

# R2P<sub>CS</sub>

**RESPONSIBILITY TO PROTECT ENGAGING CIVIL SOCIETY**

## **GLOBAL CONSULTATIVE ROUNDTABLES ON THE RESPONSIBILITY TO PROTECT:**

**CIVIL SOCIETY PERSPECTIVES AND RECOMMENDATIONS FOR ACTION**

**February 2008-August 2008  
Interim Report**



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**Cover Photo:** Young Internally Displaced Person in Darfur, El Fasher, Sudan. 05 June 2008. UN Photo/Tim McKulka

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**ABOUT THE R2PCS PROJECT**

The **Responsibility to Protect**-Engaging Civil Society (**R2PCS**) project is housed at the Institute for Global Policy (IGP) in New York. IGP is associated with the World Federalist Movement (WFM). The Institute for Global Policy (IGP) is a research and policy institute dedicated to the promotion of human security, international justice, the prevention of armed conflict and the protection of civilians. Through an emphasis on the democratization of international and regional organizations and the development and global application of international law, the Institute works to find pragmatic and action-based solutions to some of the world's most pressing challenges.

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## Introduction

Few international affairs experts would disagree that the endorsement of the Responsibility to Protect (R2P) at the World Summit in September 2005 was an extraordinary, surprising and highly praised achievement. It was an accomplishment of governments, the Secretary-General of the United Nations, and an alliance of non-governmental organizations.

From the September 2005 commitment until December 2006, steady progress was made on R2P, including two endorsements by the Security Council: April 2006 Resolution 1674 on the Protection of Civilians and August 2006 Resolution 1706 on Sudan. However, the process under the new Secretary-General in 2007 in advancing R2P has met significant difficulties and opposition, witnessed in statements at the General Assembly's 5<sup>th</sup> Committee bi-annual budget debate where the Committee declined funding for the proposed new Special Adviser on R2P and

his office. These difficulties, coupled with continued failing reactions by the international community in Darfur, Burma, and most recently the Democratic Republic of Congo, indicate the tremendous gaps and challenges that exist between the promise and capacity to prevent and stop mass atrocity crimes embraced by the new R2P norm.

Following the World Summit, a group of NGOs, including Human Rights Watch, International Crisis Group, Oxfam International, Refugees International and WFM-Institute for Global Policy began exploring the work needed to advance R2P, including on how to increase basic knowledge of R2P among governments, regional organizations, NGOs and the public, how to prevent backsliding among governments at the international level, and how to operationalize R2P so that early and effective action is taken in the face of mass atrocity crimes. Together, they began working toward the development of two parallel initiatives: (1) a Global Centre for the Responsibility to Protect, formally



July 30-31: "Global Consultative Roundtables on R2P: West African Perspectives", Accra, Ghana

Courtesy of WACSI and FFP

launched in February 2008 and, (2) a global NGO coalition for the Responsibility to Protect, similar to earlier successful NGO human security campaigns.

Over the past 16 months, the **Responsibility to Protect-Engaging Civil Society (R2PCS)** project at the World Federalist Movement-Institute for Global Policy (WFM-IGP) has spearheaded the effort to build a Global Coalition for R2P. We believe that there is a clear need to increase activity and collaboration between civil society organizations – in all regions and across diverse sectors — to promote the R2P agenda worldwide. Working in a coalition, groups are able to share information on best practices, build partnerships to advocate effectively, strategize collectively on how to advance R2P, and also access materials, resources and funding. The movement can then draw upon the local expertise of those NGOs which have detailed knowledge of internal developments in countries facing potential or current atrocities, know how to mobilize the public and the media in their constituencies, and have experience in lobbying governments where they are located. NGOs working through coalitions have been essential partners in such historic initiatives as the creation of the International Criminal Court, the adoption of treaties banning anti-personnel landmines and the use of child soldiers. If mobilized appropriately, civil society can achieve similar success in relation to R2P.

To facilitate building a global coalition with representation from both Northern and Southern NGOs, R2PCS first organized a series of consultative roundtables with NGOs worldwide. We especially believed that priority should be placed on building partnerships with Southern NGOs and partners in regions where R2P crimes are occurring. The manner in which R2P is taken forward will have worldwide impact, thus the voices of NGOs from all regions need to be incorporated into shaping the R2P agenda, and naturally in planning for a coalition.

The goals of our roundtables were to: 1) increase understanding of R2P and how it applies to conflicts in the region and 2) explore how to strengthen regional

and international mechanisms to support R2P 3) forge partnerships with NGOs who are interested in joining in a core group in building an NGO coalition.

From February until July 2008, the R2PCS program organized 7 global consultative roundtables with the following partners:

**20-21 February 2008: Bangkok, Thailand**

Asia-Pacific Centre for R2P and Chulalongkorn University in Bangkok, Thailand

**7 March 2008: Ottawa, Canada**

World Federalist Movement-Canada

**31 March-1 April 2008: Buenos Aires, Argentina**

Coordinadora Regional de Investigaciones Economicas y Sociales (CRIES)

**17-18 April 2008: Kampala, Uganda**

International Refugees Rights Initiative (IRRI)

**29-30 April 2008: Johannesburg, South Africa**

Human Rights Institute of South Africa (HURISA)

**25-26 June 2008: Paris, France**

Agir-Ici (Oxfam-France) and Human Rights Watch-France

**30-31 July 2008: Accra, Ghana**

West Africa Civil Society Initiative (WACSI)

This interim report details the conclusions of the seven roundtables<sup>1</sup>, including common challenges in actualizing R2P, common themes from all roundtables, and participant-suggested strategies and activities to advance R2P.

*For detailed reports on each of the roundtables, including lists of participants, please visit: [www.responsibilitytoprotect.org](http://www.responsibilitytoprotect.org).*

<sup>1</sup> While this report relies heavily on the seven roundtables conducted over the past several months, it also builds upon 5 years of previous work that the R2PCS project at WFM-IGP has participated in and/or organized with NGOs and governments at dozens of conferences and meetings worldwide.

## Background on the Responsibility to Protect

The end of the 20th Century was marked by a change in the nature of armed conflict. Internal conflicts increasingly replaced inter-state conflict. Civilians now make up the vast majority of victims and casualties. The genocides in Cambodia, Rwanda and Bosnia, as well as crimes against humanity in Kosovo, East Timor and Darfur have demonstrated massive failures by the international community to prevent atrocities. After these failures, there was a recognized need to shift the debate about crisis prevention and response: the security of the community and the individual, not only the state, must be priorities for national and international policies.

The term “responsibility to protect” was first presented in the report of the International Commission on Intervention and State Sovereignty (ICISS) in December 2001.<sup>2</sup> The Commission, co-chaired by Gareth Evans and Mohamed Sahnoun, had been formed in response to the UN Secretary General Kofi Annan’s insistence that the Member States confront the question of when the international community should intervene for human protection purposes. Building on Francis Deng’s idea of “Sovereignty as Responsibility”<sup>3</sup>, the Commission addressed the question of when sovereignty—a fundamental principle of international law—must yield to the protection against the most egregious violations of humanitarian and international law, including genocide, ethnic cleansing and crimes against humanity.

The timing of this report’s release in December 2001 was not conducive to the consideration of its proposals. After the September 11, 2001 terrorist attacks, the international debate shifted away from consideration of measures to prevent genocides and mass atrocities such as in Rwanda, toward measures for prevention and preemption of terrorist activities and the proliferation of weapons of mass destruction. Fifteen months later, after the US-UK led invasion of Iraq in 2003, serious consideration of the R2P recommendations seemed extremely unlikely. The Iraq aggression

increased concern that R2P could be politically misused to justify military invasions by big powers, and thus further eroding the sovereignty of small and developing countries.

