AP R2P

Asia Pacific Centre for the Responsibility to Protect

SPOTLIGHT ON R2P

Third Annual China-Australia Dialogue on the Responsibility to Protect

The Role of Peacekeeping in Atrocities Prevention

On 3 November 2016, the China Institute for International Studies (CIIS) and the Asia Pacific Centre for the Responsibility to Protect (APR2P) co-hosted the third annual China-Australia Dialogue on the Responsibility to Protect at CIIS in Beijing, China. The United Nations Secretary-General's Special Advisor on the Responsibility to Protect, Mr. Ivan Simonovic, delivered the keynote address to the dialogue, which was attended by experts and diplomats from Australia and China. The theme of the 2016 dialogue focused on the role of peacekeeping in atrocity prevention.

Dr. Ruan Zongze, Executive Vice-President of CIIS and author of China's 'Responsible Protection' concept, offered welcome remarks on behalf of CIIS. Dr. Ruan noted that China has been an active participant in debates on R2P, and has carefully considered the merits and potential risks of the principle. Dr. Ruan stressed that there is consensus that 'responsibility is good, and protection is absolutely good', but there is need for further consideration of what responsible action entails before, during and after action is taken to protect populations from atrocity crimes. Emphasising that the China-Australia dialogue on R2P is

an important initiative for exchanging ideas on how to prudently implement R2P, Dr. Ruan encouraged dialogue participants to endeavour to deepen understanding of what is required to improve nation and society building in states that have experienced or are at risk of atrocity crimes. Dr. Noel Morada, APR2P's Director of Regional Diplomacy, offered welcome remarks on behalf of APR2P, stressing that the CIIS-APR2P dialogue is an invaluable opportunity to deepen common understandings and advance policy recommendations in areas of mutual concern to Chinese and Australian stakeholders.

Keynote Address

In his keynote address, Mr. Simonovic highlighted that R2P has become part of the world's 'diplomatic language', and 'over the past few years consensus has grown over the need for states and regional and international organizations to work in partnership to build resilience to the commission of atrocity crimes'. Despite Member States' enduring commitment to prevent atrocity crimes, Mr. Simonovic acknowledged that gaps remain in effectively mobilizing the international community for preventive or early action, as highlighted in the recent reviews on UN Peace Operations, Peacebuilding Architecture and Women, Peace and Security. Mr. Simonovic noted that presently there is no clearly articulated global strategy for prevention, and advocated for the development of an atrocity prevention agenda which has both long-term and short–term dimensions.

In the long term, atrocity prevention could be advanced through encouraging States to assess their own needs with respect to the root causes of atrocity crimes, and to develop and implement relevant domestic resilience measures. Member States should be encouraged to share knowledge with potential providers of assistance, with the aim of targeting international support to the human and material resources needed to reduce the risk of atrocities. In discussions following his address, Mr. Simonovic noted that one avenue for sharing information could be through the Human Rights Council's Universal Periodic Review, which could include reporting on measures that are considered atrocity risk factors. Alternatively, states could voluntarily conduct self-assessments of atrocity risk factors then volunteer to engage in peer discussion of their self-assessment. Such exercises would encourage States to engage in open discussion about the protection gaps that they have identified, and facilitate discussions among potential donors on appropriate forms of assistance which could contribute toward addressing risks. Mr. Simonovic noted that these recommendations are mindful that the best method of prevention is through a cooperative approach, in which Member States take ownership of atrocity prevention and engage the early assistance of concerned parties in order to strengthen their capacity to resist risk factors.

In the short term, in situations where there are imminent risks, prevention requires anticipating and responding to potential 'triggers' of atrocity crimes, and linking early warning with response mechanisms. Mr. Simononic stressed that response under Pillar 3 of R2P is 'certainly not only about the use of force', but relies on a 'combination of tools' which may include providing targeted support by deploying monitoring forces and 'coordinating messages by influential leaders in a strategic way'. Concluding his remarks, Mr. Simonovic highlighted the links between R2P and other thematic policy agendas, including the Protection of Civilians in Armed Conflict (POC), implementing Security Council Resolution 1325, addressing forced displacement, ensuring compliance with the Arms Trade Treaty and implementing the 2030 agenda for Sustainable Development and the UN Secretary-General's Rights Up Front Action Plan. A central aspect of each of these policy agendas is preventing societies from sliding into mass atrocities.

