



AP R2P

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DECEMBER 2016 • ISSUE 35



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SPOTLIGHT ON R2P

3rd China - Australia Dialogue on Responsibility to Protect

Key note address by Mr. Ivan Šimonović Special Adviser to the United Nations Secretary - General on the Responsibility to Protect.

I want to thank the co-hosts of this event, the China Institute of International Studies and the Asia-Pacific Center for the Responsibility to Protect, for the invitation and the opportunity to address you today in my capacity as Special Adviser to the United Nations Secretary-General on the Responsibility to Protect. It is the first time that a Special Adviser on the Responsibility to Protect visits

China - I am very honored to be here. The Responsibility to Protect principle really boils down to a very simple assertion: that there is a collective responsibility to protect populations from: genocide, crimes against humanity and war crimes, as well as ethnic cleansing. That responsibility rests first and foremost with the State in which populations live. But outside actors also have a responsibility to assist States, in a variety of ways, to fulfill these protection responsibilities, or even assume a residual protection role themselves.

As you all know, RtoP was endorsed unanimously by states at the 2005 World Summit of the United Na-

tions. In paragraphs 138 and 139 of the Outcome Document, Heads of State and Government affirmed that "each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity" and that this responsibility includes the prevention of such crimes, including their incitement.

They also agreed that, when appropriate, the international community should encourage and help States to exercise this responsibility. Should a state "manifestly fail" to protect its populations and peaceful means have proved inadequate, Heads of State and Government committed to take collective action, in a timely and

decisive manner, through the Security Council and in accordance with the Charter of the United Nations.

RtoP is rather a political commitment than a legal norm. However, it is based on existing legal principles under international human rights and humanitarian law. RtoP is designed to address the gap between those existing legal obligations and practice. It uses the morally demanding notion of 'responsibility', which is designed to move away from a discretionary 'right' to help States when they are in need, to a collective responsibility to assist States to prevent and respond to atrocity crimes.

On the other hand, RtoP does not and should not seek to create a hierarchical structure, in which the international community stands above and outside of States; rather it reaffirms a principle that was a critical piece of the original UN Charter – namely, sovereign equality. As sovereign equals, states have both reciprocal rights and responsibilities, and participate – as peers – in the creation of international rules and institutions. This principle of sovereign equality has served as an important baseline for international cooperation throughout the life of the UN.

The principle of sovereign equality implies that States must make their own national effort to prevent atrocities, within their own borders, as well as participate in regional and international efforts to assist other states in fulfilling their responsibilities. The goal of all of our efforts must be the creation of resilient, inclusive, and transparent societies, which can work in partnership with regional and international actors to protect populations. Therefore, in agreement with my predecessors, I share the view that the pillars of RtoP are very interconnected, and that domestic actions aimed at strengthening resilience can be made stronger when supported by international assistance. Likewise, international

assistance is more effective when targeting domestic efforts that already exist and for which there is full ownership by the recipient State.

Over a decade has passed since Member States of the United Nations endorsed the principle of RtoP in the World Summit Outcome Document. Since that time, there have been a series of informal dialogues in the General Assembly on the Responsibility to Protect and many other efforts to implement the principle, based on the implementation plan drafted in 2009 by the United Nations Secretary-General Ban Ki-moon. Most notable among these efforts have been the creation of a 'joint office' in New York for the Special Adviser for the Prevention of Genocide and the Special Adviser on the Responsibility to Protect, the development of a 'convening mechanism' that would allow these two officials to bring other Principals of the UN together in crisis situations, and the establishment of a UN-wide 'contact group' on RtoP.

My work as Special Adviser on the Responsibility to Protect is to further the conceptual, political and institutional/operational development of the Responsibility to Protect principle and to contribute to its implementation by Member States and to its invocation by a range of inter-governmental bodies. In addition, the Special Advisers in the Joint Office have issued a number of statements on different country situations of concern, and work to galvanize international action to address imminent atrocity crimes.