Right after the report’s release, civil society organizations, particularly those dedicated to human rights and the protection of civilians, also began considering the Responsibility to Protect principles. The **R2PCS** project convened several consultations about the report to determine whether its principles could be useful to civil society and whether they should be the subject of advocacy campaigns. The consultations reflected widespread support among nongovernmental organizations for the expansion of the notion of sovereignty to include the protection of civilians and for the international community to commit to a continuum of protective measures that emphasize prevention and treat force as a last resort. However, the NGOs consulted showed little interest in advocating a doctrine aimed at justifying military interventions, particularly those that occur without Security Council or multilateral approval.

Although support for R2P was limited in the initial period after the release of the ICISS report, ongoing humanitarian disasters, including the failure to protect the people of Darfur, signaled that more was needed to be done by the international community as a whole to respond to genocide and other massive threats against populations.

During this time, African nations were already working to enshrine the principles of R2P within the founding Charter of the AU. The 2000 African Union Constitutive Act Article 4(h) of the Constitutive Act states the “right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely war crimes, genocide and crimes against humanity.” While this important clause conveys one end of the full R2P spectrum, the interventionist side, the charter shows the commitment of African Nations to protecting populations from grave crimes, even if infringement on sovereignty is required.

<sup>2</sup> For the full ICISS report, please see: <http://www.iciss-ciise.gc.ca/>.

<sup>3</sup> Articulated in a 1996 Brookings Institution publication, *Sovereignty as Responsibility: Conflict Management in Africa* authored by Donald Rothchild, Francis M. Deng, I. William Zartman, Sadikiel Kimaro and Terrence Lyons.



**Security Council Extends UNAMID Mandate, 31 July 2008**  
**United Nations, New York**

Photo/Eskinder Debebe

In September 2003, the Secretary-General called for Member States to strengthen the UN to better advance development, security, and the protection of human rights. In recognition of the urgent need to address the UN's failures to respond to genocide, the Secretary-General challenged Member States to include protection from genocide as part of the UN reform agenda. The Secretary-General then formed the High-level Panel on Threats, Challenges and Change to report on how the UN should confront the greatest security threats of the 21<sup>st</sup> century. The Secretary-General pressed governments to integrate substantial peace and security reforms into the 2005 Summit, originally intended as a review of the Millennium Declaration and expected to concentrate solely on development goals. In December, 2004, the High-level Panel released its report, *A More Secure World: Our Shared Responsibility*. Included in the report's 101 recommendations on strengthening the international security framework was an endorsement

of an international responsibility to protect populations from grave threats.

With R2P part of the proposed recommendations, the African Union responded by its own evaluation of the proposed reforms. The report known as "Ezulwini Consensus" was expressed at the African Union's 7th Extraordinary Session of the Executive Council of 1- 8 March 2005, in Addis Ababa, Ethiopia. In its report, the AU embraced the Responsibility to Protect and recognized the authority of the Security Council to decide on the use of force in situations of genocides, crimes against humanity, war crimes and ethnic cleansing. It also insisted on the need for an empowerment of regional organizations to take action in such cases.

After consultations with governments and UN officials and with input from many civil society organizations, the Secretary-General published his own

report entitled *In larger freedom: towards development, security and human rights for all*. Similar to the High-level Panel, the Secretary-General emphasized the need of governments to take action against threats of massive human rights violations and other large scale acts of violence against civilians. He called on governments to embrace the Responsibility to Protect, emphasizing that while it is first and foremost the *individual government's* responsibility to protect its populations, the responsibility *shifts* to the international community when the state is unable or unwilling to protect. He also emphasized that the international community must use a range of measures to protect populations, which could include diplomatic and humanitarian efforts and may include military force as a last resort.

As the UN debated major reforms including restructuring its human rights system and how it is managed, this idea of committing to an international Responsibility to Protect gained support from many governments and civil society from all regions. The Canadian government from ICISS onwards made major contributions, supported by the UK and other EU governments, but Southern leadership for R2P at the World Summit was central and crucial. Argentina, Chile, Guatemala, Mexico, Rwanda, and South Africa were some of the influential governments who insisted on a meaningful commitment to the Responsibility to Protect. The leadership of these governments allowed for the support of many other Members from the global South and prevented opponents from removing the new norm from the Outcome Document. In the end, the historic commitment was finally made at the World Summit. World leaders agreed the following:

- That each individual state has the primary responsibility to protect its populations from genocide, war crimes, crimes against humanity and ethnic cleansing. And this responsibility also includes prevention of these crimes, including incitement.
- That the international community should encourage or assist states to exercise this responsibility.
- The international community has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means to help protect populations threatened by these

crimes. When a state “manifestly fails” in its protection responsibilities, and peaceful means are inadequate, the international community must take stronger measures, including collective use of force authorized by the Security Council under Chapter VII.

- The international community should support the United Nations in establishing an early warning capability and commit itself to help states build capacity to protect their populations and to assist states under stress before crises and conflicts break out.

Since the 2005 World Summit, there have been several important normative advancements, including the Security Council unanimously adoption of Resolution 1674 on the Protection of Civilians in Armed Conflict, which includes the historic first official Security Council reference to the Responsibility to Protect. The Security Council also passed Resolution 1706 authorizing UN peacekeeping troops to Darfur, which referred to Resolution 1674 and paragraph 138 and 139 on the Responsibility to Protect in the Summit Outcome Document.

The new Secretary General has also made two important appointments: Mr. Deng as Special Adviser on the Prevention of Genocide and Mr. Edward Luck as Special Adviser to the Secretary General with a focus on the Responsibility to Protect.

Unfortunately, there have also been some setbacks in the past two years. In January 2007, China and Russia vetoed a resolution on the situation in Burma, arguing that Burma did not pose a threat to peace and security in the region, and that the internal affairs of the state did not have a place within the Security Council. Instead, they suggested that the situation in Burma should continue to be taken up by the Human Rights Council. The referral of the situation in Burma to the Human Rights Council raised questions about the commitment of some Security Council members in addressing mass atrocity crimes within the Security Council. Another example of resistance of the Security Council to apply R2P in specific situations was the adoption of UN Security Council Resolution 1769 which authorized the deployment of the UN-African Union (AU) force for Darfur. While it was an important step toward providing much needed

protection to mistreated civilians, it did not refer to the Responsibility to Protect nor to the Protection of Civilians Resolution, perceived as another setback from earlier R2P advances.

In addition, opposition outside of the Council came during the General Assembly's 5th Committee bi-annual budget debate late last year, where the Committee declined funding of the new Special Adviser on R2P's office based on the recommendation of the Advisory Committee on Administrative & Budgetary Questions. This was partially due to procedural matters but also because some Member State representatives argued that the Responsibility to Protect had actually never been agreed to "as a norm" during the World Summit. On 21 February 2008, the office of Secretary-General Ban announced the appointment of Edward Luck as a Special Adviser "*with a focus on the responsibility to protect populations from genocide, ethnic cleansing, war crimes and crimes against humanities.*" This was a revised title (the earlier one was Special Adviser on the Responsibility to Protect), reflecting the resistance to his position from some Member States. No funding has been provided for this position. At this time, the extension of Mr. Francis Deng's title to include "Mass Atrocities" was also not approved. Although his position has been upgraded to full-time Under-Secretary General, his title remains Special Adviser on the Prevention of Genocide.

These difficulties, along with the lack of an appropriate response by the international community in Darfur, Somalia, Burma and the DRC, indicate the great chasm remaining between words, resolutions and the capacity of a wide array of organs, agencies, and programmes unable to prevent or stop mass atrocity crimes.

