

**Decision (provisional)**

**Towards a responsibility to protect human rights – the  
responsibility to protect – from might is right to protection  
of the individual by strengthening the law**

**I.**

International law is changing. The question that now arises is which specific areas are affected by the principle of the responsibility to protect and to what extent sovereign states can be forced, possibly even by others, to apply that principle. The purpose of the responsibility to protect is to protect people from genocide, war crimes, crimes against humanity and ethnic cleansing.

Yet there are still repeated attempts to misinterpret the concept and to misuse it to justify wars that are contrary to international law. The international community's actions over the next few years will decide how international law develops in this area and what role the responsibility to protect will come to play.

We face the challenge to ensure that this change leads to shared values, international institutions that are more able to act and greater global cooperation under the umbrella of the United Nations (UN). Today, when we see violations of international law and the use of might is right, these are not simply one-off sins but damages of international law. To us Greens the situation is quite clear: we believe in the rule of law and not in might is right.

With this decision, the Alliance 90/The Greens commits itself to develop international law with a view to enshrining the responsibility to protect. We want to help ensure that people are given effective protection from the most serious human rights violations and arbitrary despotism. The best way to achieve this is through preventive and coherent action oriented consistently towards human rights and international law, in all policy areas at various levels.

We are committed to a value-based foreign and security policy that also integrates development, trade, gender, climate and refugee policy issues and formulates principles for our foreign policy action.

**II. The concept of the responsibility to protect**

The responsibility to protect means the responsibility to protect people. That is linked to the following basic questions: how can the international community support states in their responsibility to protect? And what happens if a state cannot or will not protect its own population from the most serious human rights violations, such as genocide, or even commits them itself?

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At the UN World Summit in late 2005, the General Assembly agreed on the principle of the responsibility to protect. Thereby, all governments recognised that each individual state has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. Secondly, the international community should, as appropriate, encourage and help states to exercise this responsibility to protect, i.e. not take action only when a state has already failed to do so. Thirdly, where a state cannot or will not exercise its responsibility to protect its population, the international community also has the responsibility to use appropriate diplomatic, humanitarian and other means, up to and including enforcement action in accordance with Chapter VII of the UN Charter.

The concept goes back to the precept of 'common humanity' set out by former UN Secretary-General Kofi Annan and describes the sovereignty of states as an obligation to take responsibility. It promotes a development that places the protection of people and punishment of gross violations of their fundamental rights above the inviolability of sovereign states and the impunity of those acting on their behalf.

The scope of the responsibility to protect is confined to the four core crimes of genocide, war crimes, crimes against humanity and ethnic cleansing but also includes the whole spectrum of measures and instruments available to the member states, the UN system, the regional organisations and their partners in civil society.

The responsibility to protect includes, apart from prevention (responsibility to prevent), assistance (responsibility to assist) and reaction (responsibility to react), the responsibility to rebuild, i.e. the responsibility to rebuild peace as a follow-up measure. If the responsibility to prevent were applied more consistently, it would be possible in many cases to avoid conflicts and violence. Instead, the responsibility to protect is all too often reduced to military intervention. However, within the scope of the responsibility to protect, diplomatic and civil sanctions take precedence over military force, which should be used only as a last resort if all other measures have no prospect of succeeding.

The responsibility to protect is enshrined as one of the recognised principles of international law and the protection of human rights. Despite various references to the responsibility to protect, it has not yet become a separate norm of international law. It is a norm of international law in the making, which describes an obligation to act and lays down high ethical standards of own action.

If the principle of the responsibility to protect is to be further developed, the reservations of other states must also be taken into account. In putting forward the 'responsibility while protecting' initiative, Brazil called for rigorous criteria for the implementation of RtoP mandates. It will only be possible to establish RtoP as a norm of international law in the long term if it can credibly be shown that UN principles are being observed strictly.

Far too often, German and European policy does not match up to the high ethical standard of responsibility to protect in regard to their own action. Double standards undermine their own values.

That is why we call for a holistic approach to the responsibility to protect. That requires radical re-thinking and a different policy – on the part of both Germany and the EU. Only then can a value-based foreign and security policy, based on the protection and promotion of human rights, be implemented consistently.

