

The Responsibility to Protect at 15: A Promise Unfulfilled

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Responsibility to Protect*

The Responsibility to Protect (R2P) was adopted unanimously and without equivocation by the UN General Assembly in 2005. States accepted that each of them had a responsibility to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity – hitherto referred to as ‘atrocities crimes.’ They acknowledged their responsibility to assist one another to fulfil this primary responsibility. They declared they had a collective responsibility to protect populations in other countries using diplomatic, humanitarian and other peaceful means, and they promised to work through the UN Security Council to protect populations when national authorities were failing and peaceful means inadequate.

For all the trials and tribulations that followed – especially in Darfur, but also in Myanmar after Cyclone Nargis and Sri Lanka in 2009 – it seemed for a while that we were making progress towards fulfilling the promise. UN organs, not just the General Assembly, but the Security Council and Human Rights Council too, embraced the principle and called for its implementation. The UN began to erect institutional capacities, as did regional arrangements in Africa, Europe and America. Dozens of governments appointed senior officials to serve as national R2P Focal Points. Governments, organizations and civil society began taking atrocity prevention seriously, investing new time and effort.

These efforts appeared to bear fruit. A flurry of publications proclaimed that we were winning “the war on war;” that human societies were becoming ever more peaceful; that international activism in support of peace and the protection of people from atrocities was having a decisive impact. Over the preceding two decades, both the incidence and lethality of armed conflict had been in steady decline prompting renewed speculation about the obsolescence of major war. Regions once blighted by atrocity crimes moved towards sustainable peace. We

could see an emergent “international human protection regime,” a complex of norms, institutions and practices focused on the prevention of atrocity crimes, the minimization of suffering in war and the protection of vulnerable populations. It became more difficult – though certainly not impossible – for perpetrators to get away with deliberate attacks on civilian populations and more likely that the world would respond to these violations by taking steps to protect imperilled peoples.

Progress was not illusory, it was borne out by statistical as well as qualitative research. But it was transitory.

From today’s vantage point we can see that for all the political and procedural progress made towards its implementation, the governments that willingly pledged themselves to R2P have failed where it matters most: in the prevention of atrocity crimes and protection of vulnerable populations. On this most important point, governments have not only failed to make progress, they have stood aside as things have gotten worse. The toll exacted globally by mass atrocities has increased, and it has increased in Southeast Asia too, whilst governments that pledged they had a responsibility to protect their own populations and take collective action to protect others have failed to act.

Since the start of the “Arab Spring” in early 2011, all the relevant trends have been moving in the wrong direction. The number of armed conflicts has increased. Some reports suggest a six-hundred-fold increase in the number of civilian casualties caused by war each year. Atrocity crimes are committed regularly, and with seeming impunity, in Syria, Myanmar, Yemen, Iraq, South Sudan and elsewhere. Displacement – both internal and international – has reached a level not seen since the end of the Second World War. Wherever we look, the forces that promoted human protection and the constructive management of difference over the past few

decades are in retreat. Meanwhile, the forces of racism, xenophobia and nationalism are everywhere on the march. The effects can be seen not only in the outpouring of atrocity crimes especially in the Middle East and parts of sub-Saharan Africa, but also in the increasing tendency of powers — both “great” and regional — to utilize and support the use of force and its threat to advance narrow national interests and (with some notable exceptions) the declining international support for important aspects of protection, such as international refugee law, peacekeeping and international criminal justice.

Today, we confront a global crisis of protection which, if left unaddressed will bequeath our children and grandchildren a world even more violent, even more tarnished with the bloody stench of atrocity crimes, than it is today.

I want to identify some of the principal failings in the implementation of R2P, the main reasons for those failings, and the things that need to happen to reverse these disturbing trends.

WHAT?

In what ways have we failed? First, we have repeatedly failed at the most basic task — the protection of populations from atrocity crimes. This much is obvious and the cases are ones we all know about. Let me describe just one.