We are concerned that the lack of tangible progress on R2P at the UN could reflect a weakening universe of R2P promoters. Although there is an informal group of friends or governments who support R2P, experts indicate that there is no organized group of governments working systematically to confront the detractor governments. This is one of the reasons for an NGO Coalition for R2P: to help mobilize and reinforce a constituency of supporters within civil society, governments, sub-regional and regional organizations and at the international level. The upcoming General Assembly debate on R2P, expected in March 2009, will be a unique opportunity for governments and civil society to come together to ensure that Paragraphs 138-139 of the World Summit Outcome Document is supported.<sup>4</sup>

<sup>4</sup> There are several explanations for why a GA debate will be held: 1) Paragraph 139 of the World Summit Outcome calls for the GA's continued consideration of R2P and this should not be postponed indefinitely; 2) In Paragraph 139, governments made follow-up commitments to advance R2P, such as building capacity to protect populations from atrocity crimes and establishing an early warning capability. A GA debate is the best opportunity to discuss these commitments; 3) Governments should consider the report of the SG on R2P, due to be presented in early 2009; 4) a GA debate is a necessary first step to achieve Member State/General Assembly support for a proposed joint office of the Special Advisor on the Prevention of Genocide (SAPG) and a special advisor on R2P (SAR2P).

## Common themes from the regional roundtables on R2P

NGOs from Africa, Asia, Latin America, North America and Europe each had different levels of awareness and support for the Responsibility to Protect. Detailed perspectives can be found in each roundtable report at [www.responsibilitytoprotect.org](http://www.responsibilitytoprotect.org), however this section outlines some of the common themes heard at all seven of the regional roundtables.

### DEFINING R2P

The roundtables offered a first look at R2P for many of the NGO participants; nevertheless, by the end of the two-day roundtable, civil society groups were unanimous in their understanding of the norm. They supported the Responsibility to Protect as the world's responsibility to prevent and halt genocide, ethnic cleansing, war crimes and crimes against humanity.<sup>5</sup>

Using Paragraphs 138-139 of the World Summit Outcome Document as a starting point, NGOs support R2P as including the following main points:

1. States have the primary obligation to protect their populations from genocide, war crimes, crimes against humanity, and ethnic cleansing. This responsibility also includes prevention of these crimes, including incitement.
2. The international community should, as appropriate, encourage and help States to exercise this responsibility.
3. The international community also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means to help protect populations threatened by these crimes.
4. When a state “manifestly fails” in its protection responsibilities, and peaceful means are inadequate, the international community must take stronger measures, including collective use of force authorized by the Security Council under Chapter VII.

5. The international community should support the United Nations in establishing an early warning capability and help states build capacity to protect their populations.<sup>6</sup>

Moreover, civil society is strong in its belief that Responsibility to Protect should not be interpreted too narrowly as a new version of military humanitarian intervention or too broadly as a doctrine for the protection of populations from all global threats to human security. R2P is not a panacea for all of society's ills, but is strictly limited to preventing and halting genocide, crimes against humanity, ethnic cleansing, and war crimes.

Finally civil society believes that the Responsibility to Protect requires the international community to recognize that conflict affects women and men differently. This is an essential first step in developing gendered responses to conflict, empowering women in the prevention and ending of conflicts, and the rebuilding of communities after conflict.

### R2P AND PREVENTION

Civil society groups worldwide support a full spectrum of responsibility: from the responsibility to prevent, to react and to rebuild.<sup>7</sup> Civil society organizations are especially committed to encouraging and pressuring governments to take *early action* to prevent genocide, crimes against humanity, ethnic cleansing and war crimes from occurring. Prevention, they argue, is the heart of the Responsibility to Protect.

As outlined below in the section on challenges, however, it remains unclear to civil society how measures for the prevention of R2P crimes differ from conflict-prevention measures more broadly. Understanding that the R2P crimes can occur within or outside of conflict, civil society wanted clarity on how the measures for R2P taken by governments, regional organizations and the UN are similar and/or different to conflict prevention measures. They supported the development of an R2P prevention “toolbox” of non-military options that they could call on governments and the international community to take when crimes were occurring.

<sup>5</sup> Ethnic cleansing is not a crime defined under international law. However almost all experts would agree that in cases of ethnic cleansing, one or more other R2P crimes—war crimes, crimes against humanity or genocide—are also being committed. Moreover, many R2P experts would argue that war crimes must be considered widespread or systematic to be included under the R2P framework.

<sup>6</sup> There remain questions among certain civil society groups on whether it is possible for some pacifist or religious groups, who for example could not ever endorse military force, to support only certain aspects of the norm.

<sup>7</sup> As described in the 2001 ICISS report.

In addition, many groups emphasized that they are “already doing” R2P work but not calling it as such. There are few explicit “R2P NGOs”, or even NGOs solely dedicated to genocide prevention, therefore a majority of the NGOs had mandates for broader conflict prevention. Groups in Asia and Latin America who did not see imminent or even likely cases of genocide—and therefore questioned the relevance of the norm to situations in their region—supported the principles of R2P because of how they relate directly to the work they are doing on conflict prevention.

Finally, many NGOs are already working to lobby their governments to fulfill national obligations to improve human rights, justice systems, elections, corruption, security sector reform—all of which will lessen the chance of genocide and mass atrocity crimes. These existing efforts complement R2P, however much work is needed to promote and advance R2P as a norm so that it becomes more consistently used as a framework for prevention and reaction to mass atrocities.

#### **R2P AND CULTURAL VALUES: DOMESTICATING THE NORM**

At almost every roundtable, civil society emphasized how R2P principles already resonate with pre-existing cultural values. For example, at the Bangkok roundtable civil society emphasized how R2P principles are similar to some Asian cultural values such as the “duties” of rulers or kings to protect their populations in exchange for loyalty to the government. In Africa, the idea of ‘collective responsibility’ within the community may be emphasized to show the universality of R2P principles. Finally, at several of the roundtables, participants emphasized how R2P echoes the Christian saying “Am I my brother’s keeper?”, implying that we all have to accept responsibility to protect one another from grave harm.

#### **“SOVEREIGNTY AS RESPONSIBILITY”**

The Responsibility to Protect reconciles the question of when sovereignty, a fundamental principle international relations, yields to the protection of populations from

genocide, crimes against humanity, ethnic cleansing and war crimes. R2P explicitly states that when these most heinous crimes are occurring, sovereignty cannot be used as a shield to protect states from external response. R2P enables the international community to take action to prevent and stop these crimes from occurring or continuing.

Furthermore, while some governments argue that R2P means a reduction in sovereignty, many NGO colleagues, especially in Africa and Latin America, support the idea of R2P as *enhancing* sovereignty. As mentioned earlier, Dr. Francis Deng in his work as UN representative for Internally Displaced Persons and the ICISS report put forward the concept of “sovereignty as responsibility”. A sovereign state must acknowledge it has a principal responsibility to protect populations inside its borders. R2P requires governments to fulfill their existing human rights and other obligations under international law to protect their people from grave crimes.

#### **CONCERNS ABOUT UNILATERALISM**

In the aftermath of the Iraq war, civil society organizations were justifiably concerned about the major powers unilaterally intervening in small countries based on humanitarian grounds. However, the majority of civil society organizations that attended our roundtables agreed that the norm could be useful in preventing the unilateral use of force. The fact that intervention would be restricted to the four crimes and violations would limit governments from intervening for unsubstantiated justifications. R2P, as adopted by Heads of State and Governments in 2005, calls for Security Council authorization for the use of force and would encourage multilateral responses rather than unilateral responses or “coalitions of the willing” without explicit UN authorization. Finally, civil society was supportive of the ICISS report recommendations for criteria on when force can be used including: just cause, threshold, right intention, last resort, proportional means and reasonable prospects, and right authority.

