

PREVENTING FUTURE  
KOSOVOS AND FUTURE  
RWANDAS:

# The Responsibility to Protect after the 2005 World Summit

BY ALEX J. BELLAMY

Policy Brief no. 1 of the initiative

Ethics in a Violent World:  
What Can Institutions Do?

**CARNEGIE COUNCIL**  
*The Voice  
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# Preventing Future Kosovos and Future Rwandas: The Responsibility to Protect after the 2005 World Summit

*by Alex J. Bellamy<sup>1</sup>*

## EXECUTIVE SUMMARY

In the years that have followed the appearance of the International Commission on Intervention and State Sovereignty's *The Responsibility to Protect*, advocates of its ideas—including the Canadian and British governments—have lobbied hard to persuade the Security Council and General Assembly to commit themselves to adopting its recommendations for redefining sovereignty. After intense negotiation leading up to the 2005 World Summit, the General Assembly ultimately agreed to accept this redefinition, stating, “Each individual state has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity.”<sup>2</sup>

The significance of this declaration remains unclear. There is much debate concerning whether “responsibility to protect” can become a robust doctrine for ethical intervention whose main focus is the security of the individual human being, or whether it will be instrumentalized as a

set of arguments behind which states can effectively hide from their responsibility to intervene.

In this policy briefing, I suggest several strategies for shoring up the responsibility to protect based on three key principles: transparency, publicity and responsibility. I divide my analysis and recommendations around two analogies: preventing “future Kosovos” (cases where there are competing or incompatible interests and values at stake) and “future Rwandas” (cases where states lack the political will to take decisive action in the face of genocide, mass murder, and/or ethnic cleansing).<sup>3</sup> It is my assumption that in instances of extreme emergency, it is the duty of states that have the ability to do so to assume the responsibility to protect endangered peoples. These recommendations aim to help states to do so by suggesting mechanisms for strengthening the justice of the procedures used to debate and decide upon action in the Security Council.

## PART I: THE RESPONSIBILITY TO PROTECT IN THE 2005 WORLD SUMMIT: FOR FUTURE KOSOVOS

To what extent will the World Summit declaration prevent future Kosovos? There are two related problems here:

1. How to prevent deadlock?
2. How to proceed when the council is deadlocked?

### 1. *Preventing Deadlock*

It is important to recognize that there are two competing accounts of the causes of deadlock in the Kosovo case. According to British Prime Minister Tony Blair, deadlock was caused by threats of “unreasonable vetoes,” principally by Russia (but also China). The competing view holds that Russia and China had genuine concerns about the use of force, based on their view that the level of killing and ethnic cleansing was not so bad as to warrant intervention.<sup>4</sup> From the Russian point of view, NATO states were abusing humanitarian arguments to justify an intervention that had more to do with further weakening their old Serbian adversary and enhancing their own credibility than it did with saving lives in Kosovo.

If it was to help prevent future Kosovos, therefore, the World Summit needed to (1) make it more difficult for permanent members to use the veto capriciously, particularly in the face of humanitarian emergencies but also (2) make it harder for states to “abuse” humanitarian arguments to justify armed interventions primarily inspired by nonhumanitarian concerns. In short, the problem here is to restrict states’ abilities to abuse humanitarian arguments while making it easier for genuinely concerned states to act to remedy humanitarian emergencies.

#### a. Unreasonable Veto

The World Summit outcome document contains no mechanism for reducing the potential for “unreasonable vetoes” to block collective action. The United States, Russia, and China rejected the idea of voluntary constraints on the veto because they believed it would under-

mine their ability to maintain international peace and security. Many nonaligned states agreed with this view, believing that the veto acts as a powerful constraint on recourse to force by great powers. As a result, there is little incentive for the five permanent members (P5) to change their practice of placing their own interests ahead of the common good in humanitarian emergencies. There is also little reason to expect that individual P5 members won’t threaten to block collective humanitarian action in the future for selfish political, economic, or strategic reasons.

#### b. Guard against Abuse

The principal objections to the *Responsibility to Protect* immediately after it was published came from states and commentators worried about the widened potential for abuse that may accompany any relaxing of the general prohibition on force contained in Article 2(4) of the Charter. Among states, this view was most clearly expressed by Venezuela, which argued that the responsibility to protect would merely serve the interests of the powerful by granting them more freedom to intervene in the affairs of the weak, without necessarily increasing global cooperation in response to humanitarian emergencies.<sup>5</sup>

The World Summit document contains two strong safeguards against such potential abuse: (1) “responsibility to protect” intervention should be authorized by the Security Council; (2) the council itself can only act under this doctrine if the just cause thresholds and precautionary principles are satisfied. These protections will have two effects: states will be unable to invoke the responsibility to protect to bypass the council, and council members (especially the P5) will be able to block proposed collective action if they believe that the criteria have not been satisfied. Already, in council debates about Darfur, states have used the criteria to argue against tough action. Some suggest that the government of Sudan has the primary responsibility to protect its citizens and that other organizations should assist the government. Others argue that the government has not proven itself “unable and unwilling” to act.<sup>6</sup>

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## 2. *How to Proceed When the Council Is Deadlocked*

To prevent future Kosovos, it is essential to address the question of what happens when the council is deadlocked. The original impetus for developing criteria to guide the decision to use force came from the perceived need for clear guidelines to shape decision-making when the council was blocked and a state or group of states wished to act to end a humanitarian emergency.

