

July 2009 UN General Assembly Debate on the Responsibility to Protect: What did Member States from the African region say?

The July 2009 General Assembly Debate on the Responsibility to Protect

The General Assembly debate on RtoP began on 23 July 2009 and continued the full two days of 24 July and 28 July 2009. Of the 92 Member States (and 2 observers) that spoke on RtoP, a clear majority not only demonstrated interest in the norm but also strongly supported implementing the 2005 commitment to prevent and halt genocide, war crimes, crimes against humanity and ethnic cleansing. Member States showed that they were conscientiously considering the proposals in the Secretary-General's report and also raised important issues and recommendations for the General Assembly, the Security Council, the UN departments, regional bodies and governments. Many recognized the important role of civil society in preventing and reacting to these most serious international violations.

Background: UN Secretary General's Report on the Responsibility to Protect

On 12 January 2009, Secretary-General Ban Ki-moon released his report *Implementing the Responsibility to Protect*, the first comprehensive UN document on the Responsibility to Protect ("RtoP" or "R2P"). Agreed to by UN Member States at the 2005 World Summit, the Responsibility to Protect is a new international security and human rights norm to address the international community's failure to prevent and stop genocides, war crimes, ethnic cleansing and crimes against humanity.

Based on paragraph 138-139 of the World Summit Outcome Document, the Secretary-General suggests a three-pillar approach: 1) the protection responsibilities of the state, 2) international assistance and capacity building, and 3) timely and decisive response to prevent and halt the four mass atrocity crimes. In his report, the Secretary-General recommended that the General Assembly (GA) meet to consider how Member States will take the 2005 World Summit commitment forward.

Overview of Positions from Member States in Africa

Eighteen Member States from Africa, almost half of the continent, spoke at the debate. Member States maintained the debate's focus on the implementation of the norm without reopening negotiations about the value of the norm itself or getting sidetracked by related issues such as UN Reform.¹

Many Member States used the debate as an opportunity to reaffirm their strong commitment to the norm, for example **South Africa**, who had been a key supporter in 2005 but had recently expressed caution and skepticism. Others gave moving presentations, like **Sierra Leone** who spoke of its support for the norm and of its appreciation for the role of the AU, ECOWAS, the Commonwealth and the UN in intervening to protect populations against atrocities and restoring stability, ending 11 years of internal

¹ Algeria, Benin, Botswana, Cameroon, Egypt (on behalf of NAM), The Gambia, Ghana, Guinea-Bissau, Kenya, Lesotho, Mali, Morocco, Nigeria, Rwanda, Sierra Leone, South Africa, Sudan, Swaziland, Tanzania

conflict. **Rwanda** called on States to remember that the Rwandan genocide could have been prevented and halted, and that this is why implementing RtoP is critical. These States firmly believe that the 2005 commitment to RtoP, the Secretary-General's report and preliminary discussions in the General Assembly on how to take RtoP forward will make it so that such events are *never again* repeated anywhere in the world. Only **Morocco** and **The Gambia** called for the concept to be further explored to determine how the UN can effectively implement RtoP without misuse or selectivity by members of the international community. Notably, only four Member States aligned themselves with the more cautious statement from the **Non-Aligned Movement** (NAM), despite the fact that all African States are part of NAM.

Areas of Consensus among Member States during GA debate

Prevention is at the heart of RtoP: **Lesotho, Sierra Leone, Ghana, and South Africa** were among the many States to agree that national governments, regions and the international community should focus on prevention and, in particular, the need for early warning mechanisms, to avoid ever reaching a situation where more coercive measures are needed.

RtoP is limited to the four crimes: **Swaziland, Mali, and Cameroon** were among those who affirmed that RtoP is meant to prevent and halt four crimes and violations, namely genocide, war crimes, crimes against humanity, and ethnic cleansing, and that RtoP should not be expanded to include other agendas.

Pioneering role of the AU: States from all over the world saluted the role of the AU in adopting provisions for the prevention of mass atrocities when the AU moved from a policy of non-interference to non-indifference in 2002, and **Tanzania** called on states to emulate the position of the AU. Many Member States, including **Sierra Leone** and **Lesotho**, expressed pride that African nations had begun incorporating the principle of RtoP in regional organizations including the AU and ECOWAS as well as early warning mechanisms through the African Peer Review Mechanism and NEPAD.



Sovereignty as responsibility: **Botswana, Ghana, Nigeria, South Africa, and Lesotho** were among those who reaffirmed that the primary responsibility to protect populations from the four crimes lies with the State, and that RtoP aims to enhance sovereignty, not undermine it.

