



Asia-Pacific Centre for the
Responsibility to Protect

The Responsibility to Protect and the Protection of Civilians: Asia- Pacific in the UN Security Council

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Summary

Asia-Pacific governments used the recent open Security Council deliberations on the Protection of Civilians to reaffirm their support for the Responsibility to Protect. With the exception of Myanmar/Burma which chose not to comment on the principle, Asia-Pacific governments were unanimous in their support for the Responsibility to Protect as agreed by Member States at the 2005 World Summit and reaffirmed by the Security Council in 2006 (Resolution 1674). Governments emphasised the primary responsibility of each state to protect its citizens from genocide, war crimes, crimes against humanity and ethnic cleansing and the international community's responsibility to assist states in fulfilling their responsibility. They also acknowledged that in extreme situations other, more coercive, measures might be needed to protect populations from these four crimes and emphasised that such measures must be consistent with the United Nations Charter as set out by the 2005 World Summit Outcome Document.

No governments from the Asia-Pacific region expressed support for the claim that Member States agreed only to further discuss the principle of Responsibility to Protect in 2005. This claim was aired earlier this year by Cuba, Iran and Morocco in the General Assembly's Fifth Committee discussions on the appointment of Edward Luck as Special Adviser to the United Nations Secretary-General.

The positions expressed by Asia-Pacific governments in the Security Council indicate a deepening of support for the Responsibility to Protect among governments in the Asia-Pacific region and suggest that the region may be ready to lend its support to further deliberation about translating the principle 'from words into deeds' at the next General Assembly. However, they also serve to remind us that international consensus on the Responsibility to Protect is dependent upon the principle being interpreted and applied in the manner carefully set out by world leaders at the 2005 Summit and reaffirmed by the Security Council. Applying the principle more broadly than that agreed to in 2005 is likely to diminish this deepening consensus and delay efforts to persuade the General Assembly to further deliberate on measures for translating the Responsibility to Protect 'from words into deeds' as requested by the Secretary-General of the United Nations.

The purpose of this briefing paper is to set out the position taken by Asia-Pacific governments at the recent Security Council meeting on the protection of civilians and to examine their implications.

What is the Responsibility to Protect?

World leaders unanimously adopted the Responsibility to Protect at the United Nations World Summit in 2005. Paragraphs 138 and 139 of the Summit's Outcome Document declared:

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 of the United Nations, to help protect populations from 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 manifestly fail 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.

From these two paragraphs it is clear that the Responsibility to Protect entails four solemn pledges:

1. All states accept that they have a responsibility to protect their own citizens from genocide, ethnic cleansing, war crimes and crimes against humanity.
2. The international community will encourage and assist states in the fulfillment of their responsibility, including by helping states to build the necessary capacity and assisting states under stress.
3. The international community has a responsibility to use diplomatic, humanitarian and other peaceful means to protect people from genocide, ethnic cleansing, mass atrocities and war crimes, through either the UN or regional arrangements.

4. The UN Security Council stands ready to use the full range of its Chapter VII powers, with the cooperation of regional organizations where appropriate, in cases where peaceful solutions are inadequate and national authorities manifestly fail to protect their citizens from genocide, war crimes, ethnic cleansing and crimes against humanity.

A year later, in 2006, the Responsibility to Protect was unanimously reaffirmed by the United Nations Security Council in Resolution 1674, which stated the Council's determination to protect civilians.

What Types of Acts Does the Responsibility to Protect Apply To?

The Responsibility to Protect deals with four specific crimes that are defined in international humanitarian law. It also entails a specific commitment to prevent these four crimes. The principle document for understanding the nature of these crimes is the Rome Statute of the International Criminal Court.

Genocide

Any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- a. Killing members of the group;
- b. Causing serious bodily or mental harm to members of the group;
- c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d. Imposing measures intended to prevent births within the group;
- e. Forcibly transferring children of the group to another group.