## Challenges in actualizing the Responsibility to Protect

The nine challenges listed below reflect concerns articulated in each of the roundtables. They can be broken down into four main categories: conceptual, normative, political and operational.

### CONCEPTUAL CHALLENGES

#### 1. LACK OF BASIC UNDERSTANDING OF R2P

There is a lack of knowledge about R2P in capitals (including inside relevant ministries, parliaments, and executive offices), regional/sub-regional institutions and civil society. Many officials are simply unaware that Heads of State and governments agreed to the 2005 World Summit commitment. Among those familiar with the concept, many have misperceptions about the range of measures comprised under R2P, with some viewing the norm as a Western interventionist doctrine and not as encompassing the full spectrum of measures to include prevention, reaction (peaceful and coercive) and rebuilding. Some view the doctrine as intended for protection of populations from all global threats to human security, such as climate change and health disasters, rather than focusing on the four crimes and violations of genocide, war crimes, crimes against humanity and ethnic cleansing.

#### 2. POTENTIAL FOR MISUSE OF R2P

Civil society takes seriously the concerns that R2P has the potential to be “misused” by powerful governments who:

- a) intentionally mislead, to justify invasion or aggression for political or other non-R2P reasons, such the invocation of R2P by a UNSC member prior to the invasion of Iraq.
- b) misguidedly invoke R2P, such as when a UNSC permanent member invoked R2P in Burma<sup>8</sup> on the basis of government inaction following a terrible natural disaster.
- c) incorrectly invoke R2P, such as when Russia, also a UNSC permanent member, invoked R2P as a justification for its military actions in Georgia to protect “Russian civilians” in disputed territories.<sup>9</sup>

However, on the two occasions where governments in the Security Council approved R2P references in resolutions – in connection with crimes occurring in Sudan and in the thematic resolution on the protection of civilian in armed conflicts – no government or NGO criticized R2P’s inclusion.

#### 3. CLARITY ON WHAT R2P MEASURES CONSIST OF

##### *Range of measures*

International and regional organizations, governments and civil society have yet to stipulate what measures (including economic, political, diplomatic, legal) can be implemented as tools under R2P, and most importantly, when it is appropriate to use some measures versus others.<sup>10</sup> Without specifying which tools should be used, civil society participants raised concerns that the full R2P spectrum will not be considered when governments choose to take action.

8 Immediately following cyclone Nargis in May 2008, several prominent individuals, including French FM Kouchner, called for an R2P response to the Burmese government’s resistance to some international humanitarian assistance offers. WFM-IGP and others disagreed with this invocation of R2P as not consistent with the definition agreed to by governments in Para 138-139 of the World Summit – which only applies to genocide, war crimes, crimes against humanity and ethnic cleansing—and not natural disasters. WFM-IGP instead argued that the situation in Burma *before* the cyclone could have amounted to an R2P situation because of decades of atrocity crimes documented by several human rights organizations, including forced labor, forced displacement, detention and abuse of political prisoners, rape of ethnic minority women and recruitment of child soldiers. Moreover, we acknowledged that there remains a question of whether long-term refusal to provide humanitarian assistance could rise to the level of a crime against humanity. Finally, we also raised concern that the more robust end of the R2P spectrum, i.e. the use of force, was called for prior to non-coercive measures. For a permanent member of the Security Council to threaten force in response to a natural disaster using R2P as the rationale could be perceived as threatening “regime change”. This was completely inconsistent with R2P principles and could be disastrous to the long term work of humanitarian organizations, not to mention the nascent R2P norm.

9 Russia’s invocation of R2P was misapplied because Russia has a responsibility to protect its populations within its *own* borders. In cases of mass atrocities outside its borders, the responsibility to protect falls upon the international community, strictly as a collective response through the United Nations. It is unclear whether the degree of threat to Russians in Georgia represented actual or imminent mass atrocities to the scale pertinent to the R2P norm and also whether military force was the appropriate response.

10 Edward Luck, Special Advisor with a focus on the Responsibility to Protect, is writing a report for the Secretary General on the R2P, due in January 2009. It will lay out potential actors and tools available for states to enact their responsibility, for the international community to assist states or intervene in the case that states are unable or unwilling to protect their populations.

### *The use of force*

The 2001 ICISS report and the 2004 report of the High Level Panel on Threats, Challenges and Change make specific recommendations for governments to adopt use of force criteria for cases of genocide, war crimes and crimes against humanity. Each report recommended using five criteria when considering forceful intervention for the prevention or halting these mass atrocity crimes: just cause threshold, right intention, last resort, proportional means, and reasonable prospects of success. While Kofi Annan's *In Larger Freedom* encouraged the Security Council to adopt principles to guide use of force, these were described somewhat differently and did not specify the threshold of crimes to which they apply: "When considering whether to authorize or endorse the use of military force, the Council should come to a common view on how to weigh the seriousness of the threat; the proper purpose of the proposed military action; whether means short of the use of force might plausibly succeed in stopping the threat; whether the military option is proportional to the threat at hand; and whether there is a reasonable chance of success."

Use of force criteria were not included in the endorsement of R2P at the 2005 World Summit, and therefore there is currently inadequate specificity as to when and how military intervention should take place in R2P-specific situations.<sup>11</sup> By and large, in our consultations, civil society was supportive of the UN establishing criteria for use of force, as it will provide limitations on when force can and cannot be used.

### *Preventive measures under R2P*

It remains unclear what prevention under R2P entails, including how early and how broad preventive measures should be applied to address genocide, war crimes, crimes against humanity and ethnic cleansing. On the one hand, addressing structural and root causes of conflicts (i.e. rule of law, good governance, corruption, security sector reform) will lessen the occurrence of mass atrocities. However, some fear that this will encompass such a broad range

of activities, duplicating what has already been done under the conflict prevention framework, and could water down the inherent purpose of the norm—to respond when cases of mass atrocity crimes are either imminent or foreseeable.

## NORMATIVE CHALLENGES

### 4. MAINTAINING THE SUMMIT COMMITMENTS

Agreement on the 2005 World Summit Outcome Document was achieved with great difficulty, with the final negotiations of a number of sections and paragraphs of the comprehensive declaration being conducted in small closed working groups. Some Member States have criticized the process for lack of transparency, as earlier Summits had more formal and open preparatory processes.

Since the September 2005 summit, there has been at the UN the concern that beneath the surface exists a strong, organized group of R2P skeptics who have raised considerable concerns on the limits and application of R2P. These include government representatives who object to any "infringement" on sovereignty, others who simply dislike the summit agreement for a number of reasons, and others who argue that R2P responsibilities are already included in existing treaties.

Meanwhile, supporters of the norm, even through the Friends of R2P co-chaired by Rwanda and Canada, have not unified efforts or agreed on a common understanding of paragraphs 138 and 139 of the 2005 World Summit Outcome Document. Worse even is that some States, in UN budgetary meetings in December 2007, actually argued in classic UN "revisionist" style, that they had "rejected" the Responsibility to Protect as a norm in 2005.