In the negotiations preceding the World Summit, the United States shared the United Kingdom's view that commitment to the responsibility to protect "should not preclude the possibility of action absent authorization by the Security Council."<sup>7</sup> Although the outcome document precludes unauthorized "responsibility to protect" intervention, it does not expressly rule out other types of unauthorized force. It reads, "we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter..." should peaceful means fail (para 139). The key phrase in this sentence was "we are prepared." The wording could be read as suggesting that concerned states *may* work through the council under the rubric of the "responsibility to protect" but may also choose to work through alternative arrangements. This lessens the potential sense of obligation and opens a window for lawyers to defend unauthorized intervention by reference to the outcome document. Such interventions may well be genuine humanitarian interventions, their advocates might even use the language of the responsibility to protect to justify intervention, but such interventions would remain *outside* the framework set up by the World Summit.

This small window of opportunity was subtly reinforced in the outcome document's paragraphs on the use of force. Paragraphs 77-80 leave open the possibility of intervention not authorized by the Security Council. The paragraphs reiterate the obligation of states to refrain from the threat or use of force in *any manner inconsistent* with the with the UN Charter, insist that states "strictly abide" by the Charter, reaffirm the Security Council's authority to mandate coercive action, and assert its "primary responsibility" for international peace and security. By forbidding the use of force in a manner inconsistent with the Charter, the paragraphs leave open the possibility of unauthorized intervention aimed at either upholding the UN's humanitarian principles outlined in Article 1 of the Charter or acting on the "implied authorisation" of past Security Council resolutions, as NATO suggested it was doing when it intervened in Kosovo.<sup>8</sup> To reiterate, however, while such interventions might uphold the pur-

poses and principles of the "responsibility to protect," they would remain outside the framework of the World Summit and could not be legitimated by reference to this framework alone.

## 3. *What Is to Be Done?*

Security Council deadlocks are caused by political disagreements about the merits of particular cases and strategic disagreements about the best way for the international community to respond. Because the council is a political rather than judicial body, it is impossible in practice to eliminate the potential for deadlock. However, it is also important that deadlock not be allowed to inhibit collective action to halt or prevent major humanitarian catastrophes. To put the problem in perspective, deadlock alone has yet to prevent concerned states from acting. In Kosovo, NATO simply acted outside the council. While it is true that the council's authority would be undermined if powerful states and organizations consistently acted outside the council, post-Cold War experience suggests that they are not clamoring to intervene at every opportunity, and occasional unauthorized interventions in extreme situations do not undermine international order.

Nevertheless, a number of measures are available to reduce the likelihood of deadlock and mitigate the potential consequences. The key lies in encouraging states to accept the importance of transparency, publicity, and responsibility in their decision-making.

### a. Transparency

While there was no consensus on the precise nature of council reform, states and nonstate actors agreed that the council should be made more transparent. It is clear that the P5 will not accept declaratory limits on the use of the veto. There are, however, several ways in which "unreasonable vetoes" might be informally limited by increasing the transparency of council deliberations:

- Rather than avoiding a potentially "unreasonable veto" by choosing not to present draft resolutions to the council, as they did in the Kosovo case, advocates of intervention should table a resolution, forcing opponents to cast their veto and justify their opposition to action. Permanent members facing a "moral majority" might decide to acquiesce and abstain.
- Many civil society groups and General Assembly members insist that the council's deliberations, especially its informal consultations, be made more transparent.

Civil society groups and elected representatives in the United States, the United Kingdom, France, and democratic nonpermanent members especially could play an important role here by demanding and publicizing information about their governments' positions in these informal consultations. This measure would have a lesser effect on states such as China and Russia. But moral pressure could be brought to bear on less powerful nondemocracies in the council through such a measure. It would also help to improve our understanding of the obstacles to intervention so that further measures could be adopted in the future.

— It is important that nonpermanent members of the

The U.S. administration's 2004 depiction of the crisis in Darfur as genocide did not create considerable pressure to act, nor a sense of obligation.

council are properly informed about international crises and be able to hold the permanent members to account for inaction. A critical problem in the way the council works is that the nonpermanent members often have to rely on UN reports and intelligence provided by the perma-

nent members. It is common practice that UN field reports are vetted by the P5 and DPKO before being released. Thus, nonpermanent members have few credible and independent sources of information, which makes it impossible for them for them to pose the difficult questions or propose credible alternatives to the strategies developed in closed-door meetings of the P5. To remedy this, global NGOs could develop informal procedures on the model of the Arria Formula by creating a joint task force to collate up-to-date information and intelligence and provide accurate briefings to nonpermanent members.