War Crimes

Because R2P is primarily concerned with the responsibility of a state to protect its own citizens, the following definition of war crimes is limited to acts in armed conflicts that take place within the territory of a state. They do not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature, but to protracted armed conflict between governmental authorities and organized armed groups or between such groups.

Any of the following acts in grave breach of the Geneva Conventions:

- a. Committing murder, mutilation, cruel treatment and torture;
- b. Committing outrages of personal dignity, including humiliating and degrading treatment;
- c. Taking hostages;
- d. Passing sentences and carrying out executions without fair trial and due recognition of judicial guarantees.

Any of the following acts as part of a non-international armed conflict:

- a. Intentionally directing attacks against civilians, humanitarian workers or peacekeepers;
- b. Intentionally directing attacks against facilities, transport and personnel using the distinctive emblems of the Geneva Convention in conformity with international law;
- c. Intentionally directing attacks against buildings dedicated to religion, art, science or charitable purposes, historic monuments, hospitals or areas where sick and wounded are collected;
- d. Pillaging a town;

- e. Committing rape, sexual slavery, enforced prostitution or forced pregnancy or enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;
- f. Conscripting or enlisting child soldiers;
- g. Ordering the displacement of the civilian population for reasons related to the conflict;
- h. Killing or wounding treacherously a combatant adversary;
- i. Declaring that no quarter will be given;
- j. Subjecting persons in power of another party to the conflict to torture or mutilation;
- k. Destroying or seizing the property of an adversary unless it is an imperative demanded by the necessities of the conflict.

Ethnic Cleansing

The policy of a particular group to systematically displace or deport another group from a particular territory on the basis of religious, ethnic or national origin. Ethnic cleansing differs from genocide in that the intent of the perpetrator may not be to destroy in whole or in part a group, but to create an ethnically homogenous territory.

Crimes Against Humanity

Any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- a. Murder;
- b. Extermination;
- c. Enslavement;
- d. Deportation or forcible transfer of population;
- e. Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- f. Torture;
- g. Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- h. Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender, or other grounds that are universally recognized as impermissible under international law,
- i. Enforced disappearance of persons;
- j. The crime of apartheid;
- k. Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

For acts to be considered crimes against humanity they must be more than isolated or sporadic commissions of the above abuses. Rather, acts constitute crimes against humanity when they are part of an established pattern of cruelty that is condoned or tolerated by authorities. In order to assess acts as crimes against humanity, therefore, there must be evidence that the practice is widespread or systematic, *and* there must be evidence that links the perpetrators' acts to a State or organizational policy. Although crimes against humanity overlap with genocide and war crimes, crimes against humanity differ from genocide in that they do not implicate the intent to

“destroy in whole or in part” a group, and they differ from war crimes in that they may occur in times of peace as well as war.

Context: The Security Council's Thematic Interest in the Protection of Civilians

The Security Council's interest in civilian protection can be traced to April 1998, when Kofi Annan used a Council dialogue on armed conflict in Africa to identify the protection of civilians as a 'humanitarian imperative'.¹ At the suggestion of Canada, the Council adopted a Presidential Statement requesting that the Secretary-General submit a report on how the UN might improve the protection of civilians and committing to periodic Council reviews of the issue (12 February 1999). The Council also informally agreed to hold two open debates (in June and December) on the protection of civilians each year.

In September 1999, the Council unanimously adopted the landmark Resolution 1265, which expressed the Council's 'willingness' to 'respond to situations of armed conflict where civilians are being targeted or where humanitarian assistance to civilians is being deliberately obstructed' and committing it to consider adopting 'appropriate measures'. It also called on states to ratify key human rights treaties and prosecute those responsible for genocide, crimes against humanity and 'serious violations of international humanitarian law'. Finally, the Council expressed its willingness to explore how peacekeeping mandates might be reframed to better protect civilians.

