

# KAIPTC POLICY BRIEF

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## THE RESPONSIBILITY TO PROTECT: THE TIME TO ACT IS NOW

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*This policy brief argues that the Responsibility to Protect (R2P) presents opportunities for burden-sharing between states and the international community in the protection of the world's population from mass killings. This opportunity, the brief further argues, must be seized by world leaders during the July 2009 debate at the UN General Assembly on the concept.*

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### **Introduction**

In the 1990s, the world witnessed several horrific incidents of genocide and mass murders. Some of the deadliest ones took place in Rwanda, Srebrenica and Kosovo. These human tragedies, and several others which did not receive as much international attention, were a clear indication of the international community's inability or unwillingness to protect the world's vulnerable populations

from genocide, war crimes and crimes against humanity. In some cases, mass killings took place, partly because respect for the absolute sovereignty of states made it impossible for significant intervention to take place.

The search for solution to protect vulnerable populations against mass killings led to debates around the world on what limitations there were to state sovereignty that could help prevent another 'Rwanda' or

'Srebrenica'. One idea that emerged in the aftermath of mass killings in the 1990s was that sovereignty should be exercised with responsibility. In other words, states had the primary responsibility to protect their population against genocide, and related crimes, but not to serve as perpetrators themselves.<sup>2</sup>

The most cited groundbreaking work on sovereignty and the protection of populations through intervention was carried out by the *International Commission on Intervention and State Sovereignty (ICISS)*, under the auspices of the Government of Canada.<sup>3</sup> The ICISS report, released in December 2001, titled the *Responsibility to Protect*, was based on "the idea that sovereign states have a responsibility to protect their own citizens from avoidable catastrophe – from mass murder and rape, from starvation – but that when they are unwilling or unable to do so, that responsibility must be borne by the broader community of states"<sup>4</sup>.

Some of the recommendations of this report subsequently provided the basis for the work of the former United Nations Secretary-General, Kofi Annan's High-level Panel on Threats, Challenges and Change of 2004 and whose recommendations are contained in the report, *In Larger Freedom*, released in 2005. The two reports subsequently provided the materials for deliberation by Heads of State and Government present during the 2005 UN World Summit.<sup>5</sup> At the Summit, world leaders endorsed the

*Responsibility to Protect (R2P)* as a concept whose implementation would improve protection for populations against four principal crimes: genocide, war crimes, ethnic cleansing and crimes against humanity and their incitement.<sup>6</sup> Since then, several efforts have been made within the UN system and outside it to whip up support for the implementation of the concept. Most recently, in January 2009, the United Nations Secretary-General, Ban Ki Moon, released a report on the implementation of the R2P concept.<sup>7</sup> This report is expected to be discussed at the United Nations General Assembly, in July this year.

This policy brief discusses the R2P against the backdrop of the Secretary-General's report on the subject and calls for its implementation. Furthermore, the brief posits that the R2P concept presents opportunities for burden-sharing between states and the international community in the protection of the world's population from mass killings. This opportunity, the brief further argues, must be seized by world leaders during the July debate at the UN General Assembly on the concept.

### **The 2005 World Summit and the Responsibility to Protect**

Paragraphs 138 and 139 of the Outcome Document titled, *Responsibility to Protect populations from genocide war crimes, ethnic cleansing and crimes against humanity*, contains the unanimous decisions of world leaders on the R2P, and is

worth quoting in whole here. The two paragraphs jointly state:

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 this responsibility and will act in accordance with it [emphasised].* 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 (paragraph 138).

The international community, through the United Nations, also has 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 genocide, 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 case-by-case basis and in cooperation with regional organisation as appropriate, should peaceful

means be inadequate and national authorities are manifestly failing 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 principle of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping states build their capacity to protect their population from genocide, war crimes, ethnic cleansing, and crimes against humanity and to assisting those which are under stress before crises and conflicts break out (paragraph 139).

The entire texts of paragraphs 138 and 139 have been deliberately quoted to show how unambiguous world leaders were in articulating their intention on the R2P concept.

The R2P concept rests on a three-pillar strategy:

- ❖ the protection responsibility of states;
- ❖ international assistance and capacity-building; and
- ❖ timely and decisive response by the international community.