#### b. Publicity

The principal guard against abuse is publicity. Governments that forward humanitarian justifications for intervention should demonstrate that they are doing everything possible to improve the lives of the target population and should be prepared to make a long-term commitment to reconstruction if needed. Other governments and civil society organizations should publicize the justifications offered and use those justifications as a benchmark for

judging the interveners' commitment to improving the lives of the victims.

#### c. Responsibility

The P5 needs to recognize that the Security Council is vested with the primary but not exclusive responsibility for international peace and security. If, as the ICISS pointed out, it fails in its responsibility, it not only undermines its own legitimacy, but also encourages other organizations or coalitions of the willing to act without council authority.

In order to determine who has the authority to intervene, I suggest a three-tiered scale of authority that is related to the gravity of the crisis. This scale could be used by governments both to ascertain the level of authority necessary to intervene in any given crisis and to evaluate such actions. Put simply, the worse a crisis is, the lower the level of authority necessary. Thus, in clear-cut cases of genocide, potential interveners may act more or less unilaterally without taking the case to the Security Council if collective action is likely to be blocked by an "unreasonable veto." The legitimacy of this recommendation is based on the reasoning that, as Kofi Annan has noted, no state or coalition would have been criticized had it intervened in Rwanda to halt the genocide. This recommendation involves certain other difficulties, such as defining the threshold at which a crisis tips from one side of the scale to the other. Here, the events in Rwanda could be taken as providing a precedent for future "clear-cut cases."

In less clear cases (such as Kosovo), it would still be necessary to seek council authorization. However, if the council acknowledges the gravity of the problem but the actions it endorses fall short of alleviating it, as has happened in Darfur, states may legitimately act outside the council in order to fulfil the original aims (but not to address other aims, which they may have "added on").

Finally, by this account there is no limit on the council's freedom of action: it is entitled to intervene to restore democratic government, to prevent the mass destruction of homes (Zimbabwe), even to prevent an environmental catastrophe if it so chooses. Although potentially problematic, my endorsement of the council's unlimited freedom to act is that, as imperfect as it is, it remains safe to assume that its collective decisions reflect the will of a majority of the international community. I know of no UN Security Council resolution relating to peace and security matters that has been opposed by a majority of General Assembly members.

## PART II:

# THE RESPONSIBILITY TO PROTECT IN THE 2005 WORLD SUMMIT: FOR FUTURE RWANDAS

The challenge of preventing future Rwandas can be boiled down to overcoming a single obstacle: how to persuade states, particularly powerful states, to risk lives and money to “save strangers” in distant lands where few strategic interests are at stake. Overcoming this obstacle requires that two fundamental problems be addressed:

1. Identifying precisely which actors should assume the responsibility to protect.
2. Persuading those actors to accept their responsibility to act in certain circumstances.

### *1. Whose Responsibility?*

In order to operationalize the responsibility to protect it is important to identify *who* bears responsibility. If responsibility is spread too widely the concept is likely to become meaningless. Powerful states are wary of responsibility being spread too thin, placing an unrealistic burden of expectations on a small number of actors. The World Summit declaration suggested that the UN, “in cooperation with relevant regional organizations,” should assume the responsibility to protect when the host state was unwilling or unable to do so. According to this formula, the transferral of responsibility would be automatic and self-evident. In practice, of course, politics is rarely that neat: states will disagree on which agents should assume responsibility. In the Darfur case, for example, some Security Council members argued that the government of Sudan retained primary responsibility; others argued that the AU should assume that responsibility. Tellingly, no council members argued that the council should assume responsibility. The World Summit simply did not address the question of how to proceed when the most appropriate agents are unwilling to act or when states argue that others are better placed to act. This problem was not helped by the fact that the summit dodged the question of unauthorized intervention.

### *2. Persuading the Powerful and Capable*

The outcome document attempted to encourage the powerful and capable to accept their responsibility to protect in principle, believing that a commitment to the principle would help to create expectations among both international society and domestic publics that would make it more difficult (but by no means impossible) for powerful and capable states to shirk their humanitarian responsibilities.

#### a. Recognizing Responsibility

Although most of the P5 were deeply concerned about the use of criteria to guide decisions about the use of force, the United States was most vocal in its opposition to the idea that powerful states had a special responsibility to protect. John Bolton argued that the United States accepted that the international community had a responsibility to act when the host state permits and/or commits atrocities. Nonetheless, it was important to recognize that “the responsibility of the other countries in the international community is not of the same character as the responsibility of the host, and we thus want to avoid formulations that suggest that the other countries are inheriting the same responsibility as the host state has.”<sup>9</sup> He argued that the Security Council was not *legally* obliged to protect endangered civilians, a position endorsed by the British parliament’s International Development Committee.<sup>10</sup> Bolton also argued that the Security Council must have the freedom to decide upon the most appropriate course of action on a case-by-case basis and that the language of obligation should be toned down accordingly. Thus, after the United States won support for these amendments, Annan’s original proposal that the international community had an “obligation” to take measures when the just cause thresholds were crossed was rewritten as a “responsibility” to act as they see fit on a “case-by-case” basis in the final document, thereby giving powerful states ample scope to justify decisions not to protect endangered civilians. In practice, this means that

the council retains the freedom to decide when and where to act, based on the traditional interplay of humanitarian concerns and the permanent members' national interest.