In April 2000, Annan's report on civilian protection was greeted with a further British-sponsored resolution (Resolution 1296, 19 April 2000) focusing on operational matters designed to improve the capacity of UN peace operations to protect civilians. This avenue produced an *Aide Memoire* on civilian protection, issued as an annexe to a Security Council Presidential Statement (15 March 2002) and updated by the Office for the Coordination of Humanitarian Affairs (OCHA) in 2004.² The *Aide Memoire* identified a range of measures necessary to realize each of the Council's civilian protection objectives and five specific issues for consideration and action:

1. The provision of appropriate security arrangements.
2. Engagement in dialogue with belligerents.
3. Facilitation of delivery of humanitarian assistance.
4. Safety and security of humanitarian personnel.
5. Compliance with international legal obligations.

Shortly after the adoption of the Responsibility to Protect at the 2005 World Summit, the Secretary-General released a new report recommending that the Council endorse the principle and its commitment to provide protection to civilians in armed conflict, take measures to facilitate the delivery of humanitarian aid, continue to clarify the place of civilian protection in peacekeeping mandates and develop systems for monitoring compliance.³

Russia and two non-permanent members of the Security Council argued that it was premature to bring the Responsibility to Protect to the Security Council because the World Summit had merely committed the General Assembly to further deliberation

on the concept.⁴ Chinese officials privately expressed sympathy for the view that the Responsibility to Protect should be discussed further by the General Assembly before being adopted by the Security Council but did not share the view that the principle had not been adopted by world leaders at the 2005 World Summit. China argued that ‘all activities pertaining to protection’ be performed with due respect for the Charter, affirmed the Council’s ‘primary responsibility’ for peace and security and called for ‘further comprehensive and in-depth discussions’, noting that ‘the outcome document went on to develop the concept at length, owing to the sensitivity and complexity of the issue’.⁵ Significantly, China did not insist that General Assembly deliberation was a necessary precursor to the affirmation of the Responsibility to Protect by the Security Council. China indicated that it would support the Security Council’s endorsement of the Responsibility to Protect on the condition that it use language identical to that adopted by the World Summit.⁶

These Security Council debates culminated in the unanimous endorsement of Resolution 1674. In addition to reaffirming the Responsibility to Protect, Security Council Resolution 1674 identified a number of measures that the Council could take to protect civilians, such as demands for humanitarian access.

At the Council’s June 2007 debate on the protection of civilians, several states – including China – expressed grave concern with the Responsibility to Protect. Qatar cautioned against the ‘exploitation’ or ‘abuse’ of the principle. For its part, China seemed to harden its position in 2007 and imply that because there was no agreement about the nature of the Responsibility to Protect, the principle should not be used by the Security Council. ‘At present’, China argued, ‘there are still differing understandings and interpretations of this concept among Member States. The Security Council should therefore refrain from invoking the concept of the responsibility to protect. Still less should the concept be misused. The Security Council should respect and support the General Assembly in continuing to discuss the concept in order to reach broad consensus’.⁷

A few months later, Cuba, Sri Lanka, Iran, Sudan, Zimbabwe and Morocco began to argue that the UN had not adopted the Responsibility to Protect, in the context of the Secretary-General’s decision to appoint Edward Luck as his Special Adviser. This, combined with the statements made in the June 2007 Security Council meeting, provoked concerns that the General Assembly was preparing to backtrack on the commitments made in 2005.

However, at the May 2008 meeting of the Security Council, Asia-Pacific governments indicated their firm support for the Responsibility to Protect and seemed to reject the claim that the principle had not yet been agreed or adopted by the United Nations. In light of the debates that preceded the meeting, this represents a significant strengthening of regional support for the Responsibility to Protect.

Members of the Security Council

There are currently three Asia-Pacific members of the Security Council: China (permanent member), Indonesia (elected non-permanent member) and Viet Nam (elected non-permanent member). All three members spoke at the open meeting on the Protection of Civilians held on 27 May 2008. All three referred specifically to the Responsibility to Protect and endorsed the principle.