In the early hours of a clear and warm Wednesday morning on 21 August 2013, the Syrian army opened a fusillade of shelling on the Damascus suburbs of Ein Tarma and Zamalka, in the opposition held region known as eastern Ghouta. Ein Tarma sits around six kilometres to the east of the famous Al-Hamidiyah Souq, a little more than double that from Assad’s presidential palace. It takes less than half an hour to drive there from the palace, less than twenty minutes if you’re in the president’s car. Zamalka is immediately to the north, the two suburbs divided by a single street.

Amidst the shelling, between eight and twelve surface-to-surface rockets crashed into the suburbs, landing with a thud rather than the customary explosion. Each rocket carried a deadly payload of at least 50 litres of sarin. Many families did what they always did during air and artillery attacks and raced to the safety of their basements.

What normally protected them, now did the opposite. Sarin is heavier than air, and the toxic gas found its way through doors, floors, and walls and into poorly ventilated hiding places, convulsing whole families. Some slept through the mayhem, either injured to the constant shelling or too frail to flee. Many who did, died in their beds.

Meanwhile, thousands raced to beleaguered medical centres, the panic and chaos worsened by continued shelling. Before sunrise that morning, three such centres supported by the French medical NGO Médecins Sans Frontières had received more than 3,600 casualties. Many found it hard to breathe, and suffered convulsions and spasms, some foamed at the mouth, some had headaches and sickness, some red raw skin and agonised eyes.

At least 355 of those that made it to these three centres died. What little outdated animal Atropine medics had to treat the symptoms soon ran out. At around 5 am, and hour before dawn, eight more rockets were fired into Moadamiya, an opposition held suburb to the southwest of Damascus, in Western Ghouta.

The scale of the attack and the sheer terrified chaos it sparked makes it difficult to ascertain precisely how many people were killed and injured. In the hours and days that followed, hundreds of harrowing videos and photographs seeped out of the affected areas, documenting the slaughter. Taken at different places and showing different scenes, they conveyed the same story, one of massacre by chemical weapons. They depicted row upon row of corpses, dead children among them, some with the foam still on their face, none bearing the marks of deadly physical wounds. In the end, approximately 1,400 people were killed, and four times that number injured. More than four hundred were children, many of them babies and toddlers.

No one was prosecuted for this atrocity. The international community failed to stop the gassing of Syrians. Just 195 days after the UN Security Council resolved to disarm Syria’s chemical weapons, the regime was using them again.

Second, we have failed to prevent atrocity crimes. Despite the repeated exhortations of support for atrocity prevention by governments, they have consistently failed to adopt the measures needed to prevent atrocities. There is no better example of this than the situation in Rakhine State, Myanmar. The risks were obvious and very well understood for at least 18 months before the violent crackdown. The Asia Pacific Centre for R2P was not alone

in forewarning the dangers of genocide. Yet, neither neighboring states, ASEAN, nor the UN took steps to prevent genocide. It wasn't just that they failed to prevent atrocities, it's that they failed to even try despite all the warnings. What is the point in all the early warning, if no one is committed to early response?

Third, we have failed to challenge the culture of impunity that enables atrocity crimes. The International Criminal Court (ICC) has been prevented by Russia and China from investigating atrocities in Syria, whilst the US has waged a full-scale campaign against the Court. Burundi and the Philippines have withdrawn from the ICC, and South Africa and The Gambia threatened to do likewise, placing this new institution under immense political pressure.

Why is the court so unpopular? Because it had become an inconvenience to states that may be responsible for committing crimes against humanity. Hybrid and national processes have achieved localised successes but have failed to make much headway against cultures of impunity. It is no surprise that governments – many led by people who themselves might find themselves in the dock one day – have launched a revolt against criminal justice. But the result is plain to see. Governments – and non-state armed groups – poison their populations, gas them, torture them, kill them, sexually abuse them, and displace them with impunity. And they will continue to do so for as long as they enjoy that impunity.