b. Thresholds as Expectations

It was originally conceived that the outcome document would contain just cause thresholds that would further inhibit abuse and serve as guides for when the world could expect governments to act to protect endangered populations. By persuading states to acknowledge a

**Advocates of the responsibility to protect ought to put energy and resources into thinking more deeply about how to develop serious regional capacities to act.**

responsibility to protect in cases of genocide, mass murder, and massive ethnic cleansing, the criteria were to

create expectations that civil society groups could use to evaluate their governments' responses to humanitarian crises.

In the outcome document, the criteria were changed to genocide, war crimes, ethnic cleansing, and crimes against humanity. In order to avoid becoming too prescriptive, however, the document provided no guidance concerning the point at which commission of these crimes created an international responsibility to intervene. As such, the thresholds are too vague to lend themselves to the creation of shared expectations in specific emergencies. Moreover, while the thresholds create benchmarks that can be used to judge policy, they do not guarantee agreement in specific cases.<sup>11</sup> Finally, and potentially more disturbingly, the fact that the U.S. administration's depiction of the crisis in Darfur as genocide did not create considerable pressure to act, nor a sense of obligation, casts doubt on the ability of thresholds to enable sufficient pressure to be brought to bear on powerful states to assume their responsibilities.

In short, the depressing conclusion is that the World Summit has done little, if anything, to prevent future Rwandas: first, it permits the view that the Security Council's responsibility is not of the same quality as the host state's responsibility; second, it does little to prevent genuine or self-serving disagreement about the most appropriate agent of intervention; and, third, while the vague thresholds do create expectations, there is little evidence that those expectations are likely to be translated into action.

3. *What Is to Be Done?*

The key to preventing future Rwandas lies in persuading governments that are capable of intervening of the necessity of doing so. Strategies for doing so revolve once again around the principles of transparency, publicity, and responsibility. Their potential success, however, is closely linked to the measures associated with avoiding future Kosovos that I outlined above.

a. Transparency

It is common for powerful states to argue that intervention is unfeasible for geographic, logistical, strategic, or other reasons. Although there may very good reasons why intervention is unfeasible, governments should be held to account and invited to justify why intervention is considered unfeasible. Civil society groups could develop plans and proposals themselves and invite the government to explain why they are unfeasible.

b. Publicity

In the past, the impetus for intervention has come from a state or group of states that decides, for whatever reason, to play a proactive role in a particular case. Democratic governments tend to be reluctant to intervene for humanitarian purposes overseas because there is very little domestic pressure for them to do so. Despite much talk of the so-called CNN effect, there is very little evidence of public pressure actually changing government policy. Moreover, more recent humanitarian crises in the DRC, Darfur, and elsewhere have elicited relatively little media coverage. The sad truth is that even when there is public pressure for action, citizens hardly ever change the way they vote because of a government's decision not to intervene to "save strangers." On the other hand, a government that decides to intervene risks losing votes if the intervention goes badly.

The key to preventing future Rwandas is to alter this balance through publicity so that governments pay political costs for not acting, unless there are sound prudential reasons for inaction. There are a number of measures that interested parties can take here:

- *Information*: it is important that both the public and elected representatives receive timely and accurate information about both the nature of an unfolding crisis and their government's position on the matter.

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- *Education*: it is important that the public have a good understanding of what the military can and cannot do and a realistic view of the likelihood of the potential for casualties.

### c. Responsibility

Although transparency- and publicity-oriented measures may increase domestic pressure for powerful democracies to intervene, it is important to recognize that there are limits as what such a relatively small number of states can do. It follows that increasing the number of actors who have the capability to intervene in a legitimate and effective fashion may increase the likelihood that one among them will act. There are two elements in creating more active and capable humanitarian actors:

- *Inactive powers*: publicity and transparency efforts need to be focused not only on those Western governments usually associated with intervention (United States, United Kingdom, France) but also on other democratic states that have the wherewithal to act themselves or form a coalition of the willing. States such as Italy, Spain, and Germany, and regional powers such as South Africa, Brazil, India, China, Brazil, and Egypt have the military and financial clout to make a significant difference in most humanitarian emergencies, either acting alone or in cooperation with others. One of the most serious unanswered questions about Darfur is why France has not led calls and plans for intervention given that it has an extensive military infrastructure in neighboring Chad. Furthermore, small powers such as Australia, Norway, New Zealand, the Netherlands, and Canada need not be inactive. All three have capable deployable forces and can use their moral authority to construct a coalition of the willing. Why, despite its denunciation of the P5 for their inaction, did New Zealand not try to put together a coalition of the willing to intervene in Rwanda? Advocates of the responsibility to protect should maximize the potential for action by looking beyond the usual suspects and using publicity and transparency measures to persuade other states of their responsibilities.
- *Regional responsibilities*: In both Rwanda and Darfur, several African states were willing to deploy men and materiel but lacked both the military capability to be fully effective and the financial

and logistical wherewithal to sustain their forces for the long term. The AU mis-

demonstrates only too well that despite much rhetoric, African peacekeeping capacity is minimal. Advocates of the responsibility to protect ought to put energy and resources into thinking more deeply about how to develop serious regional capacities to act.