### ***The three pillars of the R2P Concept***

The R2P concept rests on a three-pillar strategy: pillar one is, the protection responsibility of states; pillar two is, international assistance and capacity-building; and pillar three is, timely and decisive response by the international community.<sup>8</sup> The three pillars provide the opportunity for states and the international community to share the burden of protecting the world's population from the four crimes: genocide, war crimes, ethnic cleansing, and crimes against humanity. Efforts to operationalize the concept would focus on the three pillars. This therefore, provides good reasons for states to accept the norm and support its operationalisation.

### ***Reservations about the R2P Concept***

But not everybody thinks the R2P is such a fantastic idea. Since the R2P emerged as a global idea during the World Summit in 2005, it has generated several debates with respect to how it will work in practice and whether its application will not serve as an excuse by powerful states (mostly in the West) to intervene in the internal affairs of weak states (mostly in the South). Again, from the content of paragraphs 138 and 139 of the Outcome Document quoted above, it is clear that military intervention will be a measure of last resort, and can only take place under the auspices of the UN and in cooperation with concerned regional organisations. Then, there is also the argument that

the R2P originated from the Western world or that it is a Western concept, and therefore the basis for its rejection by non-Westerners. It should however be noted that, even if the phrase, 'responsibility to protect, is Western, its fundamental idea is not.<sup>9</sup>

It is worth noting here that as early as the year 2000, five years before the 2005 World Summit and a year ahead of the ICISS report, African leaders had proactively included in the Africa Union's Constitutive Act, "the right of the Union to intervene in a member state pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide, and crimes against humanity."<sup>10</sup> The decision of the AU to intervene in 'grave circumstances' is significant in that it sends strong signals to its Member States that "the time of absolute and exclusive sovereignty ... has passed", to use the words of the former UN Secretary General, Boutros-Boutros Ghali. Again, the decision of the AU to intervene in order to protect populations from mass killings means that the R2P is not entirely a Western idea.

In Africa however, there is the need for the AU as a group, and individual states to demonstrate their commitment to the implementation of the R2P, beyond written commitment. The killings going on in Darfur and Somalia present the greatest challenge to the AU in terms of its commitment to the R2P.

## ***R2P-related activities since the 2005 World Summit***

As has already been mentioned, the 2005 World Summit emphasised “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...”. Since then, several decisions have been taken within the United Nations that have given further boost to the R2P. Some of the important R2P-related activities are worth mentioning here. For instance, on 28 April 2006, the Security Council Resolution 1674 on *Protection of Civilians in Armed Conflict*, reaffirmed ‘the provisions of paragraphs 138 and 139 of the 2005 World Summit Outcome Document regarding the Responsibility to Protect...’<sup>11</sup> Equally significant was UN Security Council Resolution 1706 on Sudan<sup>12</sup> which again referred to the commitment made by world leaders during the 2005 Summit to protect populations against mass killings. Another significant development attesting to the commitment of the UN to the R2P is the appointment, in February 2008, of a Special Advisor on R2P<sup>13</sup> whose role would be ‘conceptual development and consensus building, to assist the General Assembly to continue consideration of this crucial issue’.<sup>14</sup> The Special Advisor on the R2P works closely with the Secretary-General’s Special Advisor on Genocide.<sup>15</sup>

Finally, in January 2009, the UN Secretary-General released a report, *Implementing the responsibility to protect*. The 33-page report provides

policy ideas on how to operationalize the R2P and ‘take[s] the critical first step towards turning the authoritative and enduring work of the 2005 World Summit Outcome into doctrine, policy and, most importantly, deeds. It [also] seeks to shorten the road from promise to practice, fully cognizant of the terrible human cost of delay or retreat.’<sup>16</sup> This report will form the basis of further debate on the implementation of the R2P in the General Assembly, in July this year.

In addition to activities within the UN, institutions have been established in several regions of the world to marshal support for the R2P concept. These institutions have provided the platform, through conferences and workshops, for debate on the concept. Two of such institutions, based in New York, that coordinates R2P-related activities are the Global Centre for Responsibility to Protect (GCR2P) and the International Coalition for the Responsibility to Protect (ICRtoP)<sup>17</sup>. The Global Centre, together with associated centres<sup>18</sup> located in different regions of the world, serves as a catalyst for moving the responsibility to protect from principle to practice. The Centre also conducts, coordinates and publishes research on refining and applying the R2P concept. It again serves as information clearing house and resource for governments, international institutions, and non-governmental organizations leading the fight against mass atrocities.<sup>19</sup> The ICRtoP, on its part, brings together civil society groups from around the

globe to strengthen normative consensus for the R2P at the international, regional, sub-regional and national levels; push for governments, regional and sub-regional organizations and the UN to strengthen capacities to prevent and halt genocide, crimes against humanity, ethnic cleansing and war crimes; further the understanding of the R2P concept among governments, non-governmental organizations, and the public; help build and fortify a like-minded group of governments in support of R2P; and mobilize non-governmental organizations to push for action to save lives in R2P country-specific situations.<sup>20</sup>