Fourth, we have failed to care adequately for the victims of atrocity crimes. Denied justice, victimized groups are also often denied a dignified life too. The Rohingya in their squalid camps and the Yazidis – scattered brutally around the world, many also consigned to an indefinite life in camps, provide examples. The consequences are immense, and they are for the long term. Hundreds of thousands of children are being raised in camps, vulnerable to abuse. Whole generations have been lost to education.

WHY?

Why have we failed so consistently where it matters the most? First, because atrocity prevention is rarely, if ever, a national priority. Even for its loudest champions, R2P is seldom a priority. There are always other countervailing interests – domestic politics, strategic partnerships, money, power, privilege. For most governments, R2P is a downright nuisance. The sad

reality is that still today the prevention of atrocity crimes is not high on the list of a government's priorities.

Second, we are seeing clear evidence of declining respect for fundamental tenets of International Humanitarian, Human Rights and Refugee Law, not just by the violent extremists and authoritarian states that perpetrate atrocity crimes but by states of good standing and even some champions of human protection. In the face of the crises described earlier, some states have wound back their commitment to crucial norms and principles. Several others have adopted refugee policies which, the UN Refugee Agency believes, contradicts their legal obligations under the Refugee Convention and associated protocol.

ASEAN members have almost uniformly not signed refugee law. Nor are they parties to basic humanitarian laws. Not even the Genocide Convention is uniformly embraced in the region.

Third, because so many actors – state and non-state – still see atrocities as a way of getting what they want. They believe that, because so often it is true. Sri Lanka succeeded in defeating the Tamil Tigers armed group by committing atrocity crimes. Myanmar's genocide of the Rohingya succeeded in asserting its authority in Rakhine. Assad's butchery helped him cling to power. China sees its crimes against humanity in Xinjiang as central to its counter-terrorism strategy. Unless we succeed in changing this fateful calculation, we will continue to fail to prevent atrocities.

Fourth, because we have conceded too much in the search for an illusory consensus. In the vain search for consensus, we have all too often toned-down criticism and failed to speak truth to power. Often, the UN, ASEAN and others have privileged impartiality over speaking out in the hope that it would secure illusory agreements or humanitarian access.

It is clear, though, as Elie Weisel pointed out, that silence only helps the oppressor. The UN in Myanmar did not win meaningful concessions by agreeing not to say the word "Rohingya." Silence on Sri Lanka did not win precious humanitarian access. Appeasing Russia on Syria did not buy its cooperation on protection. As much as we like to champion it, when it comes to atrocity prevention, quiet diplomacy has an unblemished track record of failure.

Fifth, because we have not mobilised global activism. Governments do the right thing when their populations demand it of them. We have not demanded enough and

we have not advocated effectively enough. R2P should make governments uncomfortable. It demands that they do better. We needed R2P 15 years ago not because governments and the UN were doing a good job at stopping atrocities, but because the world was appalled at what a bad job they were doing.

HOW?

How are we to turn the tide? First, knowledge. We need to do a better job of understanding why atrocities happen and what can be done to prevent them and protect vulnerable populations. In this work we need to move beyond the abstract towards the specific. That is, we need to articulate clear and concrete pathways to protection.

Second, individual responsibility. Ultimately, R2P rests on individuals assuming responsibility for the protection of others. We need to do better at demonstrating this individual responsibility, setting out what it entails in practical terms.

Third, organization and mobilization. We need to do a much better job of holding governments and organizations to account and demanding that they fulfil their solemn promises.

Fourth, direct action. We need to significantly strengthen our capacity to protect civilians without governments and the UN. Civilian peacekeeping, monitoring, human rights reporting and other things can all be done without governments and can all make a positive difference. We need to understand and scale up direct action for atrocity prevention.

At 15, R2P remains a promise unfulfilled. If we do not redouble our efforts in the next 15, life for much of humanity may become “nasty, brutish, and short.” We each of us have a responsibility to ensure it does not.