Use of responsibility to protect language, in the Darfur case at least, has been used as much to oppose action as to endorse it.

## PART III: ALTERNATIVES TO THE RESPONSIBILITY TO PROTECT?

The seeming failure to develop concrete measures for preventing future Kosovos and Rwandas in spite of the responsibility to protect clause in the 2005 World Summit declaration may encourage some states and governments to abandon the concept and seek new alternatives. There are at least four possible alternatives. Leaving aside questions about their political feasibility there are a number of problems with each proposal.

### *1. Mitigation*

This position suggests that selectivity and political contestation are inevitable and helpful aspects of the humanitarian intervention debate. Thus, the mitigation position disputes the idea that there is a “problem” in need of fixing either by institutional or by normative reform. Advocates of this view, such as Thomas Franck and Simon Chesterman, argue that states are not deterred from genuine interventions by law or institutions. However, those laws and institutions reduce the likelihood of abuse. In many cases, the Security Council will authorize collective action, but when it is deadlocked, states are able to step outside the council and act unilaterally. When they do, they break the law but may escape punishment by forwarding humanitarian justifications as mitigation. The strengths of this position are that (a) it reflects the current status quo; (b) it guards against abuse; and (c) it acknowledges the centrality of politics. The key weakness, however, is that it actively encourages future Kosovos while doing little to prevent future Rwandas by leaving both the domestic and international status quos intact.

### *2. Reform of the Security Council*

A second alternative may be a more radical reform of the council. While there may be agreement on the need to reform, there is, however, little agreement on to what ends the council should be reformed or how. For many states, the principle objective of reform should be to increase the council’s representation. The key problem with this, however, is that a larger council means a council less able to

reach consensus about contentious humanitarian issues. For other states, most notably the United States and the United Kingdom, the council should be reformed to make it a better decision-maker. Both ICISS and the High-Level Panel on Threats, Challenges and Change made a series of proposals designed to do just that, but both states opposed these initiatives, fearing constraints on Security Council privilege.

### *3. Creation of New Institutions*

If the council cannot be reformed to make it better able to prevent future Kosovos and Rwandas, perhaps like-minded states could establish new institutions to legitimate the use of force for liberal democratic purposes? Allen Buchanan and Robert Keohane recently suggested that liberal democratic states create their own alternative to the Security Council, which could legitimate collective action against tyrants and/or threats to the peace.<sup>12</sup> The problems with this are various: (a) it is not clear which states would qualify for the club and who would decide the criteria; (b) it is not clear why such states deserve more international legal rights than other states; (c) there is no guarantee that such a club would be more inclined to intervene in future Rwandas.<sup>13</sup> An alternative on this theme would be to create regional institutions with the primary responsibility to protect in their region. This proposal relies upon every region developing a similarly capable regional institution. The danger is that it creates an opportunity for the world’s most powerful states to shirk their responsibilities by deferring to ill-equipped and incapable regional organizations, as has happened in Darfur.

### *4. UN Forces*

The fourth alternative—the creation of a UN army and police force—was widely touted in the organization’s early years but became a victim of the Cold War. The main advantages of such a force would be that it could be rapidly deployed; it would disperse the political and economic costs of intervention; it would reduce the likeli-

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hood of abuse by making interventions genuinely collective; and it could be conceived as a law enforcement agency developed to uphold international law.

Most of the problems usually associated with this proposal are technical and, therefore, likely resolvable. A UN force could certainly help prevent future Rwandas. Because its political overlord would be the Security Council, however, it would do little to avoid future Kosovos. Indeed, it is likely that a UN force would militate against members acting outside the council in cases where the council was blocked by an unreasonable veto, and it would certainly afford states a good excuse for not acting to prevent or halt humanitarian emergencies.

### *5. Assessment of Alternatives*

Of these, only the first option—maintaining the status quo—is likely in the post-World Summit environment.

What is more, the responsibility to protect is unlikely to have much of an impact on global deliberation about whether or not to intervene to prevent or halt genocide, mass murder, and massive ethnic cleansing. While states have made use of responsibility to protect language, in the Darfur case at least it has been used as much to *oppose* action as to endorse it. Moreover, there is little evidence that the adoption of the responsibility to protect by the General Assembly has had any effect on the world's response to the emergency in Darfur.

In the absence of credible alternatives to the responsibility to protect, however, the choice seems twofold: (1) drop the responsibility to protect in favor of the status quo ante; or (2) strengthen the concept through deeds and words. As option (1) would do little to prevent future Kosovos and Rwandas, states should be encouraged to seek ways of strengthening the concept.