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### **III. Accepting the responsibility to protect as a benchmark of our own policy – strengthening human rights in practical terms**

The collapse of authoritarian regimes in North Africa and the protest against tyrannies in the Arab world is forcing German and European foreign and security policy to take another in-depth look at their past principles. Over the past decades, Germany and the European Union have pursued a policy based on the principles of 'stability' and 'combating Islamic terrorism'. So they sought close alliances with authoritarian regimes, did not give enough support to democratic movements and often ignored human rights violations. Their attitude to Saudi Arabia makes it clear that the CDU/CSU-FDP government is continuing to pursue that policy. They give priority to their own economic and security interests over human rights and support for democratic developments.

That is why a different policy is needed. German foreign policy must adhere more closely to the UN and EU framework and be seen to be geared to support for human rights and democratic movements. Here, the responsibility to protect should serve as a benchmark and human rights should be the objective. More importance should be attached to protecting women and children in armed conflicts, since they are particularly hard-hit by (sexualised) violence, oppression and human rights violations. It is important to strengthen prevention and to establish new, institutionalised investigation procedures so that the community of states can fulfil its obligation to prevent gross human rights violations in an effective manner.

(1) Strengthening the preventive responsibility to protect – developing an effective early-warning capability.

We call for

- strengthening the UN early-warning mechanisms with a view to preventing mass crimes and establishing an interdepartmental early-warning centre in Germany and strengthening civil prevention instruments (mediation, police, administrative and legal experts);
- enhancing the status of the UN Special Advisers on the Prevention of Genocide and on the Responsibility to Protect and increasing and improving the funding of UN Women and the UN Development Programme;
- a national RtoP situation report under the auspices of the RtoP coordinating office to be prepared in order to analyse on a regular basis which RtoP-relevant instruments are available to the Federal Government, to what extent the responsibility to protect is integrated in government activity and how existing capacity and information can be pooled and internal government processes for compiling and analysing RtoP-relevant information can be optimised;
- strengthening the interministerial action plan on civil crisis prevention and incorporating it in an interministerial national peace strategy with a view to formulating a coherent and coordinated peace policy. Since cooperation between the main ministries has not worked to date, we also suggest achieving such cooperation via the distribution of funding. Funding for civil crisis prevention should be pooled. These funds should be spent on the basis of a joint process coordinated among the specialist ministries;
- focusing the European Union's crisis-management structures more closely on civil conflict management. That means the existing crisis prevention, crisis management and peacebuilding structures within the European External Action Service must be brought

together as a joint entity, in order to formulate a holistic political approach that goes beyond crisis reaction alone. The new EU Special Representative for Human Rights must be supported in his activities with a view to conflict-transformation.

(2) Strengthening disarmament and arms control, promoting development policy, preserving the foundations of human life

Germany is the third-largest arms supplier in the world, which is how it contributes to the outbreak of violent conflict. Very serious human rights violations are also encouraged by the denial of global solidarity. Two and a half billion people in the world have to live on less than US\$ 2 a year. Because they do not have access to food, water, energy or health care, tens of thousands of people die every day. German and European enterprises too often share the responsibility for social exploitation and the over-exploitation of natural resources and keep ignoring fundamental human rights. The adverse effects of the way enterprises act in the human rights, social and environmental field cannot be stemmed by voluntary measures alone. That is why preserving the foundations of human life, binding rules on the responsibility of enterprises, compliance with the development cooperation pledges and a restrictive approach to arms exports represent essential elements of a preventive policy that will help prevent the most serious human rights violations. The issue of freedom of opinion and of the press takes on a different form in the 21st century. It is being increasingly undermined by state and private censorship and information is being controlled, often also with technical support from Europe and the USA.

We call for

- a general ban on arms exports to countries where the government is responsible for human rights violations, by passing a law on arms exports;
- creating transparency about arms exports by lifting the confidentiality of the Federal Security Council's arms exports decisions. In future that Council should decide by consensus and in the case of highly sensitive exports, the Bundestag should be given a veto with suspensory effect;
- support for civil-society initiatives that produce knowhow, technology or open source software to circumvent censorship, closures and surveillance accessible to those affected by human rights violations;
- progress on disarmament policy and initiatives such as Global Zero in the nuclear sector and a ban on investment in cluster munitions and anti-personnel mines;
- the establishment of a European Institute for Peace. Its core activities should be conflict mediation, informal diplomacy and exchanges of experience. It should act as a hub for mediators and peace experts in the European Union, its Member States, other countries and also civil society;
- fulfillment of the ODA (Official Development Assistance) 0.7% quota by 2017. By means of conducting a comprehensive conflict analysis, we want to ensure that misconceived development cooperation does not have the effect of intensifying or prolonging conflicts;
- a consistent and systematic review of the human rights effects and risks of development projects in terms of human rights-based sustainable development, in regard to their planning, implementation and evaluation, taking greater account than in the past of the different living conditions of women and men in the context of wars and post-war situations, civil crisis prevention and national reconstruction;