During the discussion following Mr. Simonovic's keynote address, a number of participants raised concerns over the aftermath of the intervention in Libya and ongoing crisis in Syria, and the implications these situations have on the global consensus on R2P. Responding to these concerns, Mr. Simonovic noted that there should be honest and frank dialogue on how the Libya intervention was a 'setback' for R2P, while also underscoring that the international community should not shy away from the agreement that coercive measures may be a necessary last resort when other options will not work. Mr. Simonovic acknowledged the merit of making coercive measures under R2P 'more precise', and voiced his viewpoint that force should be mandated in exceptional situations, temporally limited, and directly linked to the aim of strengthening the protective capacity of the Member State. Even when coercive action is taken under Pillar 3, the aim is to get back to a situation as soon as possible where the State is taking responsibility for protecting its own population. There must also be measures for ensuring transparency and monitoring mechanisms to prevent any use of force that is not fully in line with the UNSC authorization.

However, just as states should be open to discussing controversies arising from the Libya intervention, Mr. Simonovic highlighted a need for open dialogue about the failure of the international community to find a way to overcome divisions that prevented early and decisive responses to the crisis in Syria. In response to a number of the dialogue participants who expressed concerns over UNSC deadlock, Mr. Simonovic noted that the UNSC has made reference to R2P in over 40 resolutions since the Libyan crisis, and UNSC members have demonstrated that they are acutely aware of moral and political pressure to resolve difficulties and to act responsibly under the obligations of the UN Charter. Mr. Simonovic noted that China enacted this responsibility when in July 2014 it did not oppose the 'absolutely necessary' Security Council Resolution 2165 which enabled humanitarian relief efforts without the consent of the Syrian government. Recognising that agreeing to allow such measures are tough decisions, Mr. Simonovic commended China for demonstrating that it upheld the moral responsibility to assist civilians in besieged cities in Syria. Reflecting on the concerns raised by dialogue participants regarding action in Libya and inaction in Syria, Mr. Simonovic noted two key priorities for advancing R2P: to work to strengthen prevention, and to endeavour to constrain coercive measures in accordance with UN Security Council mandates.

Session 1: UNSG 2016 Report

Following Mr. Simonovic's keynote address, the first session of the dialogue focused on the 2016 Secretary-General's report on R2P 'Mobilizing Collective Action: the Next Decade of the Responsibility to Protect'. The session began with presentations by Mr. Patrick Lawless, Assistant Secretary of the International Organisations Branch of the Department of Foreign Affairs and Australia's National Focal Point on R2P; and Mr. Yang Yi, Secretary-General of CIIS. Mr. Lawless began his remarks by acknowledging China has already made a contribution to implementing R2P through its many years of economic growth, because the possibility of atrocities is significantly reduced in societies where the economy is growing and the benefits are enjoyed by more and more people. Mr. Lawless indicated that Australia also takes its Pillar 1 and Pillar 2 responsibilities 'very seriously', and has recently initiated a policy for diplomats who are posted abroad to have pre-departure training on R2P and the UN Framework of Analysis for Atrocity Crimes. Although there are sometimes differences in opinion on how best to respond to Pillar 3 crisis situations, Mr. Lawless highlighted that there is 'strong consensus on the principle that populations should be protected from atrocity crimes'. Underscoring that Australia and China share a ' constructive relationship on R2P' in the UN, Mr. Lawless noted that China and Australia are in agreement that the UN General Assembly should have a continuing role in monitoring and engaging on R2P. In this regard, Mr. Lawless voiced Australia's support for continuing the practice of issuing an annual Secretary-General's report on R2P which is discussed in the General Assembly, as this practice has raised the profile of R2P and contributed to better policy dialogue among Member States.

In his presentation, Mr. Yang Yi reflected that the 'UN has made achievements and progress in con-sensus building to protect populations from atrocity crimes'; however, there is now a need to 'seek common ground' on a 'renewed commitment' to prevention as the 'most important' aspect of protection. With regard to addressing the root causes of atrocity crimes, Mr. Yang noted that more attention should be paid to economic development as integral to the full implementation of R2P. Development is fundamental to both prevention and post-atrocity reconstruction, and equitable development is an important aspect of sustaining peaceful societies. Regarding the agenda of the incoming UN Secretary-General, Mr. Yang agreed with Mr. Lawless that priority should be given to addressing the root causes of atrocity crimes, and redoubling efforts to develop a more coordinated approach to conflict prevention.