## PART IV:

# STRENGTHENING THE RESPONSIBILITY TO PROTECT: THE RETURN OF GOOD INTERNATIONAL CITIZENSHIP?

If the promise of the responsibility to protect is to be fulfilled, it has to have a demonstrably positive impact on state behaviour and the human condition. To put it simply, it has to be connected with genuine humanitarian activism that causes a marked improvement in peoples' lives and avoids two very real pitfalls: (1) becoming a convenient phraseology for justifying inaction; (2) being associated with the abuse of humanitarian justifications.

If the responsibility to protect is to replace the status quo, its advocates have to act as norm entrepreneurs. For a new norm to emerge, it has to be advocated, defended, and enacted *in good faith*. Opponents of the new norm, in other words, must be persuaded that it can improve human security and *avoid* the two pitfalls mentioned above. This requires nothing less than the return of the idea of good international citizenship: states and societies that are prepared to advocate collective action to protect the world's

Western advocates of the responsibility to protect are risking much less for the cause of peace than states such as India, Pakistan, Jordan, Nigeria, and South Africa—countries that have expressed differing degrees of skepticism towards the concept.

most vulnerable people, to take the lead where necessary, and take political and economic risks. Good international citizens conduct themselves transparently, make policy on the basis of free and open debate within informed publics, and acknowledge and act upon their responsibilities in good faith (*transparency, publicity, responsibility*). What follows are concrete recommendations that revolve around these three principles for governments interested in making the responsibility to protect a reality and publics interested in encouraging theirs and other governments to do so. They are intended as additions to the specific recommendations for preventing future Rwandas and Kosovos outlined earlier.

### 1. For Governments

Governments can only expect to persuade others of their cause if they practice what they preach. Few things were as damaging to the attempt to build a consensus on the responsibility to protect as the use of humanitarian justifications to partly justify the invasion of Iraq in 2003. Rightly or wrongly, the vast majority of states believed that the United States and United Kingdom were abusing humanitarian justifications to further their own interests. Governments interested in forging a consensus on the responsibility to protect need to establish their credentials as good international citizens who command moral authority.

The responsibility to protect provides a common framework for collective action against the worst abuses of tyranny. It is a good starting point for building a better and safer world. If September 11 and the war on terror have taught us anything, it has been that tyrannies incubate insecurity and that it is no longer possible for democracies to isolate themselves from that insecurity. It is in all our interests to forge respect for democracy and human rights, and it is much more effective and efficient to do so in tandem with others. The recommendations that follow assume that governments accept this basic proposition—very few states, and certainly no democratic states, have argued that the responsibility to protect would not be good for the world.

#### a. Acknowledging and Acting upon Global Responsibilities

Good international citizens are consistently committed to defending the common good. Three specific measures would help to persuade skeptics that Western democracies are genuinely committed to the responsibility to protect:

- *Make a real commitment to collective peace operations:* In the past five years, the number of UN peace operations has grown rapidly. In that same period, the

## THE RESPONSIBILITY TO PROTECT

troop contributions of key advocates of the responsibility to protect (Canada, United Kingdom, France, Germany, Italy, Spain) has fallen in both absolute and relative terms. Between them, Western states contribute less than 10 percent of the total number of troops in UN peace operations. Of the P5, China is the largest troop contributor. Despite their humanitarian rhetoric, therefore, Western advocates of the responsibility to protect are risking much less for the cause of peace than states such as India, Pakistan, Jordan, Nigeria, and South Africa—countries that have expressed differing degrees of skepticism towards the concept. As a correction, advocates of the responsibility to protect need to begin assuming their responsibility in the most direct way possible: by making a significantly larger contribution to UN peace operations.

- *Strengthen the ICC:* Good international citizens, like good domestic citizens, abide by the same rules as everyone else. Rules that apply to some but not others, based only on their relative power, cannot achieve widespread legitimacy. It is important, therefore, that proponents of the responsibility to protect submit themselves to the ICC, admit no exceptions, and seek to make use of the court as often as possible to bring the perpetrators of war crimes, crimes against humanity, and genocide to account. Moreover, they should subject their own militaries to the highest standards of military justice and not seek to bend or undermine rules governing the use of force for their own short-term advantage. Of course, the U.S. administration remains opposed to the ICC. Yet recent events suggest that its opposition is not total. In UN debates about Darfur, its concern with punishing those responsible for grievous crimes meant that it was persuaded—principally by the United Kingdom—not to veto a resolution referring Sudan to the ICC. This holds out the possibility that the United States might learn to live with the ICC.
- *Take structural prevention more seriously:* Advocates of the responsibility to protect ought to play a leading role in structural conflict prevention. This would demonstrate their commitment to human security over the long run, granting them moral authority that in turn will make it easier to persuade sceptical states about the necessity of intervention in certain cases, reducing the political and economic costs. In particular, advocates of the

responsibility to protect should (1) tighten restrictions on the international sale of arms; (2) develop and lead measures to curtail the illegal trade of conflict goods; (3) enable the development of legitimate economies by leading calls for debt relief and trade reform aimed at reducing global poverty; and (4) at least meet their commitment to donate 0.7 percent of GDP to foreign aid, and preferably donate more than this bare minimum.