China

China's statement to the Security Council is particularly noteworthy because of the change from the position it expressed in 2007. In 2007, China argued that there was disagreement about the meaning of the Responsibility to Protect and that until this disagreement was resolved by the General Assembly, the Security Council should refrain from invoking the principle.

On 27 May 2008, however, China argued that Resolution 1674 (2006) 'constitutes the legal framework within which the Security Council may address' the issue of the protection of civilians in armed conflicts.⁸ In Resolution 1674, it should be recalled, the Security Council endorsed the Responsibility to Protect as adopted by the 2005 World Summit.

China went on to dedicate a significant part of its statement to the Council to considering the Responsibility to Protect:

'...the role of national Governments in the protection of civilians should be respected and supported. The primary responsibility for the protection of civilians lies with national Governments. The international community and external forces can provide constructive help and support. However, they should provide this in compliance with the provisions of the Charter of the United Nations and in full respect for the will of the countries concerned. It should not undermine the sovereignty and territorial integrity of the countries concerned and, still less, intervene forcibly'.

'...when discussing the protection of civilians in armed conflict, the Security Council should approach the concept of the responsibility to protect – and especially its application – with great prudence. The Final Document of the 2005 World Summit devoted a lengthy section to a very careful description of the responsibility to protect civilians from massacres, war crimes, genocide and crimes against humanity. It also indicated that the concept should be further considered by the General Assembly. Many members are currently deeply concerned about the concept of the responsibility to protect, and the relevant discussions should therefore be pursued in the United Nations. The Security Council is in no position to interpret or expand the concept of the responsibility to protect at will, much less to abuse it'.⁹

China went on to argue that the protection of civilians agenda should not rely solely on the Security Council but should involve the General Assembly, Economic and Social Council, Human Rights Council, United Nations Development Programme and regional organizations. China concluded its statement by noting that it is 'prepared to join with the rest of the international community in a solid and effective effort to

enhance the protection of civilians in armed conflict and achieve more constructive results’.

As such, China’s contribution to the meeting indicated its renewed support for the Responsibility to Protect.

First, China reiterated its endorsement of the framework set out in the World Summit Outcome Document. Whilst noting the deep concerns held by some Member States, it argued that the Responsibility to Protect was ‘carefully described’ in the World Summit Outcome Document.

Second, it identified Resolution 1674 – which reaffirms the Responsibility to Protect – as the ‘legal framework’ for the protection of civilians. What is more, China reconfirmed its view that the UN’s work on the protection of civilians was linked to the Responsibility to Protect.

Third, in calling for prudence in the *application* of the Responsibility to Protect, China agreed that the Responsibility to Protect is something that may be appropriately applied by the Council.

Fourth, China specifically pointed to a range of institutions and regional organizations beyond the Security Council that may make a positive contribution to the protection of civilians, acting of course with due respect for the United Nations Charter.

In these four ways, China made a vitally important and wholly positive contribution to the discussion about how the international community might deliver on its promise to protect people from genocide, war crimes, ethnic cleansing and crimes against humanity. It also opens up the possibility of moving forward to deliberations on translating the principle from words into deeds.

Significantly, consensus on the Responsibility to Protect and agreement to begin translating the principle from words into deeds depends very clearly on the common understanding reached in the 2005 World Summit Outcome Document. Because the 2005 World Summit Outcome Document was carefully crafted and won the consent of Member States, China’s view that the Security Council should not seek to expand or abuse the principle is a major point that deserves to be emphasised. From China’s point of view, any changes to the meaning of the Responsibility to Protect must be agreed by the General Assembly, presumably on a similar basis of unanimity with which the original principle was enunciated.

Those who seek to advance the principle are therefore presented with a simple choice by China’s position: use the 2005 World Summit Outcome Document as the definitive statement of the Responsibility to Protect and develop practical measures to deliver on the commitments plainly set out in the relevant paragraphs or reopen a debate in the General Assembly about the proper meaning of the principle, which would suspend efforts to invoke it in practice.