### 5. LACK OF NORMATIVE ENTRENCHMENT

Apart from the 2005 World Summit Outcome Document, the two subsequent Security Council endorsements, the 2002 African Union Constitutive Act, the Resolution at the 42<sup>nd</sup> Ordinary Session of the African Commission on Human and People's Rights

<sup>11</sup> Paragraph 139 specifies that Chapter VII measures can be taken if peaceful means have failed and in accordance with the UN Charter.

in 2007, and European parliament<sup>12</sup> there are few explicit international or regional normative reaffirmations of the responsibility to protect principles.<sup>13</sup> Without widespread institutional acceptance of R2P at the national, sub-regional and regional levels, governments are less likely to establish effective mechanisms to specifically prevent and halt genocide, war crimes, crimes against humanity and ethnic cleansing, such as early warning system and reaction capabilities. Governments, sub-regional organizations and regional organizations, should therefore endorse R2P in founding charters and through relevant protocols and resolutions.

Several NGO participants have expressed concern regarding the lack of legal status of the UN World Summit Outcome Document.<sup>14</sup> However, the report of the SG on R2P (expected mid-January 2009), a debate at the General Assembly on the norm around March 2009, and the creation of a joint-office for the SAPG and SA-R2P could add credibility and legitimacy to the norm. The embrace of R2P at regional levels as well as its application in country-specific situations will also result in the transformation of R2P from an emerging norm into customary international humanitarian law.

## POLITICAL CHALLENGES

### 6. LACK OF POLITICAL WILL TO TAKE ACTION

Lack of political will was identified by roundtable participants as the biggest challenge in ensuring the protection of civilians from mass atrocities. While states have embraced the Responsibility to Protect in 2005, this commitment has not translated into tangible action or readiness at the national, regional and sub-regional levels. When crimes are occurring in countries such as Burma, Sudan, and DRC, there is hesitation on the part of governments to take action, coercive or otherwise.

Moreover, many continue to reject R2P because they argue that it diminishes sovereignty because R2P may allow for incursions inside national borders to prevent or halt genocide and crimes against humanity. Civil society throughout the world sees a big challenge in holding accountable states who continue to hide behind sovereignty. However, as described in greater detail above, many of our NGO colleagues worldwide support the idea of R2P *enhancing* sovereignty in that it requires governments to fulfill their existing human rights and other obligations under international law.

Finally, several civil society groups expressed concern that action would not be taken under the R2P framework when a major power was carrying out one or more of the four crimes and violations.

## OPERATIONAL CHALLENGES

### 7. UNCERTAINTY ON HOW TO INVOKE R2P

There is still uncertainty on when and how to invoke R2P. While some have misguidedly applied R2P, such as in the case of the Burma after hurricane Nargis, there are several country-specific situations, such as Sudan, Burma, and DRC, where the R2P threshold has been met, but governments, international institutions, and civil society are ill-prepared to use the R2P framework in their recommendations for action.

In other situations, advocates have questioned what added-value is brought by the invocation of R2P. Given the lack of consensus for the norm, there is a question as to whether invoking R2P will in fact give governments the political push—or the moral obligation—to take action. Moreover, others have questioned what R2P measures consist of that are different from Chapter VI and Chapter VII measures already being implemented, in the midst of an ongoing crisis. For this reason,

12 In December 2005, EU Member States, the Council, the European Parliament and the Commission reaffirmed their support for R2P in the European Consensus on Development. Most recently, on 11 December 2008, the Report on the Implementation of the European Security Strategy “Providing Security in a Changing World” was approved by the Council, which included the Responsibility to Protect in its established principles and objectives for advancing the EU’s security interests. Between 2006 and 2008, the European Parliament also referred to the norm in five resolutions on the situation in Darfur. See section below on Europe for more detail.

13 There are examples of commitments by regional bodies to adopt conflict prevention frameworks and human rights charters/principles, which make mention of prevention of genocide. See sections on regional advocacy below.

14 Similar concerns were raised about the legal status of the Universal Declaration of Human Rights, however many international lawyers have argued that Declarations form part of international customary law. That said, there are questions about whether the Outcome Document should be considered a Declaration or something different.

many NGOs currently working on the protection of civilians and human rights question whether calling the work they are “already” doing on R2P adds value to preventing and halting mass atrocity crimes at this time.<sup>15</sup>

Finally, many participants questioned who had the authority to declare whether a situation was a R2P case. Some pointed out international persons such as the Special Adviser on the Prevention of Genocide, Special Adviser with a focus on R2P, the Secretary General, while others called for the Security Council, General Assembly and regional organizations to make this determination.

#### 8. LACK OF OPERATIONAL READINESS

Even if or when the above challenges are addressed, there are enormous problems with reaction in cases of genocide, war crimes, crimes against humanity and ethnic cleansing. While some regions and sub-regions have adopted treaties, conflict-specific resolutions and protocols relating to prevention, reaction and rebuilding in instances of mass atrocities, the challenge is whether these institutions will turn institutional commitments into operational readiness. Some regions have recently begun to put mechanisms in place to address prevention and reaction of mass atrocities, such as ECOWARN or the European Union battlegroups. However, as exemplified in the failure of the AU and UN to protect civilians in Darfur, even established mechanisms are still confronted by significant operational limitations (logistical, human and/or financial). Finally, some regions and sub-regions do not have normative endorsement recognizing the responsibility to protect populations from mass atrocities and thus are unlikely to put in place mechanisms to do so.

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<sup>15</sup> See Main Themes section above.

## Roundtable outcomes: Objectives, strategies and activities for civil society

This section will introduce suggested objectives, and corresponding strategies and activities for civil society to advance the Responsibility to Protect. These general proposals are based on discussions and recommendations expressed at the global roundtables on R2P between February and July 2008. *The next section will provide region-specific recommendations from civil society based on these general objectives.*

### **Objective 1: Further the understanding of R2P among civil society, policy-makers and the public**

As addressed above, one of the biggest challenges facing the R2P agenda is a basic lack of understanding about R2P. Civil society has a tremendous role to play in raising awareness of R2P among governments, civil society and the general public throughout the world. Ensuring that the norm is properly understood will: 1) redress the many misperceptions that persist among many actors and lessen the chances of misuse, 2) assist relevant actors in charge of implementing R2P to understand the confines of the norm and 3) allow for the building of constituencies of support among civil society and governments.

### **Strategy 1: Develop messaging and basic education tools**

In order to further the understanding of R2P, civil society must first develop basic messaging and education tools on the Responsibility to Protect. This will include the following activities:

#### *1. Develop messaging*

Develop a basic R2P message to reach NGOs, government, regional organizations, media; this might be adjusted depending on campaigns on conflict situations or other opportunities (such as Summits, debates...). Messaging should:

- Emphasize the cultural values (i.e. collective responsibility) in each region inherent to the norm.

- Use existing protocols/Acts/Resolutions referring to R2P for each region/sub-region in advocacy materials (such as in statements, reports...). For instance in Africa, could refer to the official language of the AU Charter Article 4(h) and to the ACHPR Resolution on R2P.
- On concept, messaging should include that:
  - R2P is limited to just four major crimes to avoid misunderstanding and misapplication of the norm.
  - Iterate the necessity to apply preventive and peaceful measures (i.e. judicial, economic, diplomatic and humanitarian) before resorting to the use of military force.<sup>16</sup>
  - Emphasize the importance of early warning and early response, and remind actors of the financial and human resource costs when action is taken too late.

#### *2. Develop basic education tools*

- Produce basic education tools on R2P for example through brochures, FAQs, power point presentations, and other documentation.<sup>17</sup>
- Produce education tools for each region and/or sub-region, for example one-page profiles of R2P in the region or newsletters on what the 'state of R2P' is in the region and or sub-region.
- Produce a one-page advocacy leaflet on what 'R2P is Not'.
- Translate all R2P documents (background and advocacy) into different languages (Spanish, French, Portuguese, Chinese, Arabic, others).

