

Interactive dialogue of the UN General Assembly on the role of regional and sub-regional arrangements in implementing the Responsibility to Protect

ICRtoP Report

I. Introduction

On 12 July 2011, the General Assembly held its third informal interactive Dialogue on the Responsibility to Protect, which focused on the role that regional and sub-regional organizations play in preventing and halting genocide, war crimes, crimes against humanity and ethnic cleansing. Member States reflected on the [Report of the Secretary General](#) entitled '*The role of regional and sub-regional arrangements in implementing the Responsibility to Protect*', released on 7 July 2011. (See [ICRtoP report summary](#)).

The dialogue was structured in two parts. The morning panel included presentations by **H.E. Ambassador Liberata Mulamula**, the Executive Secretary of the International Conference of the Great Lakes Region (ICGLR), **H.E. Mr. Knut Vollebaek**, the High Commissioner on National Minorities of the Organization for Security and Co-operation in Europe (OSCE), and **H.E. Mr. Victor Rico Frontaura**, the Secretary for Political Affairs of the Organization of American States (OAS). The afternoon session began with a brief opening by **Secretary-General Ban Ki-moon**, followed by comments from Special Adviser on the Prevention of Genocide, **Dr. Francis Deng** and Special Adviser on the Responsibility to Protect, **Dr. Edward Luck**. Over the two panel sessions, 43 Member States, 3 representatives from regional organizations (the European Union, the African Union and the Caribbean Community) and 4 civil society representatives presented statements and remarks.

Just like the past two dialogues on RtoP, a majority of Member States demonstrated strong interest in the norm and made an important show of support for implementing the 2005 commitment to prevent and halt genocide, war crimes, crimes against humanity and ethnic cleansing. Recent events in Libya and Côte D'Ivoire could have led to registered disapproval for RtoP and a push for renegotiation of RtoP, however most Member States used the GA platform to instead voice support for the norm and provide constructive suggestions for its continued implementation. Member States also highlighted main themes including the importance of prevention, the need for collaboration between regional organizations and the UN, international and regional justice and accountability, as well as concerns on the use of force, the Security Council P-5 veto and consistent application of the norm.

The dialogue was held at the same time as two other important meetings at the UN. The Security Council held its debate on Children and Armed Conflict that morning and the Arms Trade Treaty negotiations were also underway that week. This limited Member State participation in the one-day RtoP dialogue, especially for missions with smaller staffs.

This year, civil society groups strongly regretted the late release of the Secretary-General's report, which not only prohibited Member States from properly preparing their remarks, but did not allow for appropriate consultation on the report within the UN system. Civil society strongly urges that next year's report on RtoP be drafted far in advance of the dialogue to leave more time for input from Member

States, UN departments and agencies, and civil society. Civil society also regretted the late confirmation of panelists for the event, noting that Asia and the Middle East regions had no representation on the panels.

II. Opening panel on the role of Regional and sub-regional organizations

The informal interactive dialogue began with an opening statement by the President of the General Assembly, **H.E. Mr. Joseph Deiss**. Mr. Deiss pointed out that challenges remain for RtoP, notably the issue of implementing the norm in a consistent and impartial manner. In his overview of the RtoP framework, Mr. Deiss noted that increased collaboration in the prevention of mass atrocities will decrease the need to respond with coercive measures under the third pillar. Mr. Deiss stated, however, that when third pillar response is necessary, regional organizations can play an important role in taking collective action. This was made evident by the influence of organizations such as the Arab League and the Economic Community of West African States (ECOWAS) on international responses to the crises in Libya and Côte d'Ivoire.