These sentiments were echoed by the region’s two other members of the Security Council, Indonesia and Viet Nam.

Indonesia

Indonesia is a prominent member of ASEAN, the Non-Aligned Movement and the Group of 77. It has also established a track record of receptiveness to the Responsibility to Protect though it shares the concerns of other Non-Aligned/G-77 States about the potential for the principle to be abused or misapplied. This view was clearly expressed by President Susilo Bambang Yudhuyono at the 2005 World Summit. The President welcomed the principle but called for limits to when force might be used in its name. According to the President, ‘we need a consensus on the responsibility to protect people from genocide, ethnic cleansing and crimes against humanity. To this end, force should only be used when all other means have failed’.

Although Indonesia did not refer directly to the Responsibility to Protect, it used the principle’s language in its statement to reaffirm the responsibilities endowed upon the Security Council, regional organizations and international community more broadly.

Thus, in a clear reference to the undertakings given at the 2005 World Summit and in Resolution 1674, Indonesia maintained that: ‘The [Security] Council has an imperative duty to stand for those who are defenceless and in need of protection in times of conflict’. The representative continued, ‘It is our shared responsibility to alleviate the suffering of victims wherever and whenever it occurs’.¹⁰

In addition, Indonesia pointed to the role that regional organizations can play in enhancing the protection of civilians, especially by contributing to the prevention of war through the use of negotiation and dialogue. As Indonesia’s Permanent Representative put it: ‘Regional organizations have an important role to play in the protection of civilians. It is important to remember that the best preventive medicine for war is fruitful negotiation and dialogue, which is often achieved by inviting the participation of regionally relevant players’.¹¹

Indonesia therefore plainly expressed its support for the basic idea underpinning the Responsibility to Protect – the international community, through the Security Council and regional organizations, has an imperative duty to protect the ‘defenceless’.

Finally, Indonesia ended by calling for the United Nations to focus on ‘maintaining momentum by strengthening the efforts of the United Nation system’ by Member States ‘working as a whole in a coordinated, coherent, comprehensive and cooperative manner’ – strongly suggesting that it is ready to consider proposals for translating the Responsibility to Protect from ‘words into deeds’ at the United Nations.

Viet Nam

Viet Nam is one of South-East Asia’s staunchest defenders of the principle of non-interference and has been highly sceptical of the Responsibility to Protect, raising fears that it could join the group of states arguing that world leaders did not make a commitment to the principle at the World Summit in 2005. However, at the May 2008 Security Council meeting on the Protection of Civilians, Viet Nam clearly indicated its support for the Responsibility to Protect.

‘Viet Nam’s view’, its Permanent Representative argued, is ‘that it is States that bear primary responsibility to protect their own civilians and to deal with violence against civilians as well as violations of international humanitarian law. In order to help States fulfil their responsibilities, the United Nations can help improve their national capacity, provide technical assistance and work with them to conduct other awareness-raising activities, for instance through training courses’.¹²

Thus, Viet Nam indicated its endorsement for the first two steps of the responsibility to protect principle: the responsibility of all states to protect their own citizens and the international community’s responsibility to encourage and enable the development of protective capacities in a cooperative fashion. Importantly, Viet Nam singled out the prevention and peaceful resolution of armed conflict as ‘the best way to protect civilians in armed conflict’.¹³

In relation to those aspects of the Responsibility to Protect that refer to the international community’s responsibility to protect endangered populations when the host state is manifestly failing in its responsibilities, Viet Nam insisted that ‘the Security Council should consider the issue of the protection of civilians on a case-by-case basis and in line with the approach endorsed in previous relevant resolutions’. Chief among those relevant resolutions is Resolution 1674 which set out the Security Council’s endorsement of the Responsibility to Protect.