Ms. Yao Kun, Associate Research Fellow at the China Institute of Contemporary International Relations (CICIR), served as a discussant in the first session. In her remarks, Ms. Yao highlighted that human rights protection has become central to the work of the UNSC over the past ten years, with the Council now working on strengthening protection through peacekeeping, conflict prevention and the rule of law. While this represents progress in the field of human protection, Ms. Yao noted that division remains in the UNSC on human rights protection in some situations, with continued apprehension over the potential for R2P to be misused. Concern over selective or self-interested application of R2P was echoed by Ms. He Dan, Assistant Research Fellow at CIIS, who also served as a discussant in this session. Ms. Yao made three recommendations which could help ease the concerns that both she and Ms. He voiced: place priority on prevention; orient policy toward long term solutions to prevent reoccurrence of atrocity crimes; and support dialogue and cooperation among parties to the conflict, acknowledging that resolving conflict ultimately relies on the parties themselves.

Dr. Noel Morada, another discussant for the first session of the dialogue, reiterated other partipants' call for greater investment in prevention and more systematic attention to the structural drivers of atrocity crimes. Dr. Morada noted that many states in Southeast Asia have benefited from holding national dialogue on atrocity prevention to raise awareness of atrocity risk factors and to develop consensus at the national level on strategies to address this risk. Cambodia has recently appointed a National Focal Point on R2P, and is building a domestic 'Friends of R2P' network which will work toward self-assessing risk in Cambodia, developing an early warning mechanism, and sharing Cambodia's own experience in reconstruction in the aftermath of mass atrocities with other ASEAN states. Dr. Morada noted that Southeast Asian experts have entered into dialogue on how practical measures at the national level could be complemented by initiatives to mainstream atrocity prevention in regional mechanisms and bodies, such as the ASEAN Institute for Peace and Reconciliation (AIPR), the ASEAN Commission on the Promotion and the Protection of the Rights of Women and Children (ACWC), and the ASEAN Intergovernmental Commission for Human Rights (AICHR). It was suggested that Chinese experts may benefit from engaging in national dialogue on measures China may take to implement R2P, and support other states and regional actors as part of its Pillar 2 responsibilities. Dr. Morada further noted that individuals from Africa and Southeast Asia have found value in engaging in South-South dialogue on atrocity prevention, to share experience and information on conflict prevention, early warning and analysis, and building domestic resilience with the assistance of international partners. Chinese participants in the dialogue voiced particular interest in engaging in this type of inter-regional dialogue, and encouraged CIIS and APR2P to explore this suggestion further.

Session 2: The Role of Peacekeeping in Atrocity Prevention

The remainder of the dialogue focussed on the role of peacekeeping in atrocity prevention, which was the key thematic topic that CIIS and APR2P nominated to focus on in 2016. The session began with a presentation by Ms. Lina Alexandra, Research Fellow at the APR2P Centre, which noted with appreciation China's growing support for UN peacekeeping as a demonstration of China's responsible power and contribution to international peace and security. Ms Alexandra emphasised that through participating in consent-based peacekeeping operations, China is supporting a valuable instrument for preventing atrocity crimes in both direct and indirect ways. To improve peacekeeping capacity to prevent atrocity crimes, Ms. Alexandra made four key recommendations:

1. Improve cooperation among peacekeeping training centres, with specific pre-deployment training modules for both troops and police peacekeepers on: recognising the early warning for atrocity crimes, understanding how and why perpetrators attack civilians, and outlining the accountability of peacekeepers under international humanitarian law to ensure a high standard of conduct among peacekeepers.

2. Improve civilian capacity for early warning and conflict analysis within peacekeeping contributing countries, and document lessons from the field regarding what efforts helped to de-escalate tensions or protect civilians.