H.E. Ambassador Liberata Mulamula, the Executive Secretary of the ICGLR, identified regional mechanisms relevant to RtoP, such as the ICGLR Charter which outlines state responsibility and contains programs of action and binding protocols to protect populations. The ICGLR established a *Regional Committee on the Prevention and Punishment of Genocide, War Crimes and Crimes Against Humanity, and all Forms of Discrimination*, which engages in early warning and protection



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by analyzing potential crisis situations and working with the local community to develop prevention strategies. Amb. Mulamula recalled that the third pillar of RtoP involved tools other than military force, and can involve regional reactions as evidenced by ICGLR's response to escalating violence in the Democratic Republic of Congo in 2008. Reflecting on the challenges, Amb. Mulamula mentioned that an implementation gap exists and noted that the current NATO force in Libya did not help to clarify that RtoP is a broader framework than military intervention.

H.E. Mr. Knut Vollebaek, the High Commissioner on National Minorities OSCE provided remarks on the OSCE's support for RtoP and noted the importance of preventive measures. Mr. Vollebaek spoke of the establishment of the OSCE post of High Commissioner of Minorities in 1992 as an example of a position that serves as an early warning mechanism. He identified preventive tools available to the OSCE such as mediation, the facilitation of dialogue, and preventive diplomacy, and noted that such mechanisms must be strengthened. Mr. Vollebaek mentioned the crisis in Kyrgyzstan which saw a clear lack of regional and international response despite calls from civil society to protect the population. The response to the crisis in Libya, however, is a decisive step in

legitimizing and operationalizing RtoP as evidenced by the actions of regional and international actors and the reference to the norm by United Nations bodies. To conclude, Mr. Vollebaek emphasized the importance of regional and sub-regional endorsement of the norm for it to become actionable.

The final panelist of the morning session, **H.E. Mr. Victor Rico Frontaura**, the Secretary for Political Affairs of the OAS, explained that the body has expertise in inter and intra state measures for conflict prevention and resolution and has established mechanisms, such as the Inter-American Human Rights Commission, to protect human rights and fundamental freedoms. These measures, as Mr. Frontaura noted, were distinct from the prevention of mass atrocities, which the region has not taken action to address as the crimes do not pose an imminent threat to Latin America. Mr. Frontaura identified actions taken by the OAS that could be considered as falling under pillar two of RtoP framework such as hosting numerous dialogues, and enacting measures to enhance judicial capacity in multiple countries, including Ecuador and Panama.

Following prepared statements, the panelists engaged in dialogue with Member States, and re-emphasized the importance of preventive action and the role of regional and sub-regional organizations to strengthen measures to protect populations.

For a full statements and transcripts of speeches made at the dialogue, please visit this [page](#).

III. General themes in statements of the Dialogue

RtoP is an evolving norm; implementation is core undertaking

A majority of Member States welcomed the dialogue, acknowledging that over the course of the past year RtoP has been implemented at the national, regional and global levels through a range of measures and in a variety of cases. As Australia noted, RtoP is not a complex principle but rather is a “simple concept” with four identifiable crimes structured in three pillars; it is the interpretation and operationalization of the pillars that required discussion. Georgia stressed that while previous reports by the Secretary-General on RtoP demonstrated that it was still an evolving concept, “at present, the principle has gained practical applicability”, as seen in Libya where the international community took timely collective action to protect civilians. Several Member States also noted that the General Assembly is the most appropriate body for continued discussions on RtoP. Only Cuba, Venezuela and Pakistan, whose statements were not supportive of moving forward with implementation of RtoP, argued for increased discussions on the theoretical framework of RtoP before future application of the norm, and, like several other states, expressed concern with regard to the use of force under pillar III. The Secretary-General highlighted key actions that could be taken to solidify the norm: increasing efforts to



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enhance prevention and protection mechanisms; developing an increased understanding of what motivates perpetrators of mass atrocities; and decreasing the implementation gap so as to apply the principle more consistently.