In addition to this clear endorsement of the Responsibility to Protect envisioned by the 2005 World Summit, Viet Nam also indicated that it might be time to further consider proposals for translating the principle from ‘words into deeds’. At the very end of its statement to the Security Council, Viet Nam noted that:

‘Bearing that in mind [the aforementioned statement on the principle], we hold that the creation and application of any international mechanism should be thoroughly studied with a view to ensuring its efficient, effective and sustainable performance without resulting in an unnecessary financial burden for States’.

At the very least, this statement indicates Viet Nam’s willingness to consider appropriate mechanisms for enacting the Security Council’s commitment to the protection of civilians and Responsibility to Protect principle. Alongside Viet Nam’s support for the principle, this represents a significant strengthening of consensus and clearly indicates that Viet Nam shares the majority view on the principle.

The caution evident in Viet Nam’s statement reaffirms the view that the emerging consensus on the Responsibility to Protect in the Asia-Pacific region is based upon a shared understanding of the principle as agreed at the 2005 World Summit. For Viet Nam, the authority of the Security Council and appropriate application of the principle seem to be core elements of its decision to support the Responsibility to Protect and open up the potential for further discussion about translating the principle from words into deeds.

Other Participating Member States

In addition to those states that represent the Asia-Pacific region on the Security Council, three other states participated in the meeting on the Protection of Civilians: Australia, Japan and Myanmar.

Australia

Australia's support for the Responsibility to Protect is enduring and well-known. It has spoken in favour of the principle at previous Security Council meetings on the Protection of Civilians and at the UN Human Rights Council. Australia was a founding donor to the Global Centre for the Responsibility to Protect and houses the Asia-Pacific Centre for the Responsibility to Protect. It was no surprise, therefore, that Australia used the meeting to reiterate its keen support for the Responsibility to Protect. It was significant that Australia's support was couched very clearly in terms of the agreement reached by world leaders at the 2005 World Summit and that Australia added a statement expressing support to Edward Luck, the UN Secretary-General's Special Adviser.

Australia's statement of support for the Responsibility to Protect provides one of the clearest single-paragraph statements of what the principle stands for offered to date. As the Australian representative put it: 'In 2005, world leaders recognized the responsibility we all share to protect vulnerable communities from genocide, war crimes, ethnic cleansing and crimes against humanity. While it is the primary role of States to protect their own populations from these evils, the international community has a responsibility to assist States to exercise that responsibility and, in appropriate circumstances, to take collective action, consistent with the [United Nations] Charter, to prevent such mass atrocity crimes'.

Australia also joined calls for the UN to begin work on translating the principle from words into deeds, arguing that '[m]ore must be done to develop a practical approach for implementation of the responsibility to protect principle' before welcoming the appointment of Edward Luck and stating that 'Australia looks forward to working with Member States to continue our consideration of the principle and to give effect to it in appropriate circumstances'.¹⁴

Japan

Japan has traditionally tended to prefer to focus on human security rather than the Responsibility to Protect, because of its continuing unease about the potential deployment of military force. Nevertheless, Japan has consistently supported the Responsibility to Protect principle.

Japan's statement to the Security Council was entirely consistent with its traditional position on these matters. Japan chose to focus its remarks on the contribution that human security can make to the protection of civilians in armed conflict and made a point of distinguishing human security from the Responsibility to Protect on the grounds that the former rules out the use of force in every circumstance. Nonetheless, Japan identified Resolution 1674 as providing the mandate for on-going work on the Protection of Civilians. The selection of this resolution rather than earlier resolutions

(such as Security Council Resolution 1265) on the topic of civilian protection is significant because, as we noted earlier, Resolution 1674 sets out the Council's reaffirmation of the Responsibility to Protect.