3. Provide training opportunities to build peacekeeping capacity in other countries.

4. Clarify the future capability requirements from the UN to ensure long-term endurance of peacekeeping commitments.

Ms. Alexandra's remarks were followed by a presentation by Captain Tian Shichen, Staff Officer in the Office for International Military Coop-

eration, Chinese Ministry of National Defence. Mr. Tian acknowledged that peacekeeping operations have a role in preventing atrocity crimes, but cautioned that Member States cannot ask too much from peacekeeping actors. Captain Tian stressed that peacekeeping operations play a subsidiary or complementary role in providing protection, which is the primary responsibility of individual states. In this context, it may not be appropriate to expect peacekeeping operations to prevent atrocities amidst heavy armed conflict. Although he voiced some apprehension in linking R2P with peacekeeping as it may imply more robust mandates, Captain Tian suggested that consensus on building capacity of peacekeeping operations to prevent atrocity crimes could be advanced by: (1) acknowledgement that R2P does not create a new right to use force, and restrains the unilateral use of force; (2) agreement to place military assets under command and control of the UN in atrocity situations; and (3) willingness to provide sufficient and appropriate military assets for protection mandates.

Serving as a discussant on the panel, Major General Liu Chao, former Commander of the UN mission in Cyprus, acknowledged that peacekeepers feel a great deal of responsibility when states fail

to provide protection for their own people, and underscored that R2P is a political commitment that supports UN peacekeepers to provide protection to local populations. Mr. Liu noted that strong leadership and a well-integrated mission are essential capacities for effectively implementing civilian protection mandates. Atrocity prevention must be a joint effort of all players on the ground, including the UN country team and the military components of the operation. Troops require not only specialized military training for protecting civilians from atrocity crimes, but also training which equips them to be sensitive to international humanitarian law concerning civilian protection. Often troops from different countries receive different training modules, and there is a need for standard training for all troops that are deployed, particularly in situations where troops may be expected to take action to protect civilians from atrocity crimes.

The second discussant in the session was Mr. Chen Wei, Senior Research Fellow at the China Institute of International and Strategic Studies (CIISS), who noted that China is committed to contributing international public goods, and is willing to deepen practical cooperation in international peacekeeping missions, as well as international humanitarian assistance and disaster relief. Mr.

Chen remarked that several speakers had mentioned that prevention and international assistance are central components of implementing R2P, but it remained unclear of precisely what action should be taken to effectively prevent atrocity crimes or what forms of international assistance are most essential. Mr. Chen suggested that more work needs to be done in this area, and endorsed previous speakers' suggestions for Chinese experts to engage in South-South dialogue on atrocity prevention, which encourages leadership among countries in the global South and a key role for regional organizations in implementing R2P.

In her discussant comments, Dr. Sarah Teitt, APR2P Deputy Director, made note of the Report of the High-Level Independent Panel on UN Peace Operations, which adopted a broad definition of peace operations to include a range of tools managed by the UN Secretariat, including Special envoys, mediators, political missions, peacebuilding missions, regional preventive diplomacy offices, technical assistance missions and peacekeeping operations with civilian, military and police components. While agreeing with the other speakers that appropriately training and resourcing peacekeepers is important, Dr. Teitt noted the Report's conclusion that many constraints to improving peace operations are political in nature, and require greater political will and political support for civilian protection. Peace operations could be more effective in preventing atrocity crimes if the UNSC monitored emerging crises, identified early indicators of atrocity crimes and expanded dialogue with the UN Secretariat on early warning and prevention. Dr. Teitt concluded by stressing the critical importance of increasing investment in and offering more unified international support for UN mediators. Enhancing specialized atrocity prevention expertise within the UN standby mediation support team, and fully funding this under the regular UN budget, is a key supportive capacity for fulfilling the civilian protection mandates of peace operations.