Unique role of regional and sub-regional bodies in prevention and reaction

Member States recognized the unique advantage of regional organizations in preventing and reacting to mass atrocities. As expressed by Caribbean Community and Common Market (CARICOM), regional organizations have “a better understanding of the impulses driving the actors in the offending state, with more legitimacy and stake into its proposals for solutions, with decision-making procedures often more flexible and being able to act more expeditiously”. Others, including Pakistan, Kenya, Brazil, agreed that the Security Council should take into account knowledge from regional organizations during the decision making process so as to establish a collective response to crises. The Secretary-General pointed out that sub-regional and regional organizations were the real pioneers in international efforts to prevent atrocity crimes, stating that RtoP emerged out of “early declarations of ECOWAS, the pioneering work of the High Commissioner on the National Minorities of the OSCE, the legal and human rights traditions of the Americas and the spirit of non-indifference that animates the African Union.” Dr. Deng noted the importance of regional bodies in the areas of prevention and response, but expressed concern over their potential shortcomings, such as the influence of regional interests and balance of power, and lack of capacity to respond to crises.

Focus on prevention and early action

A majority of Member States mentioned the importance of strengthening early warning, mediation and other tools for prevention, noted in the SG’s Report as ‘under-resourced locally, nationally, regionally and globally.’ The UK mentioned that regional organizations could cooperate on early warning and prevention by learning from bodies such as the AU, ECOWAS and the UN Office for West Africa. Sweden and the European Union (EU) stressed that preventive measures were especially crucial around elections, citing the 2008 mediation efforts in Kenya as an example of preventive action applied in an RtoP situation. The EU provided examples of its preventive deployment missions to prevent risk of mass atrocities and protect civilians, for instance EULEX in Kosovo. Japan recommended increasing the use of the African Peer Review Mechanism and the Universal Periodic Review of the Human Rights Council to act as a system for continuous self-monitoring.

A few states noted the useful distinction in the report between operational prevention to forestall imminent mass atrocities and structural prevention focused on building a culture of accountability, good governance and transparency. Some states such as Brazil pointed to the link between political stability and social and economic development, and called for these sectors to be taken into account when developing prevention strategies.

Increased cooperation among regional and sub-regional bodies

Many states mentioned the need for more collaboration among regional and sub-regional organizations; including on best practices and lessons learned, peer review, early warning information and analysis, and coordination on sanctions or punitive measures. Switzerland noted that regional forums on the prevention of genocide had been held in Tanzania, Argentina and Switzerland to address best practices, the importance of intra-regional relations and to share regional prevention strategies. Italy called for increased cooperation between regional bodies and the UN to assist in improving structural prevention

mechanisms, as regional organizations play a strong role in mediation and preventive diplomacy. New Zealand, Brazil, Slovenia and Belgium mentioned the need for regional organizations to strengthen collaboration with the Security Council, the “Joint Office” and the Peacebuilding Commission. Dr. Deng called for increased cooperation in operationalizing RtoP at the global, regional and sub-regional levels, while Dr. Luck highlighted the importance of sharing assessments and information between partners to decrease capacity gaps.

Justice and reconciliation to deter and prevent

Many States emphasized the role of the International Criminal Court (ICC) and other national and regional legal mechanisms as powerful tools to prevent serious violations of human rights. Several Member States called for ratification of the Rome Statute and for States to cooperate with the court to end impunity of perpetrators of mass atrocities. Nevertheless, States such as Mexico recognized that the ICC faced problems in enforcing sentences, while Liechtenstein recalled that Security Council referrals would only be effective if the Council enforced cooperation with the action taken by the Court. Switzerland recommended that investigation committees and fact-finding missions, used multiple times by the UN, have clearer mandates and stronger links with judicial bodies like the ICC.

Establishing national focal points on RtoP

Denmark, Ghana and Costa Rica noted the launch of the development of an informal network of Focal Points for RtoP to build the capacity of States to educate and raise awareness of RtoP and coordinate efforts to prevent mass atrocities between national, regional and international actors. Spain and Australia welcomed the initiative as an essential component of national strategies for prevention, and Switzerland discussed the need for the Focal Point position to have legitimacy within its ministry as well as the power to convene, coordinate and communicate effectively between ministries and departments.

