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**The United Nations, National
Sovereignty and the
“Responsibility to Protect”**

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The United Nations, National Sovereignty and the “Responsibility to Protect”

Bonn, Salzburg 22 March 2010. The fundamental challenge of global governance is the tension between spreading global norms and an international system, whose roots date back to the Westphalian peace in 1648, that is divided into almost 200 sovereign nation states. From this seemingly inherent trade-off the question arises to what extent international organisations, or the “international community” however represented, are able and willing to interfere in the sovereign sphere of nation states to enforce universally agreed principles? The most obvious case in this respect is the role of the United Nations Security Council, as the body with primary responsibility for international peace and security, and in particular the “Responsibility to Protect” doctrine, now widely abbreviated as “R2P”.

The phrase “the responsibility to protect” reflects a line of thought which had developed under the impact of a series of humanitarian tragedies in the 1990s, notably in Africa but also in the Balkans. In reaction to a tendency of some governments to treat sovereignty as a privilege that would allow rulers to commit the gravest atrocities without being accountable to any higher power, this line of thought emphasised the concept of “sovereignty as responsibility” – the responsibility of a state for the security and wellbeing of its citizens.

The R2P report, published in 2001 by an international commission set up by the Canadian government, was at first overshadowed by the very different debates that followed the events of September 11, 2001. Worse, the Anglo-American invasion of Iraq in 2003 was misleadingly presented by some commentators as an exercise of R2P, thereby rendering the new doctrine deeply suspect in the eyes of many developing country governments.

In spite of this, over time, the report proved remarkably successful in reformulating the terms of the debate over what had previously been called “humanitarian intervention”, in a way that made it easier for many developing countries to accept. Its main ideas were taken up in the report of the high-level panel set up by then UN Secretary-General Kofi Annan after the Iraq war, then in the Secretary-General’s own report “In Larger Freedom”, and finally in the “Outcome Document” of the UN World Summit in September 2005. In paragraph 138 of that document the world’s states accepted that each of them individually “has the responsibility to protect its populations” from genocide, war crimes, ethnic cleansing and crimes against humanity, and undertook to act accordingly. In paragraph 139 they declared themselves “prepared to take collective action, in a timely and decisive manner, through the Security Council...should peaceful means be inadequate and national authorities are manifestly failing to protect their populations” from the same four crimes. They also committed themselves to helping each other “build capacity” to protect their populations, “and to assisting those [states] which are under stress before crises and conflicts break out”. Under the same heading, in paragraph 140, they declared their support for the mission of the Special Adviser of the Secretary-General on the Prevention of Genocide – a post created the previous year, on the tenth anniversary of the genocide in Rwanda.

Despite this remarkable success, the value of the doctrine has continued to be questioned, from two opposite points of view. On the one hand, many advocates of stronger protection assert that the words in the Outcome Document remain just that – words – and that the Security Council has not in practice been willing to take the “collective action” that they prescribe, notably in the case of Darfur. On the other, representatives of some of the states that accepted the Outcome Document appear to be suffering from “buyer’s remorse”, and have sought to deny the validity of the relevant paragraphs or empty them of meaning.



In addition to these direct attacks, a more insidious danger is the spurious invocation of the doctrine to cover actions to which it clearly does not apply. Former UK Prime Minister Tony Blair has attempted to do this retroactively for the invasion of Iraq, while the Russian Federation claimed, in August 2008, that its invasion of Georgia was undertaken to prevent genocide in South Ossetia and Abkhazia. Not only do these statements misrepresent the effects, and almost certainly also the motives, of the actions in question. They also blithely ignore the Outcome Document's stipulation that collective action be taken "through the Security Council".

It would, however, be premature to write off R2P as a failure. It takes time for any new norm to become ingrained in people's actual behaviour. A fair test might be to observe over several decades whether the four crimes covered by the Outcome Document become less frequent, and whether action to prevent them – both by individual states and by the international community – becomes more widespread. Many have argued that former UN Secretary-General Kofi Annan's mediation in Kenya, in the first months of 2008, was a successful example of the international community taking action to prevent genocide and ethnic cleansing, "in a timely and decisive manner", before things reached the point where military force was needed.

The new UN Secretary-General Ban Ki-moon, for his part, is not sitting back to watch which way the wind blows. Early in his term he appointed a special adviser, Edward Luck, to work with member states in identifying and building the capacities needed for collective action. In January 2009 he submitted a report drafted by Mr. Luck, which helps greatly to clarify the concept of R2P, notably by dividing the necessary tasks between three "pillars": the responsibilities of the individual state, international assistance and capacity-building, and "timely and decisive response". Though not formally approved, the report attracted favourable comment from a wide range of member states during the General Assembly debate of July 2009.

One should not expect the UN to be transformed overnight from an amalgam of mutually suspicious and often narrowly self-interested sovereign states into an effective coalition for upholding human rights and protecting populations throughout the world. Nor, however, should efforts in this direction, such as the development of the "R2P" doctrine, be belittled or prematurely abandoned.

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