

July 2009 UN General Assembly Debate on the Responsibility to Protect: What did Members States from the Americas 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 the Americas region

Seventeen Member States from the Americas gave individual statements at the debate, in addition to Jamaica on behalf of CARICOM, which represents another 15 States from the region.¹ Most 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. As in 2005, some of the strongest advocates of RtoP came from this region (**Argentina, Chile, Costa Rica, Guatemala, Mexico and Panama**) as well as some of the most outspoken opponents (**Cuba and Venezuela**).

¹ These include Argentina, Bolivia, Brazil, Canada, Costa Rica, Chile, Colombia, Cuba, Ecuador, Guatemala, Jamaica (on behalf of the Caribbean Community), Mexico, Nicaragua, Panama, Peru, Uruguay, USA, and Venezuela.



Areas of Consensus among Member States during GA debate

Prevention is at the heart of RtoP: **Venezuela, Canada, Argentina, Uruguay, Mexico, Panama, Chile, Colombia,** and the **United States** 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: The narrow focus of RtoP on the four crimes outlined in the 2005 World Summit Outcome document – genocide, war crimes, crimes against humanity, and ethnic cleansing — was affirmed and supported by many Member States from the Americas, including **Argentina, Chile, Colombia, CARICOM, Mexico, Peru, and Uruguay.** **Brazil** argued that expanding RtoP to include issues such as HIV-AIDS, climate change or natural disasters "would undermine the 2005 consensus and stretch the concept beyond recognition or operational utility". Only **Cuba** and **Venezuela** proposed that RtoP also address issues related to development and economic inequalities.

Sovereignty as Responsibility: **Colombia, Brazil, the United States, and Chile** recalled that with sovereignty comes the responsibility to protect citizens from mass atrocities and that RtoP thus aims to enhance sovereignty, not to undermine it.

Support for the Three Pillars: Most States agreed that the Three Pillars presented in the Secretary General's report should be of equal strength and importance. **Argentina, the United States, Canada, Peru, Colombia, and Chile** gave particular attention and support to the pillar framework in their statements. **Ecuador,** however, called for continued discussion on the norm to ensure that the pillars were used in a balanced way.

Concerns raised by Member States during GA debate

RtoP and national sovereignty: The main concerns expressed by **Nicaragua, Ecuador, Venezuela, and Cuba** were about RtoP being misused as an interventionist doctrine leading to unilateral intervention. **Cuba** and **Venezuela,** in particular, argued that sovereignty should never be violated, regardless of the actions of a State. Several Member States, including **Brazil, Chile, Colombia,** and the **United States,** rebutted this argument, pointing to the fact that the use of force is only to be employed as an absolute last resort when peaceful measures have failed.



Misrepresenting the legal status of RtoP: Echoing the President of the General Assembly in his concept note, some States, including **Venezuela, Cuba, and Nicaragua,** argued that RtoP lacked legitimacy because it was not conferred legal status by the World Summit Outcome Document. They argued that this 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; **Brazil** said it was instead "a powerful political call for all states to abide by legal obligations already set forth in the Charter, in relevant Human Rights conventions and International Humanitarian Law and other instruments".

Reform of the Security Council and limiting the use of the veto: **Bolivia** and **Costa Rica** joined over thirty 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.

While **CARICOM** argued that “a reformed UN Security Council is an important precondition for the implementation of Pillar III”, **Panama** reminded Member States that the implementation of RtoP should not hinge upon reforming the Security Council.

Equating RtoP with humanitarian intervention: **Cuba** argued that RtoP was indistinct from humanitarian intervention. Member States strongly rebutted this argument, pointing to the fact that RtoP has a more limited scope (focus on the four crimes only), includes peaceful measures for action and requires a collective response.

Criteria for the use of force: **Guatemala, Mexico, and Peru** proposed further discussions to develop criteria to guide the Security Council in determining when the use of force would be appropriate, as recommended by the Secretary-General’s report.

Role of the General Assembly: **Brazil, Cuba, Colombia, and Uruguay** supported strengthening the role of the General Assembly in implementing RtoP. The **CARICOM** statement suggested that the General Assembly guide the Security Council when it acts under Chapter VII. **Chile** also mentioned the possibility of convening the Assembly under resolution 377, “United for Peace”, which allows the GA to convene on matters of peace and security when the Council fails to act.

Moving Forward: Implementing RtoP

A majority of Member States expressed an overwhelming wish to move forward and submitted specific, constructive recommendations for implementing RtoP. Early warning and rapid reaction mechanisms were generally perceived to be an important aspect of prevention, and **Canada, Ecuador, Guatemala, Costa Rica, Brazil, and the United States** all mentioned the need to strengthen these mechanisms at the international and regional levels. Member States, including **Costa Rica, Guatemala, Uruguay** and the **United States** also advocated for strengthening the Peacebuilding Commission. More specifically, **Chile** recommended employing the UN Democracy Fund, the Rule of Law Coordination and Resource Group, and the UNDP’s democratic governance program to further operationalize RtoP. **Ecuador, Chile, and the United States** called for increasing the capacity of regional organizations, and expressed their appreciation of the pioneering role and work of the African Union in adopting provisions to prevent and halt mass atrocities. **Columbia and Bolivia** pointed to the importance of good governance and fighting impunity as part of an efficient judicial system.

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 **Canada, Argentina, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Haiti, Mexico, Panama, Peru, Saint Lucia, Trinidad and Tobago, Uruguay, Paraguay, and the United States**.

To see the ICRtoP report on the debate and all statements made by Member States,

please visit www.responsibilitytoprotect.org