- raising the awareness of and providing special training for staff involved in development cooperation measures and projects and in peacekeeping missions at planning and implementing level, with regard to the protection and the special needs and human rights of women and children in conflict situations;
- ensuring that people who have become the victims of human rights violations as a result of enterprises operating on a transnational basis are given better access to courts and judicial procedures, and that enterprises are obliged by law to publish information about the human rights, social and environmental aspects of their business activities. Under German commercial law and at EU level, the parent group must be held liable for its subsidiaries in the event of human rights violations;
- protecting refugees and not returning them to Europe's external borders, sometimes to the Mediterranean. The 'refoulement' of boat people seeking help violates the European Convention on Human Rights and must stop immediately. Refugee policy must not end at Europe's external borders and the Mediterranean; measures such as the Australian offshore internment also need to be criticised openly. The increasing number of unresolved conflicts call for a global initiative on the part of the industrialised states;
- reform of the European border protection agency Frontex and extension of its mandate to humanitarian tasks. Frontex troops must guarantee that new arrivals are housed humanely and that the procedure for examining their need for protection is fair and meets the standards of human and refugee rights;
- consistent and worldwide efforts on the part of the industrialised and emerging economies, in accordance with the principle of common but differentiated responsibility, to reduce their greenhouse gas emissions with a view to observing the 2-degree limit. They must support the hardest-hit poor countries to help them adjust to changed climate conditions and alleviate the impact of climate change. By increasing their efforts, they can make a considerable contribution to overcoming hunger, flight and therefore also the causes of conflict. Germany and Europe must make their contribution by, among others, reducing their greenhouse gas emissions by at least 80-95% by the year 2050 compared with 1990;
- completely and finally abolishing European agricultural export subsidies in order to put an end to the destruction of local food markets in poor countries by dumping exports;
- consistently carrying out and implementing human rights impact assessments prior to the signature by Germany or the EU of any trade or investment agreements with third countries;
- assessing the environmental and social impact of EU fisheries agreements and their implementation and revoking them in the event of serious breaches of environmental and social standards;
- a trade policy based on the principle of global justice.

All these measures cannot by themselves ensure the comprehensive and worldwide implementation of human rights and the responsibility to protect. They would, however, represent a major step towards ensuring the coherence and legitimacy of our own policy if a case arose where the responsibility to protect had to be applied.

#### **IV. Military operations and the responsibility to protect**

In exceptional cases, the responsibility to protect can lead to military operations to prevent or put a stop to the most serious human rights violations. As a member of the United Nations, the Federal Republic of Germany is obliged on principle to contribute to international peacekeeping. The frequently poor support for UN missions by western and rich states is symptomatic of the gap between the claims and the reality of an international peace policy based on global responsibility.

Under the UN Charter in force, the Security Council can decide to intervene in the sovereignty of a state in order to maintain or restore world peace and international security. In the field of the responsibility to protect, military action by the United Nations is confined to the criteria of genocide, war crimes, ethnic cleansing and crimes against humanity.

Participation in such operations is not automatic, nor do the following principles represent a check list. For us, however, they are guidelines that point the way to the ultimate individual decision, which will always be a political one.

Our guidelines are as follows:

##### **(1) Preventing war and peacekeeping**

The supreme principles of Green peace and security policy are the peaceful balance of interests, preventing war and violence and peacekeeping, protection from physical violence and mass crimes, the implementation of international law in the context of collective security at UN level and promoting human security.

On principle, that is irreconcilable with a policy of pursuing individual, national or military alliance-related political interests of a hegemonic, power-political or economic nature and preparing for war in order to impose them.