Some regional organisations have also developed new mechanisms (e.g., Latin American Network on Genocide Prevention or the efforts of the AU to develop a Rapid Reaction Force). And several states have built up their own domestic capacity to address atrocity crimes – whether it be internally focused (in terms of risk assessments) or externally

focused (in terms of the U.S. Atrocity Prevention Board). There is also a vibrant civil society constituency, and a new and growing literature on RtoP – including applied research on risk factors for atrocities.

In addition to these developments, the principle of RtoP has been invoked by a number of bodies (including the Security Council and the Human Rights Council) in a variety of concrete situations of crisis – such as Yemen, South Sudan, Central African Republic, and most notably in relation to the Security Council-authorized intervention in Libya that raised concerns among some Member States about the misuse of the principle.

The crisis in Libya has unfortunately contributed to wider misperceptions that the responsibility to protect is primarily concerned with coercive measures, especially the use of force. This record should not shake our resolve to live up to the responsibilities Member States committed themselves to in 2005. The United Nations has taken a clear and firm position about the 2011 military intervention in Libya. The Secretary-General has stressed that the case of Libya shows how timely and decisive response to atrocity crimes can help to address immediate threats, such as the ones that we faced at the time. In parallel, he has expressed the need to learn the lessons of that case and to consider options to address elements of implementation which remain controversial. Many of them are contained in the Brazilian 'responsibility while protecting' initiative. Here in China, scholars have alluded to the need for 'responsible protection', which goes along similar lines.

I view concepts such as the Brazilian or the Chinese ones as expressions of Member States continued engagement to the principle and as contributions to generate a healthy debate on the implementation of

the principle, including Security Council mandate implementation. It is my understanding that the dialogue on RWP for example, served to underscore the commitment of Member States to the prevention and protection principles embodied in the responsibility to protect. I believe that it also served to affirm their shared determination to ensure that implementation of the concept will be carried out in a way that is consistent with the purposes, principles and provisions of the Charter, and with the intention expressed by Heads of State and Government at the 2005 World Summit.

Timely and decisive action puts a premium on assessment, on what is happening, why it is happening, and how the international community can help keep a difficult situation from becoming worse. The Secretary-General has also observed that the Libyan experience served to remind us of the importance of military actors taking all possible precautions to avoid situations that place civilians at risk, in accordance with international law governing the conduct of armed hostilities, and investigating possible violations of international law committed in such contexts.

In short, RtoP has become part of the world's diplomatic language. It is true that there are some who continue to voice concerns about state sovereignty, but within the General Assembly, over the past few years a consensus has grown over the need for states and regional and international organisations to work in partnership to build resilience to the commission of atrocity crimes. It is no longer possible for atrocity crimes to rage inside a country, and for some to argue that it is not a matter of international concern.

This does not mean, of course, that there aren't challenges associated with the Responsibility to Protect. Among those is the fact that despite being a multifaceted agenda, the

implementation of RtoP is still too often associated with the use of military force, and seen to be a principle that belongs to the UN Security Council. There is also, of course, an in-built inconsistency in the Security Council's approach to RtoP (given the veto power and the political nature of Council deliberations).

On the other hand, despite almost all States agreeing that prevention is the most crucial element of RtoP, there is a continued difficulty in mobilizing the international community for preventive or early action. This is partly due to the difficulty of providing solid 'proof' for the effectiveness of early action. But it is also due to the reluctance of States to place situations on the agenda of global decision-making bodies for earlier attention. As the Secretary-General has said in one of his reports, there is still too little concrete commitment and action to follow up on that rhetorical pledge. Resources are still skewed towards crisis response, and actors are not willing or able to invest in particular tools. The claim is made that we still know too little about what works.

That claim is partially true. It is sometimes difficult to know what particular kinds of actions or policies prevent one society from spiraling into the kind of violence that marks atrocity crimes, while another society avoids that curse. This is particularly true of so-called 'structural prevention', which is aimed at addressing deeper potential causes.

But we have come quite a long way.