Theme of 2012 RtoP dialogue

A total of eight statements, the EU, the UK, Spain, Guatemala, the Netherlands, Japan, Republic of Korea and New Zealand voiced support for the suggestion of the SG to hold next year’s dialogue on the third pillar of RtoP, which is timely and decisive response. Most statements, including that of Dr. Luck who expressed support for next year’s theme, recalled that the third pillar is not limited to the use of force; it is an option of last resort and includes a range of measures such as economic sanctions and diplomatic pressure. The Netherlands and New Zealand mentioned that one of the lessons learned from Libya and Côte d’Ivoire was the need to discuss and clarify how to operationalize the third pillar of RtoP, and discuss thresholds on when to use force, as this would lead to a better collective understanding of the pillars and reduce risks for abuse. Other suggestions included Guatemala’s proposition to discuss how the UN Secretariat can increase its capacity to address the four crimes under the RtoP framework, noting that the Joint Office on Genocide Prevention and RtoP still operated with ad hoc capabilities. Brazil however would prefer the focus of discussions to be on the use of preventive tools and strengthening the capacity of States to protect. Morocco also insisted that Pillars I and II should be stressed instead of Pillar III which remained controversial.

Support for the UN “Joint Office” on Genocide Prevention and RtoP

Ten States voiced support for the role of the “Joint Office” and efforts at strengthening early warning mechanisms at the UN. In particular, the EU and Sweden mentioned the “Joint Office” Framework of Analysis and the need to incorporate the other three RtoP crimes and violations, and encouraged

regional organizations to take the framework into account in their early warning systems. New Zealand noted that regional organizations, and ASEAN specifically, could benefit from more collaboration with the office. The Secretary-General highlighted how the work of the “Joint Office” has benefitted from information and insights provided by regional and sub-regional organizations, as well as local and international civil society organizations. Japan recommended that the Special Advisors issue statements in a timely manner to urge parties concerned to act with an appropriate response, emphasizing that such a response would be more effective if delivered in collaboration with the relevant regional organization.

Recognition of the role of civil society

Four civil society organizations provided statements at the GA dialogue. Nana Afadzinu, Executive Director of the West Africa Civil Society Institute and speaking on behalf of ICRtoP, focused her remarks on the role of regional organizations and civil society to assist in implementing RtoP. Andrea Bartoli of George Mason University highlighted the importance of collective learning to share information and experiences in the prevention of mass atrocity crimes. Gus Miclat, Executive Director of Initiatives for International Dialogue, also an ICRtoP Steering Committee member, expressed the need for the



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implementation of RtoP to shift from reactive measures to prevention, while Mónica Serrano of the Global Centre for the Responsibility to Protect pointed to the importance of consistent application of the norm, among other issues.

Several Member States, including Italy, Israel, Guinea and Morocco, expressed support for civil society’s efforts in the prevention of mass atrocity crimes. The Czech Republic pointed to the emphasis given to the role of civil society within the SG’s report and spoke of the importance of cooperation, such as information sharing between civil society organizations at the regional level. Italy also called for increased

interaction between organizations to share best practices and lessons learned, and stated that civil society plays an important role in the “positive interpretation” of the concept of sovereignty and strengthening accountability. Regarding the role of civil society in the RtoP framework, Israel stated that civil society organizations serve as the “cornerstone of the responsibility to protect.”

IV. Continued Concerns

Implementation of Res. 1973 in Libya

Several countries raised concerns about the manner in which NATO is using force to implement Resolution 1973 in Libya, pointing to challenges of putting in place an effective framework to protect populations in the midst of an armed conflict. Guatemala explained that those who had previously expressed doubts regarding the military application of RtoP saw their concerns highlighted “by what many consider misapplication of Res. 1970 and 1973”. Mexico pointed to the fact that the differences in the interpretation of the Resolution’s mandate have divided the international community and negatively affected the response of states and bodies on other topics in the international agenda. The Netherlands

and the UK, however, argued in support of Res. 1973, recalling that action was needed as Libyan forces were marching towards Benghazi to kill civilians. The AU acknowledged that there is a need to reflect on what has and has not worked generally under the third pillar of RtoP, in particular in the aftermath of the Libyan crisis. Many States expressed that there were valuable lessons to take from recent events in Libya and Côte d'Ivoire, notably the role that the AU, ECOWAS and the Arab League played in calling for and implementing specific actions to halt mass atrocities.