As an associated member of the Global Centre for the Responsibility to Protect, the Kofi Annan International Peacekeeping Training Centre (KAIPTC), led by its research department, represents an African perspective on the R2P concept. KAIPTC's R2P-related activities included a conference in 2007 on the 'Operational Challenges of R2P', participation of staff members in R2P conferences and workshops, and research and publication.<sup>21</sup> The KAIPTC as a peacekeeping training centre, and as part of the implementation of the R2P, can continue to offer support for capacity building for civilians, the police and the military in protecting populations in Africa against mass killings.

The role of KAIPTC and other institutions in contributing to capacity building is important because the R2P

concept imposes responsibilities on states and the international community to build their capacities to discharge the obligation of protection.

A survey of the literature on the R2P concept since 2005 would also indicate that a stream of publications have been produced by academics and experts on the concept. Special edition journals have also come out in respond to the R2P concept.<sup>22</sup> These journals and publications have provided policy direction and conceptual clarification on the R2P.

*The R2P concept imposes responsibility on states and the international community to build their capacities to discharge their obligation of protection.*

## **R2P: Opportunities and Challenges**

The R2P presents opportunities and challenges:

### ***Opportunities***

Opportunities should be seen in relation to the fact that unlike any other idea, it promotes division of labour or burden-sharing between states and the international community (the United Nations, regional and sub-regional organisations, and civil society) in protecting the world's population. Another opportunity lies in the fact that it opens up the possibility for capacity-building at the national and

international levels for the prevention of conflicts and mass killings. Within the African continent, the AU and sub-regional organisations are re-organising their peace and security architecture in ways that will enhance their capacity for conflict prevention on the continent. And directly or indirectly most sub-regional organisations have made references to the R2P in their key conflict prevention documents (conventions and protocols). These documents can be re-enforced by the implementation of the R2P.

### *Challenges*

In an attempt to move the R2P from theory to practice, three fundamental, but crucial questions must be raised; first, how do we ensure, conceptually, that the R2P and what it is meant to achieve is clearly understood? Second, how do we build adequate institutional capacity and tools to confront the four crimes that the R2P is concerned with? Finally, how will political commitment for the R2P be sustained over the years, even if it receives another endorsement by the General Assembly? These are questions or challenges that must be addressed in all debates on the R2P concept.

The core objective of the R2P concept is clearly articulated in the 2005 World Summit Outcome document quoted above. To repeat once more, the R2P is limited to four crimes: genocide, war crimes, ethnic cleansing and crimes against humanity. Already,

there are attempts to place in the R2P basket all sorts of issues including HIV/AIDS. More worrying is the misrepresentation that the R2P is about military intervention in 'every' situation.<sup>23</sup> This brief considers attempts to broaden the R2P beyond what was agreed on by world leaders at the 2005 World Summit as the basis for its rejection.<sup>24</sup> The report of the UN Secretary-General deals with all misconception about the R2P but it will be necessary to clear further doubt about its scope during the July 2009 debate at the General Assembly.<sup>25</sup>

Building adequate capacity of individuals, institutions, and societies to prevent or mitigate genocide, war crimes, ethnic cleansing and crimes against humanity requires considerable human and material investment.<sup>26</sup> Building capacity raises another question: is the international community ready to pay the expenses that will come with it? It is however encouraging to note that, in Africa, where a lot of capacity building will be required, frantic efforts are being made in this direction. The Africa Union (AU) and the sub-regional organisations have made progress in establishing early warning capabilities and continental rapid response force.<sup>27</sup> Continuing support for the AU's initiative in this direction will therefore be necessary.

The last challenge is how to court a lasting political support or will for the R2P. Many ideas receive the initial political support and consensus, but

they do not last. So the focus should not only be to mobilise support for the R2P at its initial stages (now), but there is the need to think through how the R2P and what it stands for forms part of the memory of institutions and legal systems to ensure that they survive the current world leadership and generation.