### b. Making Decisions in a Transparent Fashion

Good faith, badly damaged by the Iraq war, is necessary if a global coalition is to be built around the responsibility to protect. Good faith is earned through transparent decision-making.

- *Consistency is important:* It is currently fashionable to favor selectivity, as if those that see selectivity as a problem expect armed intervention in every case. Of course, armed intervention is not the most appropriate course of action in every case. In many cases, diplomacy and economic measures are more appropriate. Consistency, however, is important to avoid the pitfall of apparent abuse. States that use humanitarian justifications to justify acting in one case where the just cause thresholds are crossed ought to assume a responsibility in other like cases. Where military action is unfeasible, those states should publicly explain why and allow their thinking to be publicly scrutinized. Obviously, military intervention would be neither a proportionate or prudential response to ethnic cleansing in Chechnya or widespread abuses in Xinjiang. But publics have a right to ask what measures have been taken to end human rights abuses and bring those responsible to account. And they have a right to expect foreign aid and trade deals to be tied to human rights conditionalities or strong words of condemnation and that such matters be brought to the Security Council—not swept under the carpet. Similarly, advocates of the responsibility to protect

Publics have a right to ask what measures have been taken to end human rights abuses and bring those responsible to account.

should not turn a blind eye to widespread abuses simply because the state in question is a political ally. Such explicit signs of inconsistency look like hypocrisy and cast serious doubt on the legitimacy of the humanitarian principles occasionally invoked to justify intervention. States that advocate a responsibility to protect should assume that responsibility whenever the just cause thresholds are crossed and should work with the UN, regional organizations and other states to protect endangered civilians, even in places of strategic unimportance. That does not mean, however, that armed intervention is always the best course of action.

- *Establish a link between just cause and right authority:* Advocates of the responsibility to protect should defend the argument that there is a link between the seriousness of the crisis and the level of authority required to intervene to prevent or halt it. This view is tacitly recognized by the majority opinion on Rwanda, which holds that timely unauthorized intervention would have been legitimate because of the gravity of the situation. Advocates would refrain from taking unauthorized action in all but the very worst of cases, and even then would first seek authorization, forcing opponents of intervention to publicly defend their position. Under this schema, advocates of the responsibility to protect could also approach the Security Council to take a range of measures up to and including intervention in cases that fall short of the just cause threshold.

## 2. For Civil Society

Publics that want to persuade their governments to adopt the responsibility to protect need to find ways of altering the calculus of risks and benefits for their governments. The principal way they can do this is through publicizing both humanitarian emergencies and the nature of their governments' responses to them. Civil society groups can help to do this by:

- *Initiating national debates on the responsibility to protect:* Democratic governments respond to the demands of their voters. To date, there has been little mainstream public debate about whether people want their governments to assume a responsibility to protect and what they think that this responsibility entails. Opinion polling suggests that

many Western publics often think that their government should intervene to halt or prevent massive human rights abuses, and governments themselves have acknowledged "failures" in cases where they have chosen not to. Few things could impel an elected government to assume a responsibility to protect more than a clear signal that its electors expect it to do so. Yet the vast majority of people in democratic societies are ignorant about the responsibility to protect. Civil society groups have an important part to play in (1) informing the public about the responsibility to protect; (2) initiating a serious mainstream debate; and (3) using that debate to send a clear message to governments.

- *Publicity about specific crises and options:* Publics, policymakers, and commentators need to be informed about specific crises and the available policy options for alleviating them. First, it is important that they have accurate and up-to-date information about unfolding humanitarian emergencies. To effect policy change, this type of information needs to enjoy a much higher profile than it receives currently. Second, there needs to be serious and well-informed debate about practical policy options, including the mechanics of potential intervention: Who would intervene? What equipment would they need? Where and how would they deploy? What would the tasks be? All too often, governments use instrumental arguments to avoid their responsibility that go unchallenged. Third, civil society groups can play an important role by educating and informing nonpermanent members of the Security Council through further developing the Arria Formula. Nonpermanent members can raise issues in the council and lobby for action, but they often face an uphill battle because they simply lack the intelligence, political, and economic resources of the P5.