##### **(2) Proportional means**

Responsibility for peaceful conflict resolution lies primarily with the conflicting parties. In the long run, external actors will have only a limited influence on internal social conflicts. The scale, duration and intensity of a planned military intervention must be proportional to the human protection objective. The means must be proportional to the ends. The political objectives of an operation must be clear from the outset and laid down by the United Nations. The effects on the political system of the country concerned should be limited to what is inevitable. By contrast, the export of peace, the rule of law or democracy by military means is usually doomed to fail. All the rules of humanitarian international law must be observed strictly and in full.

##### **(3) The objectives and interests must be disclosed – honesty of motives**

The reasons for the need for military intervention must be disclosed and credibly demonstrated. Public justifications and actual motives must coincide. That is not compatible with exploiting humanitarian aid or human rights for other purposes. Humanitarian aid must in all cases remain neutral.

#### **(4) Primacy of civil crisis management and 'use as last resort'**

Political and civil conflict management takes priority. Armed force may be used only as a last resort and precedence must be given to political conflict resolution. The use of military force is legitimate only in cases where all other measures have no prospect of succeeding.

#### **(5) Legitimacy under international law and UN mandate**

Under the UN Charter, military intervention for purposes other than self-defence is admissible only to maintain and restore international security and world peace. According to the 2005 World Summit Outcome document, the responsibility to protect encompasses protection from genocide, war crimes, ethnic cleansing and crimes against humanity.

As the UN is currently constituted, that requires a Security Council mandate. However, failure to act because a Security Council resolution has been blocked can damage international law and the United Nations just as seriously as intervention without a mandate. A possible way out of that kind of dilemma would be to seek to resolve the problem and establish legitimacy via the UN General Assembly, as proposed by Brazil. The General Assembly should claim the right to follow the example of Resolution 377 of 1950, 'Uniting For Peace', and vote by a qualified majority to declare the Security Council blocked and decide in its place to take peace-enforcement measures pursuant to Chapter VII of the UN Charter. Here, cooperation should be sought with the appropriate regional organisations. In terms of strengthening international law, it is crucial here to ensure that in respect of that kind of development process the United Nations remains the sole centre of decision-making and action.

A Security Council or General Assembly decision is a binding precondition, because the absence of a mandate of that kind under international law would severely damage the United Nations.

#### **(6) Primacy of politics**

Civil-military operations abroad should be used to support political measures and must not become a substitute for them. They must be incorporated in an overall concept and efforts to achieve political de-escalation, conflict resolution and peacebuilding. At the same time, consideration must always be given to exit criteria too, on the basis of practical objectives.

#### **(7) Reasonable prospects**

Operations in the context of the responsibility to protect must be carried out with a view to their effects and the chosen means must have reasonable prospects of success. They must not cause greater damage than might be expected from failure to act. In the case of military operations, it is vital to take account of the fact that they could trigger conflict escalation.

#### **(8) Responsible multilateralism**

Armed forces may be deployed for peacekeeping and crisis management on a multilateral basis only. In terms of the legitimacy and prospects of success of an international crisis operation, it is not enough for member states simply to make their respective contribution. They must look at the overall operation and its effectiveness. Any disagreements about observance of the agreed operational rules, about respect for individual responsibility on the ground and the 'do no harm' approach must be dealt with and resolved, as must the distribution of the burden. Infringements of these elementary principles, as of humanitarian international law, could destroy the legitimacy of an operation.

### **(9) Feasibility and accountability**

Crisis operations must be feasible in terms of available personnel and material and be sustainable over the necessary periods of time. In that regard, the timeframes for military, police and civilian actors vary widely. The burdens and risks for the soldiers deployed, as also for the police, civilian experts – and, indirectly – their family members, must be acceptable. The long-term psychological effects are very difficult to foresee in these cases and deserve special attention. In particular, care for those concerned needs to be improved, for example by setting up more low-threshold contact points.

### **(10) Parliamentary participation and social acceptance**

Consultative parliamentary participation in regard to deployment abroad by the Bundeswehr (Federal Armed Forces) has proved useful and must not be weakened. At European level, we also call for parliamentary participation by the European Parliament in regard to EU military operations.

It is up to the government and parliament to account for and justify the deployment of soldiers, members of the police and civilian experts to the public in a convincing manner. That includes openly describing the risks and opportunities. Deployment in cases of crisis and in particular deployment abroad must meet with the robust and sustained acceptance of the people. The precondition here is the provision of comprehensive information and an independent assessment of existing commitments.

