

Statement by Special Advisor on RtoP Jennifer Welsh at the Thematic Discussion in the UN General Assembly on “Ten Years of the Responsibility to Protect: From Commitment to Implementation” [TRANSCRIBED]

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Thank you Mr. Chairman, Ambassadors, Excellencies, fellow panelists and ladies and gentlemen.

As the Special Advisor to this Secretary General who has shown steadfast commitment to the development and implementation of the Responsibility to Protect, it's a great pleasure and honour to address this event convened by the president of the General Assembly. My fellow panelists have had long and distinguished careers dedicated to international public service and to addressing situations that involve the gravest violations of human rights and their presentations reflect that wisdom and that normative commitment.

Paragraphs 138 and 139 of the 2005 Summit Outcome document, which affirm a *political* commitment to protecting populations from genocide, war crimes, crimes against humanity and ethnic cleansing, were designed to be more than just diplomatic words or an expression of the lowest common denominator. With the failures of collective action represented by both Rwanda and Srebrenitsa in the backdrop, they aspire to something more, to reducing the gap between existing legal responses of states, which are clearly evident in black and white in international humanitarian and human rights law. And the reality of populations threatened with large-scale and systematic violence.

Indeed that is what normative commitments are designed to do. Aspiration is at their very core. Yet experience also demonstrates that the normative ideas that have the greatest impact are those that do not stray to far from what member states collectively believe is legitimate. And so with the more controversial case of the Kosovo War also within their minds, the diplomats and political leaders present within the World Summit, hammered out a version of the Responsibility to Protect that would honour the letter and spirit of the UN Charter and serve as an ally rather than as an adversary of sovereignty. And 10 years on I think their formulation displays great wisdom.

But a decade on, any evaluation of the Responsibility to Protect needs to assess its progress. Not just in terms of how close we are to meeting the aspiration, a world where these acts are prevented or minimized, but also in terms of how it has changed expectations. And moreover that assessment should take place in relation to other normative efforts of the same ilk. The principle of the Responsibility to Protect is still in the relatively early stages of what is a long and uneven journey. Some commentators seem to hold the principle of the Responsibility to Protect to an impossibly demanding standard, in terms of both what it should have achieved and by when.

And when reflecting today we are confronted with the obvious fact that atrocity crimes remain a feature of the 21st century landscape. In fact in the last two years alone acts that may constitute genocide, war crimes, ethnic cleansing and crimes against humanity occurred in the Central

African Republic, the Democratic Republic of the Congo, the Democratic Republic of North Korea, Iraq, Libya, Nigeria, South Sudan, Sudan, Syria and Yemen. This is a long list. The majority of these acts have been perpetrated by governments or by factions supported by governments. But the overall sense of crisis now confronted by the international community is heightened by the emergence of violent extremists who brazenly flout international humanitarian law and glorify their crimes.

Taken together, these situations have created protection challenges of a monumental scale, which you in this chamber are all too well aware. When we turn to the specific armed conflicts on our landscape, there is as the Deputy Secretary-General highlighted, an alarming decline in respect for international humanitarian and human rights law on the parts of states that have *ratified* relevant legal instruments. Often in situations where national authorities argue that exceptional security threats or political crises justify abrogation from these legal obligations.

The scale of civilian harm today ladies and gentlemen, is not the tragic but inevitable consequence of what happens in the fog of war, but rather the result of conscious choices made by warring sides. And we should be clear about what the consequences of this are. Navi Pillay admirably laid out the human and economic cost, but we also need to remember the affect on our normative and legal landscape and a culture of restraint, which has been painstakingly built up.

Now as you can tell from the emotion in my own voice, it would be tempting to view these trends as proof of RtoP's failure, but to do so would be to blame the principle rather than those who are trusted with upholding it. The Responsibility to Protect cannot on its own compel states to act. No political principle can do that. Nor can it dictate what specific actions the international community should take in any particular case. States and other actors need to choose from a variety of mechanisms, which the Responsibility to Protect in part has been helpful in clarifying over the last decade.

But what the principle can do is create political pressure around situations involving atrocity crimes and raise the political cost of inaction. It can also clarify existing obligations and provide a practical policy framework for states to implement effective measures for prevention and response. On these measures, as my fellow panelists have stated, Responsibility to Protect has had a significant impact. And the dark landscape I painted a few moments ago suggests that its relevance is as strong as it was a decade ago. The principle has helped to create a category of acts that are by their very nature, issue of international concern. By establishing a floor of decency beyond which states themselves *agree* that populations should not fall.

This has changed and elevated expectations about what should occur when populations fall below that threshold, and galvanize an array of efforts, including research and policy development to prevent the decent into systematic violence. This is worth celebrating today. We simply know more than we did a decade ago about why some states descend into atrocity crime situations, while some do not.

This progress is usually obscured by a singular focus on the issue of the use of force. To evaluate Responsibility to Protect's success in terms of whether we see a consistent military pattern of intervention is to demand too little and too much. Too little, because there are many other tools and mechanisms that can be brought to bear, to address situations featuring atrocity crimes.

Assessing how the international community has responded to date and how it could respond in future, requires analysis of these non-military means and conditions under which they are effective. And too little because like all issue areas that touch on the use of coercive means, implementation of Responsibility to Protect is profoundly shaped by the dynamics within, and unique structure of, the UN Security Council.

The intense debates we have seen in this chamber during successive interactive dialogues, have brought into sharp relief why Responsibility to Protect was, and will remain, a demanding principle. It challenges states to make concrete decisions domestically, to enhance their ability to engage in risk assessments, to invest in the inhibitors to atrocity crimes and to improve their ability to assist other states under stress. These imply real resources and real policy attention. But that is what is implied by the Responsibility to Protect.

The principle also challenges us at the international level to honestly assess the barriers to collective action, which are not by the way unique to the Responsibility to Protect, but which are laid bare in cases in which atrocity crimes have been committed or imminent. But we must do more than identify the reasons for why collective action is not always mobilized. We must work tirelessly to address or minimize those factors. Whether through changes to working methods, improvements to our diplomatic toolbox, more focused and sustained political leadership, or financial support for the mechanisms that have worked and can work. This too is our shared responsibility.

Ladies and Gentlemen we should not shy away from a principle because it is demanding. Instead, we should creatively explore how we can do better. That is what all of us on this panel have tried to do and which many of you in this chamber have tried to do. As Secretary General Ban-Ki moon has noted, Responsibility to Protect offers an alternative to indifference and fatalism. It constitutes a milestone in transforming national concern about people facing mortal danger, into meaningful response.

The challenges of atrocity crimes may indeed be daunting and human cost staggering, but we cannot lapse into thinking that the means to prevent them are beyond our reach. The past decade of the Responsibility to Protect has shown us that this is not the case. The next decade must build on these concrete advances to ensure the protection of *all* populations.

I thank you for your attention and I very much look forward to your comments. I will be listening very carefully to your thoughts and recommendations.