#### *3. Information gathering*

- Monitor (and report) on R2P references at the international, regional, sub-regional and national levels (normative and operational advances, R2P events, country-specific situations, media reports...), including on advances in implementing R2P.

<sup>16</sup> Some experts have suggested that there may be instances where force may be necessary to stop or prevent mass atrocities before all peaceful options have been exhausted, such as in preventive deployments for rapidly deteriorating crises, such as in Rwanda.

<sup>17</sup> WFM-IGP and the Global Centre for R2P already have basic documents, but these documents need to be updated, streamlined and/or more targeted for advocacy purposes.

### Strategy 2: Disseminate information about R2P

Civil society organizations have an unlimited reach when it comes to sharing information with relevant actors. Discussions on R2P need to include why R2P is an important norm, how R2P applies to sub-regional and regional instruments, and how and why it should be applied to conflicts in the region.

- *Through bilateral meetings and events:* civil Society can begin by holding conferences, roundtables, workshops and one-on-one meetings.

Actors to target include:

- Governments, by reaching out to parliamentarians and relevant ministries, departments and agencies
- civil society, by reaching out to human rights and humanitarian groups, think tanks and policy institutes
- academia and universities
  - push for the inclusion of R2P-related courses in academic institutions
  - push for visiting lectures by R2P professionals in Universities and other academic institutions
- community level by reaching out to women, youth and faith groups
- media outlets
  - push for programs on R2P on local radio and television stations
  - CSOs can draft op-eds that can be shopped around to different media outlets.
- *Through online services*  
Share information through various mediums including the internet, offering forums for discussion and listservs (such Google Groups).

### **Objective 2: Strengthen normative consensus for R2P at the international, regional, sub-regional and national levels**

**Strategy: Push for additional endorsements within governments, parliaments, regional and sub-regional organizations and the UN.**

Civil society has a great role to play in developing the impetus for policy-makers to commit to R2P principles. Engaging with a variety of actors at the national, sub-regional, regional and international level to advocate for normative endorsement will ensure that the world is taking seriously the commitment they made in 2005 at the World Summit. Pushing for normative endorsement of R2P can also facilitate civil society advocacy on specific mechanisms to prevent and halt mass atrocity crimes (such as early warning systems and civilian and military capacities), as described in the section below.

Normative consensus can occur at a variety of levels, nationally by parliaments, regionally by sub-regional and regional organizations, and internationally by the UN. To be most effective in strengthening or increasing States' support for R2P at all levels, civil society will need to start by conducting a mapping exercise of targets for advocacy at the national (ministries, parliamentarians, human rights institutions, military) and sub-regional and regional levels.<sup>18</sup>

The types of activities implied in this strategy first require:

- Identifying targets for advocacy and aligning the message with the target's mandate.
- Considering the timing of advocacy to coordinate with upcoming regional Summits (thematic or country-specific) and other initiatives:
  - Upcoming General Assembly debate in 2009
  - Other region-specific events (outlined in greater detail in the following section)
- Influencing these actors by holding one-on-one briefings, organizing delegations of NGOs to meet with officials, initiating individual and group letter-writing campaigns and producing NGO communiqués.

In addition to pushing for additional normative endorsements, some other ideas to further normative support that came out of the roundtables for R2P included:

- Lobbying parliaments, sub-regional and regional organizations to hold debates on R2P

<sup>18</sup> An international mapping exercise, currently underway by the Global Centre for R2P in New York illustrates, where countries stand based on their support, opposition or skepticism to the norm.



#### UNAMID Peacekeepers on Patrol

Location: Regel El-Kubri, Sudan, 16 March 2008

- Lobbying for the appointment of sub-regional or regional Special Advisers for R2P
- Lobbying for R2P to be included in country-specific resolutions produced by sub-regional and regional organizations.

*For specific entry points within each region, see next section on regional advocacy.*

#### **Objective 3: Encourage more effective international, regional, sub-regional and national responses to genocide and mass atrocities**

#### **Strategy 1: Strengthen capacities to prevent and halt genocide and other mass atrocities**

For an effective response to genocide and other mass atrocities, NGOs must ensure that there is the practical capacity (military and civilian) and operational readiness to prevent or halt atrocities. It is simply not sufficient for governments and international bodies to make commitments on paper without establishing concrete policies, practices and mechanisms to address the protection of civilians from mass atrocities.

At the international level, the Secretary General is preparing a report on the conceptual, institutional, and political dimensions of operationalizing R2P. Pillar two<sup>19</sup> outlines how States and the international

<sup>19</sup> Ed Luck has outlined a three-part strategy for advancing the R2P agenda: Pillar One is the responsibility of States to protect populations from genocide, war crimes, crimes against humanity and ethnic cleansing; Pillar Two is the international community's responsibility to assist states; and Pillar Three is the international community's responsibility to take timely and decisive action to prevent and halt the four crimes and violations.

community can support national, regional and sub-regional capacities to prevent and protect when R2P crimes are occurring. Civil society is awaiting the release of the report and will monitor the UN and Member States' implementation of the Secretary General's recommendations.<sup>20</sup>

At the regional level, it is important to understand that each region has a different level of commitment to the Responsibility to Protect and to the prevention of genocide and mass atrocity crimes. In some regions, such as Latin America and Asia, we are at an early stage of normative work (with no endorsements of R2P at the national or regional levels) and varying capacity on early warning and protection. In other regions, such as Africa and Europe, there are strong normative commitments and more advanced mechanisms such as ECOWAS's early-warning mechanism ECOWARN, European Battlegroups and African Regional Brigades. Therefore, while some civil society advocacy strategies will target bodies to generate commitments to R2P, others will seek a translation of the norm into functional preventive and reactive mechanisms, and others will look to ensure that regions will have the preparedness and resources to prevent and react to mass atrocities. *For more specifics on building capacities within each region, please see the following section on regional advocacy.*

Finally, at the national level, civil society will also want to encourage governments to design national plans for preventing and addressing mass atrocity crimes, such as the December 2008 U.S. Genocide Prevention Task Force blueprint for U.S. Policymakers. Ghana's May 2006 National Architecture for Peace, although broadly focused on conflict prevention and peacebuilding, may also provide an instructive framework for governments.

### **Strategy 2: Apply R2P to country-specific situations**

Application of the Responsibility to Protect to specific crises will help ensure that the norm is materializing beyond the conceptual level. As governments and

advocates are still cautious about the added-value of invoking R2P in conflict situations, civil society will need to articulate why R2P applies to a particular crisis/conflict and how invoking it will galvanize action that protects people from mass atrocity crimes, as well as provide recommendations to relevant actors.

The Global Centre for the Responsibility to Protect, launched in February 2008 at the Ralph Bunche Institute at the City University of New York, has started producing research on how R2P applies to certain country-specific situations. Their first country situation report analyzed why R2P did not apply to the Georgia-Russia conflict and the Centre is currently developing situation analyses and country-case studies on the DRC, Burundi and Sudan.

Some general suggestions for activities are listed below. Naturally, each conflict will require a tailored response, which will require analysis on potential targets and methods of success.

- Initiate sign-on letters from civil society organizations (national, regional and international) to governments that address mass human rights violations.
- Include R2P in NGO communiqués, press releases and statements relating to country-specific situations.
- Lobby (through meetings, letters, press releases, op-eds) government to put pressure on neighbors who are failing to protect their populations from R2P crimes.
- Lobby (through meetings, letters, press releases, op-eds) for R2P to be included in country-specific resolutions produced by sub-regional and regional organizations
- Lobby parliamentarians to raise R2P issues as matters of national importance on the floor of the parliament, especially during R2P situations.
- Provide early-warning information on genocide and mass atrocities to relevant actors within the UN and regional/sub-regional organizations.<sup>21</sup>

20 There are many civil society groups currently working on building and enhancing various capacities (early warning, peace operations, rapid deployment) to protect civilians from genocide, war crimes, crimes against humanity and ethnic cleansing. This report is unable to provide this level of detail at this time.