Myanmar

Given recent events and the political situation in Myanmar, it is not surprising that Myanmar focused its remarks on rebutting international pressure for it to grant unfettered access to humanitarian organizations seeking to deliver assistance to the civilian victims of Cyclone Nargis.¹⁵ Myanmar pointedly criticized both the United Nations Under-Secretary-General for Humanitarian Affairs and Member States that had referred to its failure to grant humanitarian access in their submissions to the meeting on the Protection of Civilians. 'I find it highly objectionable', Myanmar's representative argued, 'that some delegations have tried to use this debate to politicize a humanitarian issue caused by a natural disaster'.¹⁶

Conclusion

Asia-Pacific governments used the recent open Security Council deliberations on the Protection of Civilians to reaffirm their support for the Responsibility to Protect. With the exception of Myanmar, Asia-Pacific governments were unanimous in their support for the Responsibility to Protect as agreed by Member States at the 2005 World Summit and reaffirmed by the Security Council in 2006 (Resolution 1674). Credit for this palpable warming of Asia-Pacific attitudes towards the Responsibility to Protect must be given in large part to the work of UN Secretary-General Ban Ki-moon, his special adviser Edward Luck, and the numerous civil society organizations in the region that have worked tirelessly to address the concerns of the region's governments.

The statements made by the region's governments highlight a number of important points that ought to inform the global effort to deepen consensus on the Responsibility to Protect and translate the principle from words into deeds.

1. There is broad support for the Responsibility to Protect in the Asia-Pacific Region.
2. This consensus is dependent upon the shared understanding of the scope of the Responsibility to Protect agreed at the 2005 World Summit. In particular, the World Summit's agreement on the principle's *scope* (applying to genocide, war crimes, ethnic cleansing and crimes against humanity), *meaning* (the four steps: (1) each state's responsibility to its own citizens; (2) the international community's responsibility to assist states to exercise their responsibility; (3) the responsibility to use non-coercive means to protect populations in danger; (4) the responsibility of the Security Council to consider additional means, including coercive measures, as a last resort) and the *locus of authority* for coercive measures (the UN Security Council).
3. At present, attempts to widen the scope, meaning or locus of authority beyond that defined by the 2005 World Summit Outcome Document and endorsed by the UN Security Council in Resolution 1674 would jeopardise this emerging consensus.
4. Asia-Pacific governments have indicated their willingness to begin dialogue on developing the practical measures necessary to translate the Responsibility to Protect from words into deeds. They have identified three avenues in particular: developing mechanisms within the United Nations, enhancing the world's capacity to prevent attacks on civilians, and engaging relevant regional organizations in these tasks.

In order to take advantage of this deepening consensus about the Responsibility to Protect it is imperative that the principle's advocates support the principle as agreed by world leaders in 2005 and contribute to the movement to translate the principle from words into deeds. The three aspects of operationalization identified by Asia-Pacific governments provide a good place to start:

Developing mechanisms within the United Nations.

Special Adviser to the UN Secretary-General, Edward Luck, is focusing his work on deepening international consensus on the Responsibility to Protect, clarifying the principle's relationship with international law and identifying avenues for translating the principle from words into deeds within the UN system. In light of the support

shown by Asia-Pacific governments, the principle's advocates and concerned Member States should offer assistance to Professor Luck and engage in constructive dialogue on the latter two elements of his work especially. After the Special Adviser's recommendations have been accepted by the Secretary-General and presented to the UN membership, advocates and Member States should carefully study them and do whatever they can to support their implementation.

Preventing attacks on civilians

There was broad agreement among Asia-Pacific governments that prevention is the 'best medicine' when it comes to the protection of civilians in armed conflicts. Yet there remains little systematic understanding of what it takes to protect civilians under threat and the UN's 'culture of prevention' has not yet been translated into a tangible policy agenda. Advocates and concerned Member States should focus on developing a more systematic understanding of what it would take to improve the prevention of attacks on civilians and, in consultation with the UN membership, develop proposals for translating the Organization's commitment to a culture of prevention into a suite of reforms and behaviours that will improve the world's capacity to protect through prevention. In addition, more work is needed to identify the capacities that sovereigns require to protect their own citizens and the best ways in which the international community can help States build that capacity.