## **V. Strengthening the United Nations and international law**

Green foreign policy supports the United Nations. The UN is only as strong as its member states. At present, however, Germany is a weak member. While some smaller countries determine the UN approach through their ideas and collaboration, the UN plays no role in the CDU/CSU-FDP government's foreign policy. That government is not known as a forward-looking or team-building creative force in the UN bodies but as one that hesitates and holds back. Germany's temporary membership of the UN Security Council has changed nothing in that respect. This Federal Government has absolved itself from its responsibility to protect for domestic policy considerations. We Greens want Germany to actively strengthen the UN and regard it as the primary arena of global and international policy-making.

The danger of any human rights policy, especially in the case of intervention justified by reference to the responsibility to protect, lies in its misuse for power politics. In the case of Libya, the NATO states interpreted a Security Council Resolution in a manner that went far beyond the UN mandate. That is why the principles we set out above are so important.

In relation to the four main pillars of the responsibility to protect, over the last decades the problem was not so much misuse as inaction in many cases. One dilemma of the responsibility to protect is that individual countries in the Security Council, at their forefront the five permanent member states, keep putting their national interests before respect for human rights and their obligation to maintain world peace and international security. The risk of misuse that still exists does not, however, justify giving up support for human rights and the responsibility to protect.

In order to implement the responsibility to protect effectively, an in-depth reform of the relevant UN institutions is necessary. Germany could give more impetus to the necessary debate on reforms if it was willing to give up the idea of having a permanent seat in the Security Council.

We therefore call for

- Germany to support a permanent European representation that includes France and the United Kingdom and also uses the rotating seat(s) system to coordinate a permanent EU position; in the long term, we call for a common EU seat;
- a reform of the Security Council with the aim of ensuring a fairer composition with the participation of Africa, Latin America and Asia. We want to impose an obligation to justify vetos in the Security Council. In the long term, we still believe in abolishing the veto in the UN Security Council;
- the possibility of judicial examination of Security Council decisions on sanctions against individuals (sanctions lists). The International Criminal Court (ICC) should be entrusted with that task;
- respect for the principles of 'Responsibility While Protecting' set out by Brazil. We need better Security Council procedures for monitoring and assessing the interpretation and implementation of Security Council mandates, including during the implementation of a mandate. Moreover, the Security Council and the International Criminal Court must guarantee the responsibility and accountability of those who are intervening. In the long term, we hope there will be a means of checking whether UN-mandated operations are compatible with the United Nations Charter;
- the establishment of a UN sanctions support fund to make sanctions a more effective non-military instrument. The fund should serve to ensure that the consequences of sanctions are compatible with humanitarian principles and accountable and to minimise their adverse effects on third countries. The fund should provide the affected states with adequate compensation to ensure that they support a system of sanctions, do not circumvent it and in particular apply it rapidly;
- Germany to take on more responsibility and participate more fully in terms of funding and providing personnel for UN missions. Missions led directly by the UN take precedence over military missions that may be mandated by the UN but are conducted by the EU or NATO. We adhere to the view that the UN should have its own, permanent troops instead of national military contingents;
- strengthening the International Criminal Court;
- the issues of women, peace and security to be regarded as a challenge in regard also to the responsibility to protect and to be taken into account in a national action plan (in accordance with UN Resolutions 1325 and 1820).

## VI.

The above decision reflects our convictions. There are no national solutions to the major global challenges. In global terms, the issue is no less than how to strengthen the law against might is right and take a positive approach to globalisation, which tackles poverty and marginalisation while at the same time preserving the foundations of human life on our planet. With this decision, we reject the policy of renationalising foreign policy, as currently pursued by the CDU/CSU-FDP. The Federal Government is looking unilaterally at short-term national interests, instead of looking to a form of globalisation that is fair in the long term. That is not the way to create and protect global common goods, such as global standards to protect the biosphere or free people from poverty or violence. Similarly, we are against a policy that flatly rejects peace missions and operations abroad by the Federal armed forces under the relevant chapters of the UN Charter, without any differentiation. The Alliance 90/The Greens therefore support this

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international responsibility just as we support moving peace policy back into the centre of the political agenda.