21 The Special Advisor on the Prevention of Genocide, Mr. Francis Deng, when speaking at the Buenos Aires roundtable in Argentina, pointed to the gaps in the UN system on prevention, and called NGOs to provide information to his office when there is the risk of genocide.

## Conclusion

As mentioned above, this interim report details the findings of seven regional roundtables conducted from February until August 2008. The roundtables were instrumental, not only to raise-awareness of R2P globally, but to consolidate the movement of NGOs working to prevent and halt mass atrocities, and to collaborate in identifying entry points and priorities for advancing the norm. However, although special attention was given to making sure that the roundtables had full representation from the regions represented, there remains much work to do in reaching out to civil society organizations in East Asia, South, Middle East, North Africa, and Eastern Europe.

The World Summit Outcome agreement was the combined result of civil society and governments mobilizing upon past failures to heed the calls to prevent and halt genocide, crimes against humanity, ethnic cleansing and war crimes. The priority now is to turn this commitment into reality.

The upcoming debate on R2P in the General Assembly in 2009 will be a vital opportunity for governments and civil society to work to ensure that the commitment to a Responsibility to Protect is protected and reinforced. This will be one of the first tasks for the new Global Coalition for the Responsibility to Protect, to be founded in New York on 28 January 2009 during the meetings of the Steering Committee.

In addition, the Global Coalition for R2P will reach out to governments, civil society, media and the public in every region to ensure that all these actors understand the norm and their respective roles in implementing it. Indeed, all governments, regional and sub-regional organizations and the United Nations need incorporating commitments on R2P into national, regional and sub-regional plans, resolutions, and/or legislation. They will also need to take more effective action to prevent and halt mass atrocity crimes in specific country crises.

The roundtables have shown that NGOs worldwide share in the belief that R2P has the potential to become a powerful new tool for preventing and halting genocide, war crimes, crimes against humanity and ethnic cleansing. With a concerted effort between civil society at policy-makers at the national, regional and international, these important advances in international relations will in fact prove possible.

## ANNEX

### Regional Advocacy: Entry Points and Recommendations for Action

This section reflects presentations and discussions from civil society at each of the regional roundtables. Each region is divided into two parts: 1) existing mechanisms in the region that relate to the prevention of genocide, war crimes, crimes against humanity and ethnic cleansing; 2) Suggestions for region-specific advocacy (relating to the three objectives above on information-sharing, normative entrenchment, and timely and effective response). In order to avoid duplication of recommendations for civil society, we have only included regions-specific recommendations below. These should be read in conjunction with the general recommendations from the above section entitled, “Roundtable outcomes: Objectives, strategies and activities for civil society”. It is by no means exhaustive and much work is needed to complete and enhance what is just a cursory glance at relevant mechanisms. We also encourage civil society organizations to take a closer look at their region and sub-region and to develop more concrete recommendations for action on R2P.

#### ASIA

The debates taking shape in the Asia-Pacific region on human rights are momentous. Indeed for many decades, the voices of the people living under authoritarian and military dictatorships – and even those political systems with democratic façades – were silenced and suppressed. Today, throughout the region, calls for justice, human security, peace, development, and equality are being heard. However, despite past atrocities committed in the region, such as during the genocide in Cambodia and crimes against humanity in East Timor, there still remain no provisions to respond to even the most heinous of crimes—that being genocide, ethnic cleansing and crimes against humanity. Apart from ASEAN in Southeast Asia, there is a question of whether there are any effective regional mechanisms in Asia where R2P could be invoked and implemented at this stage.

#### REGIONAL BODIES AS POSSIBLE ENTRY POINTS

##### The Association of Southeast Asian Nations (ASEAN)

The Association of Southeast Asian Nations (ASEAN), established in 1967 and consisting of Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam aims (1) to accelerate economic growth, social progress and cultural development in the region and (2) to promote regional peace and stability through abiding respect for justice and the rule of law in the relationship among countries in the region and adherence to the principles of the United Nations Charter.

##### ASEAN Charter

ASEAN adopted its landmark charter in November 2007. The drafting of the Charter initially was tasked to the Eminent Persons Group (EPG)<sup>22</sup> in December 2005, who produced a report with recommendations in December 2006. In January 2007, however, a new High-Level Task Force was selected to draft the Charter, which they produced in a short 10-month period. By October 2008, 10 member states of ASEAN had signed the Charter. However some countries, like Indonesia, signed with reservations.

While a great achievement of the Charter is the creation of an ASEAN Human Rights Body, the Charter remains without provisions for enforcing compliance with human rights standards and does not remove the strict policy of non-interference in internal affairs. Despite NGO lobbying efforts to ensure that the ASEAN Charter 1) define the responsibilities of the State to protect, promote and fulfill its obligations to respect the rights of its citizens and 2) include R2P concepts as suggested in the Eminent Persons Group Report, the final draft of the ASEAN Charter fell short of including R2P language.

<sup>22</sup> The ASEAN Eminent Persons Group, formed in 2005, is composed of highly distinguished and well respected citizens from ASEAN member countries.

### **ASEAN Human Rights Body**

Article 14 of the ASEAN Charter sets a marker for the establishment of a human rights body, however the exact provisions for how this body will function remains to be seen. The High Level Panel (HLP) on the establishment of an ASEAN human rights body has recommended the formation of an ASEAN Human Rights Body (AHRB) that will not have any monitoring and sanctioning powers. ASEAN is apparently divided, with most members adhering to traditional norms of non-interference objecting to a human rights body that has sanctioning powers. According to experts in the region, the proposed AHRB will focus more on promotion and less on protection of human rights in the region. This leaves the protection of human rights to governments, however only four of 10 ASEAN members have national human rights commissions. Civil society groups in the region are pushing for a stronger human rights protection body.

### **ASEAN Security Community**

The ASEAN Security Community is committed to shared norms and rules of good conduct in inter-state relations; effective conflict prevention and resolution mechanisms; and post-conflict peace building activities. It is also committed to principles of non-interference; consensus based decision-making; national and regional resilience; respect for the national sovereignty; the renunciation of the threat or the use of force; and the peaceful settlement of differences and disputes.

### **ASEAN Regional Forum (ARF)**

The ARF is the principal forum for security dialogue in Asia and complements the various bilateral alliances and dialogues in the region. Comprised of 27 participants, it provides a setting in which members can discuss current regional security issues and develop cooperative measures to enhance peace and security in the region. The ARF's agenda aims to evolve in three broad stages, namely the promotion of confidence building, development of preventive diplomacy and elaboration

of approaches to conflicts. However, the ARF has been criticized for being unable to deal with hard questions related to preventive diplomacy and conflict resolution. Much of this stems from the fact that ASEAN wants to control the agenda of the ARF, it being an ASEAN-initiated forum. While the ARF has not yet opened space for the promotion of the R2P at the regional level, it is possible however that intercessional groups may be established where this idea, couched in with humanitarian law and humanitarian crisis prevention terms, may be discussed. Still, most of the ASEAN members that are opposed to intervention, along with China, may not allow this to happen.

### **The South Asian Association for Regional Cooperation (SAARC)**

SAARC was established in 1985 by India, Pakistan, Bangladesh, Sri Lanka, Nepal, Maldives and Bhutan. In April 2007 Afghanistan became its eighth member. This body was raised as a potential entry point for advocacy, but further analysis is required.