Session 3: Civilian Protection Challenges in Peace Operations

The third and final session of the dialogue began with a presentation by Dr. Phil Orchard, APR2P Research Director. Dr. Orchard's presentation drew attention to the significant growth in the number of Internally Displaced Persons (IDPs) globally, with 40.8 million conflict-induced IDPs in 2015. This trend impacts peacekeeping, as peacekeeping operations have frequently been mandated to conduct a range of IDP activities, including measures to: support the return of IDPs, including through the creation of conditions conducive to their return such as fostering a secure environment and restoring the rule of law; provide humanitarian assistance to IDPs; and protect IDPs in displacement camps. Dr. Orchard made note of 'clear successes' of peacekeepers in significantly preventing civilian killings, but highlighted that the growth in IDPs presents a number of challenges or dilemmas for UN peacekeepers. Namely, peacekeeping missions may inadvertently help to encourage displacement as civilians seek safety in areas with a peacekeeping presence; and peacekeeping presence alone may not be enough to ensure civilian protection from attacks that may be carried out by forces affiliated with the host state government. If IDPs come under direct attack, further questions are raised about peacekeepers' use of force without tactical consent, even while formal host state consent remains present.

Dr. He Yin, Associate Professor at the China Peacekeeping Policy Training Centre of the Chinese People's Armed Police Forces Academy, delivered the second presentation in this session. Dr. He noted that there is a strong political consensus that civilians should be protected, and that peacekeeping contributing countries should be prepared to do this. 'Morally, politically and legally, there is no problem'. However, speaking from his own experience in UN missions, Dr. He voiced concern that there is a gap between the 'idealism and realism' of civilian protection. First, at the operational level some member states do not have the political will to put their peacekeepers in grave danger. For individual peacekeepers, there may be a degree of risk aversion out of concern that the compensation for their death or injury in the field is insufficient to care for their families. Second, Dr. He noted that there are not enough peacekeepers from developed countries. The overwhelming majority of peacekeepers come from developing countries, which in some cases lack sufficient training and intelligence capabilities for fulfilling their mandates, particularly where there is the added risk of terrorist organizations carrying out attacks. Third, peacekeepers deploy in extremely complex civil wars that are often supported by outsiders and neighbouring countries. It is difficult for peacekeepers from any country to use force without becoming warring parties of the conflict. Finally, Dr. He raised concerns about protecting IDP camps, which can be infiltrated by warring factions which makes it is difficult to distinguish combatants from civilians. In consideration of these considerable challenges, Dr. He suggested that there should be better guidance distinguishing 'soft protection versus hard protection'. Whereas 'hard protection' entails 'standing up to violators' attacking civilians, soft protection relies on UN legitimacy and presence, and recognises that peacekeeping is primarily political rather than military operation. Understanding peacekeeping as a political operation entails viewing civilian protection beyond military force, and developing better strategies and political support for preventive diplomacy, mediation, negotiations, and better linking peacekeeping with peacebuilding to address root causes of the conflict.

The session concluded with discussion of some of the challenges to robust protection, and peacekeeping more generally. One participant voiced concern over reports that peacekeepers are sometimes the perpetrators of atrocity crimes, and asked what responsibility applies to international organizations if troop contributing countries fail to take

action to hold their peacekeepers accountable. Another participant noted that some peacekeeping mission mandates do not adequately anticipate the potential danger of the situation, and missions deploy with insufficient capacity to meet mandate expectations. Participants discussed the relationship between R2P and POC and the robust turn in peacekeeping, and questioned whether peacekeepers should be expected to fight terrorists as in Mali or engage more proactively in a civil war situation, such as in South Sudan. Participants also noted that there is a need for all actors to emphasize that civilian protection is a central priority of the peacekeeping operations, so that mission leaders allocate resources and make decisions to enable peacekeepers to be better placed to provide protection.

Closing Remarks

The dialogue concluded with remarks by Mr. Yang Yi on behalf of CIIS, and Dr. Noel Morada on behalf of APR2P. Mr. Yang thanked participants for a successful CIIS-APR2P dialogue, and noted his gratitude to Mr. Simonovic for being the first UN Special Adviser on R2P to visit Beijing and take the opportunity to discuss R2P implementation with experts in China. CIIS indicated its continued appreciation for its ongoing partnership with APR2P, and expressed interest in exploring potential opportunities for jointly convening cross-regional dialogue on R2P to gain perspectives from representatives from Africa, Southeast Asia and Latin America. CIIS and APR2P both welcomed the opportunity to co-host a fourth annual China-Australia dialogue on R2P in late 2017 in Canberra. Topics for consideration for this dialogue include deeper examination of practical measures to enhance the capacity of UN peacekeepers to fulfil protection mandates, and addressing the challenges arising from non-state groups that perpetrate atrocity crimes.