Engaging relevant regional organizations

Like other parts of the world, the Asia-Pacific region has a strong history of regionalism and it was therefore no surprise that the region's governments mentioned the positive role that regional organizations can play in preventing attacks on civilians, helping regional neighbours to exercise their responsibility to protect, and protecting vulnerable populations where necessary and consistent with the UN Charter. Much progress has been made on this within the European Union and African Union, but there remains much untapped potential for the role of regional organizations in many other parts of the world. The Asia-Pacific region is replete with regional organizations and arrangements such as ASEAN, ASEAN Plus Three, the ASEAN Regional Forum, APEC and the Pacific Islands Forum that are all very well placed to play a leading role.

Advocates and concerned Member States should pay particular attention to the role that regional organizations can play in translating the principle into deeds within their region and the capacities these organizations and arrangements will require in order to make an effective contribution.

The 27 May 2008 meeting of the UN Security Council on the Protection of Civilians in armed conflict therefore helped illuminate a broad constituency of support for the Responsibility to Protect in the Asia-Pacific region and a number of pathways to translate the principle from words into deeds. It is important that these Asia-Pacific voices are taken seriously in global considerations about how to apply and advance the Responsibility to Protect and that the opportunities presented by this strengthened support for the principle are used as a foundation to begin deliberation on practical measures for preventing genocide, war crimes, ethnic cleansing and crimes against humanity and protecting vulnerable populations.

Notes

¹ S/1998/318, 13 April 1998.

² Andrew Bonwick, 'Who Really Protects Civilians?', *Development in Practice*, 16 (3) 2006, p. 272.

³ S/2005/740, 28 November 2005.

⁴ Security Council Report, 'Protection of Civilians in Armed Conflict Update', 13 January 2006.

⁵ S/PV.5319, 9 December 2005, p. 30.

⁶ Security Council Report Update, 'Protection of Civilians in Armed Conflict', No. 1, 8 March 2006.

⁷ S/PV.5703, 22 June 2007, p. 17.

⁸ S/PV.5898, 27 May 2008, p. 8.

⁹ S/PV.5898, 27 May 2008, p. 9.

¹⁰ S/PV.5898, 27 May 2008, p. 22.

¹¹ S/PV.5898, 27 May 2008, p. 22.

¹² S/PV.5898, 27 May 2008, p. 14.

¹³ S/PV.5898, 27 May 2008, p. 14.

¹⁴ S/PV.5898, 27 May 2008, p. 25.

¹⁵ See Asia-Pacific Centre for the Responsibility to Protect, *Cyclone Nargis and the Responsibility to Protect*, Myanmar/Burma Brief No. 2, 16 May 2008.

¹⁶ S/PV.5989 (Resumption 1), 27 May 2008, p. 15.



The Asia-Pacific Centre for the Responsibility to Protect is an Associate of the Global Centre for the Responsibility to Protect. With offices in Brisbane (Australia) and Yogyakarta (Indonesia), the Centre's mission is to conduct research, policy work and engage in advocacy and outreach aimed at furthering acceptance of the Responsibility to Protect within the Asia-Pacific Region and worldwide. The Centre contributes to the development of concrete measures to fulfil the R2P by working in cooperation with the Global Centre for the Responsibility to Protect, the United Nations, regional and sub-regional organizations, government bodies and nongovernmental organizations to support and enhance understanding, consensus and practical initiatives.

Patrons

Lloyd Axworthy

*President, University of Winnipeg,
Former Foreign Minister of Canada*

John Dauth

*High Commissioner of Australia in New
Zealand*

Gareth Evans

President of the International Crisis Group

Colin Keating

Executive Director, Security Council Report

Edward Luck

*Special Adviser to the United Nations
Secretary-General*

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Asia-Pacific Centre for the Responsibility to Protect, c/o School of Political Science & International Studies, The University of Queensland, Brisbane, QLD4072, Australia.
Tel: +61 7 33653301. Email: info@r2pasiapacific.org

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