Through research and case study work, we have come to converge on the key risk factors for atrocity crimes. In the Joint Office, we have developed a Framework of Analysis with a view to be used widely within the UN, and outside, of risk factors and indicators for them, which helps improve our capacity for early warning. Moreover, in the Secretary-General's reports, we have tried to specify more clearly the specific inhibitors of atrocity crimes which,

reflecting back on past cases, can make a difference in counteracting negative dynamics: accountable and professional security forces, independent judiciary and institutions for overseeing political transition, strong national human rights institutions and/or ombudsmen, local conflict resolution capacity, and ways of counteracting dangerous speech (particularly in media).

I would like to highlight that coercive measures — whether sanctions or military force — have never been the favoured tools for implementing the concept. It is clear that waiting for situations to deteriorate and for the pattern of atrocities to escalate before acting is irresponsible and counterproductive. Not only does this place innocent lives in needless danger, but the longer we wait, the more dramatic and costly to all concerned the eventual intervention will be.

What we are lacking, in my view, is a more effective operationalization of our work on prevention. In fact, recent Reviews on Peace Operations, Peacebuilding Architecture and Women, Peace and Security clearly indicated that there needs to be a 'shift' of energies and priorities towards prevention. However, as I have mentioned, while States have collectively and repeatedly emphasized the importance of prevention of genocide, war crimes, ethnic cleansing and crimes against humanity, they have failed to articulate a truly global agenda for prevention, including in what regards to international assistance.

It is my view that we need to encourage States to address the 'root causes' of atrocity crimes in the identification and implementation of domestic resilience measures. Likewise, we need to encourage potential providers of international assistance to pay special attention to them as causes that can be conducive to the commission of atrocity crimes.

At the same time, States under stress may not have the luxury of waiting for the long-term in the face of short-term or imminent risks. De-fusing 'detonators' and anticipating and responding to potential triggers constitutes a critical element in the responsibility to protect. Let me emphasize that this is not only about the third pillar, and certainly not only about the use of force. It is about the effective use of a combination of tools that may 'sit' across different pillars. For instance, we can provide targeted support by deploying monitoring forces, which could relate to pillars II and III. We can also help coordinate messages by influential leaders in a strategic way, which may entail actions connected to pillars I and II.

What is important to keep in mind is that the prevention of atrocity crimes has a long-term dimension and a short-term dimension. In either of them, international assistance to existing domestic processes – or international encouragement to initiating such processes – should be considered an essential obligation of the international community under the principle of the responsibility to protect.

Today we will have discussions on the role of peacekeeping in atrocity prevention and on peace operation challenges in the context of the protection of civilians. I am sure those discussions will illustrate some of the options connected with international assistance for the prevention of atrocity crimes. On this note, let me mention that the 6 September General Assembly dialogue on the responsibility to protect also provided an opportunity for Member States to further stress that effective prevention requires greater investment in the human and material resources dedicated to information gathering and analysis. It also requires strengthening the links between early warning and response mechanisms.

Let me also mention that the dialogue also provided an opportunity

for Member States to further stress the links between the responsibility to protect and other thematic policy agendas. For instance, we know that preventing recurrence constitutes a priority for the prevention of atrocity crimes. Likewise, the links between RtoP and PoC are made stronger through efforts to ensure implementation of the Kigali principles on the protection of civilians. Other connected policy areas include addressing the crisis of forced displacement, implementing Security Council resolution 1325, ensuring compliance with the Arms Trade Treaty, and implementing the 2030 agenda for sustainable development and Secretary General's Human Rights up Front Action Plan.

In conclusion, we must build upon the international commitment for prevention and 'push' towards the full operationalization of an international agenda for the prevention of atrocity crimes. This is an agenda that goes beyond any particular actor and that needs to bring many of them together. It requires mutual acknowledgement, respect and coordination across international, regional and sub-regional organizations, and obviously among Member States. It also requires including civil society – academia, think tanks, non-governmental organizations, all of us in these efforts. That is the level of cooperation and inclusivity we must aspire to.

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