## PART V: CONCLUSION

For all the fanfare, the 2005 World Summit's declaration on the responsibility to protect failed to deliver measures that would help international society prevent future Kosovos and future Rwandas. The declaration maintains the status quo on unauthorized intervention, tacitly permitting states to offer mitigating arguments (such as implied authorization) if they act in cases where the council is deadlocked. But while it contains measures to reduce the likelihood of abuse it does nothing to reduce the likelihood of unreasonable vetoes. In relation to preventing future Rwandas, the prognosis is worse. The responsibility to protect contains only a very weak commitment to contemplate acting on a case by case basis and is framed by vague just cause criteria that say nothing about the threshold. On the other hand, the responsibility to protect is the only show in town for those serious about preventing future Kosovos and future Rwandas. As unfeasible as it might sound, the responsibility to protect is much more realizable than its alternatives. The imperative for those keen to avoid future humanitarian catastrophes must be to strengthen the concept, and I have outlined a number of measures for doing so, gathered around the principles of transparency, publicity and responsibility. Those measures were:

### *1. Transparency*

- State advocates of intervention in particular cases should table draft resolutions and insist on a vote.
- When governments argue that intervention would be imprudent, they should be encouraged to demonstrate why, and civil society groups should articulate concrete policy alternatives, including the use of force if necessary.
- State advocates of the responsibility to protect must conduct themselves consistently, though this does not mean that they are obliged to intervene in all cases.
- States and civil society groups should recognize a correlation between the level of authority required to legitimate intervention and the seriousness of the humanitarian emergency.

- Civil society groups and concerned states should take measures and lobby to persuade others to make the Security Council's deliberations more transparent.
- Civil society groups should develop the Arria Formula to provide nonpermanent members of the Security Council with accurate and detailed information about unfolding crises.

### *2. Publicity*

- To guard against abuse, governments that intervene should be encouraged to publicly justify their actions and state their intentions. Other states and civil society groups should use those expressed intentions as benchmarks for judging the extent to which interveners fulfil their promises.
- It is important that the public be well informed about the nature of contemporary crises and their government's position. Civil society groups can play an important role here.
- It is important that the public and policy advocates be well informed about what the military can and cannot do in relation to specific crises.
- Civil society groups should initiate a public debate about the responsibility to protect.

### *3. Responsibility*

- State advocates of the responsibility to protect should become good international citizens in order to demonstrate through their deeds both humanitarian intent and the long-term benefits of such measures. Especially, they should: (1) make a stronger troop commitment to UN peace operations, commensurate with their military capabilities; (2) help to strengthen the International Criminal Court and demonstrably abide by its rules; (3) contribute to structural prevention by supporting concrete measures to reduce poverty

and other sources of human insecurity.

- The P5 need to recognize that the Security Council has the primary but not exclusive responsibility for international peace and security and that their failure to protect diminishes the council's moral authority.
- All states with the military, civilian and financial wherewithal to assume the responsibility to protect should accept that responsibility.

## NOTES

1 I am very grateful to Paige Arthur for her incisive comments and suggestions and to Christian Reus-Smit, Nicholas Wheeler, and Paul D. Williams for help and advice.

2 Para. 138 of the United Nations General Assembly, "2005 Summit Outcome," A/60/L.1, September 15, 2005; available at [www.un.org/summit2005/documents.html](http://www.un.org/summit2005/documents.html).

3 The phrases "future Kosovos" and "future Rwandas" are taken from Nicholas J. Wheeler, "A Victory for Common Humanity? The Responsibility to Protect after the 2005 World Summit," paper presented at the conference, "The UN at Sixty: Celebration or Wake?" University of Toronto Faculty of Law, Toronto, Canada, October 6–7, 2005, p. 1.

4 Simon Chesterman, *Just War or Just Peace: Humanitarian Intervention and International Law* (Oxford: Oxford University Press, 2001), p. 221.

5 Speech by President Hugo Chavez to the 60<sup>th</sup> General Assembly of the UN, September 15, 2005; available at [www.embavenez-us.org/news.php?nid=1745](http://www.embavenez-us.org/news.php?nid=1745).

6 See Alex J. Bellamy, "Responsibility to Protect or Trojan Horse? The Crisis in Darfur and Humanitarian Intervention after Iraq," *Ethics & International Affairs* 19, no. 2 (2005), esp. pp. 40–50.

7 Letter from John R. Bolton, Representative of the United States of America to the United Nations, to Jean Ping, President of the UN General Assembly, August 30, 2005; available at [www.un.int/usa/reform-un-jrb-ltr-protect-8-05.pdf](http://www.un.int/usa/reform-un-jrb-ltr-protect-8-05.pdf).

8 See Michael Byers, *War Law: International Law and Armed Conflict* (London: Atlantic Books, 2005), pp. 40–50.

9 Letter from John R. Bolton.

10 Paul D. Williams, "UK Foreign Policy and the Crisis in Darfur,"

paper presented at the 2005 BISA conference, St. Andrews, Scotland, December 20, 2005, p. 7.

11 Nicholas J. Wheeler, "Legitimizing Humanitarian Intervention: Principles and Procedures," *Melbourne Journal of International Law* 2, no. 2 (2001), p. 566.

12 Allen Buchanan and Robert O. Keohane, "The Preventive Use of Force: A Cosmopolitan Institutional Proposal," *Ethics & International Affairs* 18, no. 1 (2004), pp. 1–22.

13 Some of these problems were suggested by Christian Reus-Smit.

Editor and Senior Program Officer  
Paige Arthur

Editorial/Program Assistant  
Matt Peterson

Intern  
Hélène Gandois

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