French calls for an informal "code of conduct" or "statement of principles" aimed at limiting the veto's use. But at least three of the permanent five members (China, Russia, United States) remain skeptical, meaning that the proposal is unlikely to be adopted any time soon though the dialogue surrounding it may well help to lift the political cost associated with exercising the veto when timely and decisive responses to genocide and mass atrocities are warranted.

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Finding a balance between these twin imperatives – to do more to protect whilst ensuring better accountability – will be among the key challenges for the Security Council in the coming decade. For RtoP, much will hinge on the extent to which the Council succeeds.

Concerted Action Needed to Protect the World's Most Vulnerable

In its first ten years, RtoP has emerged as an international norm. With only a tiny handful of exceptions, states accept RtoP and agree on its main components. The principle's normative development has progressed apace and its institutional development is gathering pace, with the UN, regional organizations and dozens of states taking concrete steps to implement it.

If the first ten years of RtoP was primarily about this normative development, the next ten will be about its implementation and making a real difference to people's lives. This will require concerted action to complete the unfinished conceptual, institutional and operational work of building a world less tolerant of conscience shocking inhumanity and more likely to protect the most vulnerable. That is our challenge for the decade to come.

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BIOGRAPHICAL NOTE AND ACKNOWLEDGEMENTS

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