*The responsibility to protect is an idea whose time has come and therefore needs our support.*

### **Conclusion**

This brief concludes that no state has ever been applauded for massacring its own people or other citizens because it is sovereign: mass killings by states have always been condemned. What the R2P does is to put sovereignty in its proper perspective, and thus offer states and the international community the opportunity to share the tasks of protecting the world's population against genocide, war crimes, ethnic cleansing and crimes against humanity. Finally, as Gareth Evans

once said, the R2P is 'an idea whose time has come', and therefore needs our support. The time to act is now.

### **Recommendations**

This brief considers the following recommendations necessary for the implementation of the R2P:

- ❖ Awareness creation should go beyond current leaders and policy makers and also targets the larger populations.
- ❖ The Secretary General's report should be widely distributed to help clarify misunderstanding about the objectives of the R2P;
- ❖ The July 2009 debate on the R2P should be used to clarify all misconception about the concept.
- ❖ Given the work already done by non-governmental groups (including civil society) their role in the implementation of the R2P should be institutionalised.

## Endnotes

- <sup>1</sup> Samuel Atuobi is a Research Associate at the Conflict Prevention, Management and Resolution Department (CPMRD) of the Kofi Annan Peacekeeping Training Centre (KA IPTC).
- <sup>2</sup> See Francis Deng et al, *Sovereignty as Responsibility: Conflict Management in Africa*, Washington DC: Brookings Institution Press, 1996.
- <sup>3</sup> The ICISS began work in 1999 and submitted its final report in December 2001.
- <sup>4</sup> For further reading, see the Report of the ICISS, *the Responsibility to Protect*, December 20001.
- <sup>5</sup> See UN Document A/63/677.
- <sup>6</sup> See World Summit Outcome Document p. 30.
- <sup>7</sup> <http://www.reformtheun.org/index.php/eupdate/4689>. Accessed 22 June 2009.
- <sup>8</sup> See UN Document A/63/677.
- <sup>9</sup> See the Global Center for Responsibility to Protect's Frequently Asked Questions (FAQs) for further clarification at <http://globalr2p.org/FAQ.html>. Accessed 22 June 2009.
- <sup>10</sup> See Article 4 (h) of the AU Constitutive Act (2000).
- <sup>11</sup> See UN Document S/RES/1674 (2006).
- <sup>12</sup> See UN Document S/RES 1706 (2006).
- <sup>13</sup> Dr. Edward Luck is the Special Advisor on R2P on genocide. He is also the Vice President and Director of Studies of the International Peace Academy and Director of Columbia University's Center on International Organizations.
- <sup>14</sup> <http://www.un.org/apps/news/story.asp?NewsID=25702&Cr=ki-moon&Cr1>. Accessed 20 June 2009.
- <sup>15</sup> The Special Advisor on Genocide, Dr. Francis Deng, was appointed in May 2007.
- <sup>16</sup> Report of the UN Secretary-General on the R2P (A/63/677) p. 28.
- <sup>17</sup> The Kofi Annan International Peacekeeping Training Centre is a member of both organisations.
- <sup>18</sup> Associated Centre of the Global Centre is made up of organisations and institutions that contribute regional perspectives and expertise to debate on R2P.
- <sup>19</sup> <http://www.globalr2p.org/about.html>. Accessed 22 June 2009.
- <sup>20</sup> [http://responsibilitytoprotect.org/index.php/civil\\_society\\_statements/2144?theme=alt1](http://responsibilitytoprotect.org/index.php/civil_society_statements/2144?theme=alt1)
- <sup>21</sup> These publications are: 'Operationalising the Conception of R2P in Africa: Actors and Processes', by Prosper Addo and 'Responsibility of Protect in Africa: An analysis of the African Union's Peace and Security Architecture' *Global Responsibility to Protect 1* (2009) by Kwesi Aning and Samuel Atuobi.
- <sup>22</sup> *The Global Responsibility to Protect* is an example of special journals on the R2P.
- <sup>23</sup> See the Global Center for Responsibility to Protect's FAQs op cit.
- <sup>24</sup> See also the address by the UN Secretary-General in Berlin, July 2008 on 'Responsible Sovereignty : International Cooperation for a Changed World' at <http://www.un.org/News/Press/docs/2008/sgsm11701.doc.htm>. Access 2 July 2009.
- <sup>25</sup> The Report of the UN Secretary-General on the R2P (A/63/677) p. 8.
- <sup>26</sup> See Edward C. Luck (2008), *the United Nation and the Responsibility to Protect*, Policy Analysis Brief, Stanley Foundation.
- <sup>27</sup> The Africa Standby Force is to become operational in 2010.