

### July 2009 UN General Assembly Debate on the Responsibility to Protect: What did Member States from the Asia-Pacific 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.

#### Asia-Pacific: Highest increase in support for RtoP

**Nineteen governments from the Asia-Pacific region** spoke at the debate.<sup>1</sup> Many of these Member States stayed focused on discussing the implementation of RtoP without reopening negotiations about the value of the norm itself or getting sidetracked by related issues such as UN Reform. Notably, **Timor-Leste** demonstrated its full support for the norm and expressed gratitude to the international community, which offered timely and decisive action at the request of the State in 2006 to help restore stability and protect civilians from grave human rights violations. While **South Korea's** strong support has been consistent since 2005, **Indonesia, Japan, India, Viet Nam** and the **Philippines**, who had expressed

<sup>1</sup>Australia, Bangladesh, China, Democratic People's Republic of Korea, Indonesia, Japan, New Zealand, Singapore, South Korea, Solomon Islands, India, Sri Lanka, Malaysia, Myanmar, Timor Leste, Pakistan, Papua New Guinea, the Philippines, and Vietnam.

concern about RtoP in the past, made surprisingly supportive remarks regarding its implementation. In fact, the most important shift in States' positions in favor of RtoP came from the Asia-Pacific region. Even **Myanmar**, in a short statement, expressed confidence that implementing RtoP could effectively prevent and respond to mass atrocities and agreed with the 'collective obligation' to act. Still, the most negative statements were made by **Malaysia**, the **Democratic People's Republic of Korea**, **Pakistan** and **Sri Lanka**.

### Areas of Consensus among Member States during GA debate

**Prevention is at the heart of RtoP:** Importantly, **Indonesia**, **Timor Leste**, **Korea**, **Australia**, **New Zealand**, **Singapore**, and **Bangladesh** all agreed that at the heart of RtoP was the need to focus on the prevention of mass atrocities and, in particular, on the importance of early warning mechanisms, to avoid ever reaching a situation where more coercive measures are needed.

**RtoP is limited to the four crimes:** Member States including **Japan**, **New Zealand**, **Korea**, the **Philippines**, **Australia**, **Singapore** and **Indonesia** were among those who affirmed that RtoP addresses the prevention and halting of 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. **Singapore** was critical of the efforts by some to link RtoP to humanitarian access in the wake of natural disasters, and called on the role of the GA to define clearer parameters for deciding when RtoP applies to a situation.



**Sovereignty as Responsibility:** Member States such as the **Philippines**, **New Zealand**, the **Republic of Korea**, **Vietnam** and **Singapore** were among those who reaffirmed that the primary responsibility to protect populations from the four crimes and violations lies with the State, and that RtoP aims to enhance sovereignty, not undermine it.

**Support for the Three Pillars:** A majority of the Member States who spoke from the Asia-Pacific region agreed upon the equal strength and importance of the three pillars. **Indonesia** said that they were 'not in disagreement with the three pillars', while emphasizing the use of non-coercive and non-violent response under Chapters VI and VIII of the Charter. **Singapore**, **Malaysia** and the **Philippines** recommended further discussion to determine when exactly each pillar would come into play.

### Concerns raised by Member States during GA debate

**Role and bias of the Security Council:** **Singapore**, **Vietnam** and the **Republic of Korea** emphasized the importance of ensuring non-selectivity of the Security Council, so that situations would be considered without 'fear or favor' and double standards. They were joined by over thirty Member States including **New Zealand** and **Timor Leste** 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.

**Criteria for the use of force:** **Singapore**, the **Republic of Korea**, **New Zealand**, **Pakistan** and **East Timor** joined other Member States in recommending the development of criteria to guide how the Security Council should decide upon the use of force, in order to prevent misuse of the norm.

**Role of the General Assembly:** Member States, such as **Singapore** and the **Philippines**, recommended that the relationship between the General Assembly and the Security Council regarding the implementation of RtoP measures be further defined. **Indonesia** and the **Republic of Korea** recommended a periodic review of the Security Council by the General Assembly to ensure the equitable and effective implementation of the norm.

**Equating RtoP with humanitarian intervention:** Despite statements from around the world recognizing the limited scope and collective nature of RtoP, the **Democratic Peoples' Republic of Korea** and **Pakistan** called RtoP a breach of sovereignty identical to humanitarian intervention. **India** insisted that RtoP should in no way provide a pretext for humanitarian intervention or the use of unilateral action. **India** suggested that finalizing the adoption of the definition of the crime of aggression under the Rome Statute would help to assuage concerns regarding the potential misuse of the norm.

**Misrepresenting the legal status of RtoP:** While the 2005 World Summit clearly states that RtoP principles are in accordance with the UN Charter, **China**, **Sri Lanka** and **Pakistan** suggested that RtoP violates principles of sovereignty. They argued that its lack of juridical standing implies that RtoP could be in tension with the principles of the UN Charter. However, many supportive Member States rebutted that they had never argued that RtoP was a legal concept or a legally binding commitment, and **New Zealand** said that the report made clear that RtoP in no way modified or contradicted Charter provisions prohibiting the use of force.

### Moving Forward: Implementing RtoP

In general, States expressed an overwhelming desire to move forward on the implementation of RtoP and submitted specific, constructive recommendations for implementing RtoP. **The Republic of Korea**, **Indonesia**, and **New Zealand** recommended strengthening UN early warning mechanisms, including the office of the Special Adviser on the Prevention of Genocide and the Peacebuilding Commission. **New Zealand** and **South Korea** called for the development of standing or standby rapid response mechanisms. Also, the **Philippines** recommended that the UN assist in building the civilian capacity of regional and sub-regional organizations and promote the sharing of region-to-region best practices. The **Republic of Korea**, **Japan**, and the **Philippines** advocated for assistance programs to strengthen national, regional and sub-regional capacity to protect citizens. **Singapore** recognized the pioneering role of the African Union in adopting strong provisions for the prevention and halting of mass atrocity crimes when the AU moved from a policy of non-interference to non-indifference in its Constitutive Act of 2000.

**Japan** emphasized the importance of good governance, effective law enforcement and justice institutions at the national levels, and called on Member States to adopt international human rights and humanitarian law instruments and ratify the Rome Statute of the International Criminal Court. **Australia** mentioned the Fund it had set in place to support civil society projects aimed at advancing RtoP and assisting States to build capacity, and expressed strong support for the work of the Global Centre for the Responsibility to Protect, the Asia-Pacific Centre for the Responsibility to Protect and the International Coalition for the Responsibility to Protect.

### Conclusion: First Resolution on RtoP

On 14 September 2009 at the closing session of the 63<sup>rd</sup> 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 **Fiji, India, New Zealand, Republic of Korea, Timor Leste, Singapore, Australia** and **Papua New Guinea** from the Asia-Pacific region.

To see the ICRtoP report on the debate and all statements made by Member States,  
please visit [www.responsibilitytoprotect.org](http://www.responsibilitytoprotect.org)