Concerns about the use of force and potential abuse of RtoP

A significant number of Member States and regional groupings, including CARICOM, Cuba, Georgia, Kenya, and the AU continued to express that RtoP was still viewed as a tool which had the potential to be abused. The Netherlands, New Zealand, Cuba and Lebanon pointed to the remaining need to discuss criteria to determine when peaceful means have failed. A majority of States recalled that under RtoP, the use of force related only to exceptional circumstances as a tool of last resort. Lebanon for instance, reminded that the RtoP was applied on a case-by-case basis, weighing the regional and international implications, tailored to specific situations. Denmark, Ghana and Costa Rica, who delivered a joint statement, responded to concerns about RtoP violating State sovereignty by recalling that ‘no country that adequately develops the first two pillars [of RtoP] has to hear or have misgivings about any risk to its sovereignty’.

Lack of consistency in the international response to RtoP crises

Importantly, Member States, panelists and civil society insisted on the need for consistency in protecting populations from mass atrocities, whatever the political contexts or interests at play. Guatemala expressed concern that the NATO intervention in Libya has led to new doubts about the practical applicability of RtoP, noting that some states view the situation as an example of the selective nature of the Security Council.



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Liechtenstein and Mexico underlined the role of the Security Council to ensure that further action to protect populations not be blocked or vetoed as a result of controversy over past resolutions. Dr. Luck noted that a determinant variable to consistency was the availability of cooperation with and support by regional organizations for early reaction to crises. He also raised the point that no two situations are identical so a single response mechanism cannot and should not be applied. Reflecting on the importance of consistently implementing the principle, Ireland stated that “when and how we apply the doctrine, whether we are faithful to the three-pillar approach, whether we hold ourselves to the principle of non-selectivity: that is how we will be judged.”

Addressing root causes of conflict

Member States emphasized the importance of addressing the root causes and sources of conflict, as well as crisis situations themselves, when acting to prevent and respond to mass atrocity crimes. Brazil pointed to the link between political stability and social and economic development, and called for these sectors to be taken into account when developing prevention strategies. Switzerland, the EU and Japan identified that factors, such as good governance, the rule of law, and respect for human rights, are

critical and must be strengthened to prevent violence and mass atrocities. Speaking on the experience of the Caribbean, CARICOM spoke of the need to deepen “integration and cooperation in a number of areas including health...foreign policy coordination, and protecting the rights of women, youth and minorities.”

Abstaining from the use of veto in cases of mass atrocities

Four Member States, namely Mexico, Singapore, Switzerland and Australia, renewed calls to the permanent members of the Security Council to refrain from invoking the veto in cases of suspected mass atrocities, as promoted by the S5 Group in reforming working methods of the Council.

For a full statements and transcripts of speeches made at the dialogue, please visit this [page](#).

V. Conclusion:

As discussed by numerous Member States, RtoP has been established as an operational principle following the implementation of the norm by various actors at the international, regional and national levels, most notably the crises in Côte d’Ivoire and Libya. Instead of using the dialogue as a platform to re-negotiate the principle, Member States expressed their continued support for RtoP and discussed how to move forward with the implementation of the norm. As noted by the Netherlands, who reflected on the future of the Responsibility to Protect, “turning a blind eye is no longer possible in any region as RtoP is a universal principle.”



Secretary-General, President of the GA, Special Advisers, panelists,
ICRtoP Staff and Steering Committee Members
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