Support for the Three Pillars: **Tanzania** expressed hope that the three pillars would serve as a “starting point” for the implementation of RtoP. **Cameroon, Kenya, and Nigeria** also emphasized that each pillar should be of equal strength and importance. **South Africa** and **Lesotho** both made it clear that Pillar Three, timely and decisive response, was an important aspect of the RtoP doctrine, under which coercive measures may be considered as a last resort when peaceful means are failing.

Concerns raised by Member States during GA debate

Need for political will: **Guinea Bissau, Egypt (delivering the NAM statement), and Ghana** all reminded Member States that there was a lack of political will to take action to prevent mass atrocities and that this deficiency would have to be addressed.

Role and bias of the Security Council: **South Africa, Lesotho, and Sudan** joined over thirty Member States in calling for the Permanent Five countries (China, France, Russia, the USA, and the UK) to refrain from employing their veto power in the Security Council in cases involving mass atrocities. **The Gambia** also criticized the “paralysis of the international community and a deep mistrust of the UN system” stemming from past inaction.

RtoP and national sovereignty: While the 2005 World Summit clearly states that RtoP is in accordance with the UN Charter, **Sudan** claimed that RtoP violated principles of sovereignty. **Ghana**, in particular, strongly challenged this view, saying that sovereignty was a responsibility - not a privilege - that made States responsible for the protection of their populations, as spelled out in international law. **Botswana** argued that while States should live up to their obligations, RtoP should not be misused to justify intervention driven by other agendas unrelated to the protection of populations from the four crimes.

Equating RtoP with humanitarian intervention: Despite the abundance of statements from around the world recognizing the scope and collective nature of RtoP, **Sudan** mischaracterized the norm’s relationship to humanitarian intervention in calling both concepts “the same coin with a different face.”

Criteria for the use of force: **Rwanda, Sierra Leone, and Swaziland**, among other Member States, recommended developing criteria to guide how the Security Council should decide upon the use of force, in order to prevent misusing the norm. **Morocco** was one of the States which expressed a desire to continue discussions on the third pillar and how to operationalize it.

Role of General Assembly: **South Africa** asked the GA to continue its discussions on how to implement RtoP, joined by **Lesotho** who also suggested that the role of the GA in implementing RtoP should be increased.

Moving Forward: Implementing RtoP

Many States, including **Kenya, The Gambia, Sierra Leone, South Africa, and Tanzania** noted the vital role of regional and sub-regional organizations in implementing RtoP, and **Nigeria** reminded the Assembly that African States and regions already have experience dealing with mass atrocities. The most consistent proposals from the African community centered on strengthening existing regional and sub-regional organizations like the AU and ECOWAS and building and improving the capacity of early warning mechanisms like those provided in NEPAD and the Peer Review Mechanism. **Sierra Leone** also advocated for strengthening the AU’s Peace and Security Council (PSC), the AU’s Panel of the Wise, and the troops of the African Standby Force. **The Gambia** also suggested creating an RtoP committee within the General Assembly, mandated to make non-binding recommendations to the General Assembly, the Security Council and regional organizations, indicating its views on the use or non-use of force in particular situations.

Role of civil society in advancing RtoP

Ghana recognized the crucial role of civil society groups in the fight against impunity and in advancing RtoP. **Nigeria** also said that a strong civil society is fundamental to the consolidation of the rule of law, and noted that ECOWAS had established the West Africa Civil Society Forum (WACSOF) as a platform to engage civil society, and that the West Africa Network for Peacebuilding (WANEP) had a memorandum of understanding with ECOWAS to enable cooperation with civil society around responses to violent conflicts and to strengthen the region's early warning systems. **Nigeria** also offered its support to the ICRtoP and to the West Africa Civil Society Institute (who serves on the Steering Committee of ICRtoP).

Conclusion: First Resolution on RtoP

On 14 September 2009 at the closing session of the 63rd Session, the GA unanimously passed the **first resolution on RtoP (GA/Res/63/308)**. This procedural resolution noted the Secretary General's report and emphasized the constructive and timely nature of the July GA debate and the desire of Member States to continue these discussions in the General Assembly. This resolution was co-sponsored by 67 Member States, including **Congo, Côte D'Ivoire, Rwanda, Senegal, Swaziland, United Republic of Tanzania, Madagascar, and Guinea**.

To see the ICRtoP report on the debate and all statements made by Member States,
please visit www.responsibilitytoprotect.org