### **CIVIL SOCIETY ADVOCACY IN ASIA**

Garnering support for R2P in Asia relies on a multi-level, multi-track approach to norm building and policy development. For Northeast and South Asia, there are currently no regional commitments, agendas or institutions related to the protection of populations from large scale human rights violations. In this regard, advocacy must focus on how to move individual states toward supporting R2P and to ultimately build champions of R2P within the region.

There are several civil society networks in the region are not consciously using R2P language in their work. Civil society is supportive of discussing and mainstreaming R2P into relevant networks, including Solidarity for Asian People's Advocacy, Asia-Pacific Solidarity Coalition, Asian Circle 1325, ASEAN People's Assembly, Burma Partnership, World Forum for Democratization in Asia and others.<sup>23</sup>

<sup>23</sup> While South Asian and East Asian colleagues were represented at the Bangkok 2008 roundtable, they were not represented in large numbers. Much work remains to build civil society support for R2P within these other sub regions in Asia.



February 20-21: "Asian Perspectives on R2P" Bangkok, Thailand.

Credit: Courtesy of the Asia-Pacific Centre for R2P

In addition to the general recommendations in the main section above, civil society at the Bangkok roundtable highlighted the following areas for activity:

**Objective 1: Further the understanding of R2P among civil society, policy-makers and the public**

**Strategy 1: Develop messaging and basic education tools**

- Emphasize that R2P relates to existing cultural values in Asia, such as the idea of the “duty of the King” to protect its population in exchange for loyalty to the government.

**Strategy 2: Disseminate information about R2P**

- Find champions within civil society by:
  - Engaging civil society at the ASEAN People’s Assembly (APA), currently scheduled for

February 2009. The APA, which was founded on the rationale that ASEAN should reflect the views and concerns of ordinary people, is comprised of civil society groups, think tanks and key policy-makers who seek to promote people-centered initiatives in the ASEAN agenda. In December 2007, WFM-IGP participated in a panel on R2P. The upcoming APA meeting scheduled for February 2009 will also feature a R2P panel.

- Engaging civil society at the ASEAN People’s Forum, originally scheduled for December 2008 and now postponed until February 2009. The Asia Pacific Centre for R2P is currently working with civil society groups to organize a R2P panel.

**Objective 2: Strengthen normative consensus for R2P at the international, regional, sub-regional and national levels**

Additional normative endorsements in Asia at this stage might be overly optimistic. However, there were some suggestions on how to further the support of R2P within governments and regional organizations, such as:

- Lobby for a discussion (formal or informal) of R2P at the next ASEAN Summit (Feb-March 2009).
- Establish an eminent persons group for R2P in Asia which could do advocacy and information awareness-raising.
- Include R2P recommendations in the blueprint process of the ASEAN Security Community.
- Include R2P recommendations in the terms of reference for the ASEAN Human Rights Body.
- Conduct advocacy with the ASEAN Regional Forum to introduce R2P as a tool to enhance peace and security in the region.

**Objective 3: Encourage more effective international, regional, sub-regional and national responses to genocide and mass atrocities**

- Advocacy for stronger mechanisms to ensure human rights compliance in member states.
- Governments in Southeast Asia have spoken out about a variety of “internal” affairs in recent years, such as the conflict in East Timor, violence in southern Thailand, and human rights abuses in Burma. The international community, in cooperation with ASEAN regional mechanisms, can use the R2P consensus as a platform to assist, encourage and coerce the governments in the region to halt widespread and systematic human rights abuses.

## EUROPE

Of all regional organizations, the EU has by far the greatest political strengths and capacities to help make R2P a reality, from soft power in the way of development assistance and direct diplomatic role in conflict prevention and resolution, to coercive power through sanctions and military intervention. Despite its ability to do so, the EU has been cautious about using coercive and military solutions without having exhausted non-coercive options. While the EU does have the capacity to enforce measures such as sanctions and penalties, it has been difficult to find consensus and willingness to do so. This is exemplified by the number of statements of concern that were expressed about the situation in Darfur, without substantive measures being acted upon. Although the following section outlines some of the bodies relevant to R2P, it will require complementary analysis on additional tools, i.e. diplomacy and sanctions to accurately reflect all that Europe is doing and could be doing to prevent, react, and rebuild to combat the occurrence of mass atrocity crimes.

### REGIONAL BODIES AS POSSIBLE ENTRY POINTS

#### European Union

The EU's external action, consisting of development, foreign, security and trade policies has reflected the EU's strong commitment to the protection of civilians. The following documents have made reference to R2P and thereby reinforce support for the norm and its implementation.

#### **The European Consensus on Development (December 2005)**

The EU, as the largest provider of development aid, signed the European Consensus on Development on 20 December 2005, through which was expressed the willingness to 'make a decisive contribution to the eradication of poverty and to help build a more peaceful and equitable world'. In this policy statement, EU Member States, the Council, the European Parliament and the Commission agreed to a common EU vision for development, in which they reaffirmed their support for R2P as articulated in the World Summit Outcome Document.

#### **European Security Strategy (2008)**

The European Security Strategy, 'A secure Europe in a better world' was approved by the European Council held in Brussels on 12 December 2003 and drafted under the responsibilities of the EU High Representative for the Common Foreign and Security Policy. This document identifies the key threats facing the Union and defines its strategic objectives. Most recently on 11 December 2008, a supplementary document entitled "Report on the Implementation of the European Security Strategy, Providing Security in a Changing World" was approved by the Council specifying additional threats and objectives for Europe's security agenda. This time, direct references to the Responsibility to Protect were included in the European policy statement.

#### **EU Parliamentary Resolutions reference R2P in the Darfur Crisis**

Since the 2005 world summit, the EU Parliament has passed 5 resolutions referring to the Responsibility to Protect, denouncing atrocities and asking for protection of civilians on the ground.

- a. On 6 April 2006, the EU Parliament referred to R2P for the first time in a resolution on the situation in Sudan which called for UN action to protect civilians, recalling the international community 2005 commitment to the Responsibility to Protect.
- b. On 28 September 2006, the EU parliament urged the Government of Sudan to accept a United Nations peacekeeping force in Darfur, underlining that "Sudan has failed in its 'responsibility to protect' its own people and is therefore obliged to accept a UN force in line with UN Security Council Resolution 1706.
- c. On 15 February 2007, an EU Parliament resolution referred to the "Responsibility to Protect" doctrine and called for the deployment of UN-supported peacekeeping force in Darfur even in the absence of consent from the Sudanese government in order to secure humanitarian aid corridors and protect the population.

- d. On 12 July 2007, the Parliament directly called on the UN to act in line with its “Responsibility to Protect”, demanding that Member States, the EU Council and the Commission provide effective protection to the people of Darfur. The Resolution also welcoming the AU/UN Hybrid Force and urged for an international force in Chad.
- e. On 22 May 2008, the EU Parliament referred to the Responsibility to Protect doctrine and strongly condemned Sudan’s failure to cooperate with the ICC. The Resolution called on the European Council and the UN Security Council to take steps towards adopting targeted sanctions against Sudanese officials responsible and to end impunity.

#### EU-AU strategic partnership

Since 2003, the EU has deployed missions and cooperated with regional bodies to support national governments and other regional organizations to respond to conflict more effectively. With this aim in mind, Africa-EU partnerships on a variety of issues were launched in Lisbon in December 2007, agreed to by EU and African Heads of State through the EU-Africa Joint Strategy. The Strategy stipulates coordination and assistance on various issues including human rights and peace and security. The Strategy aims at enhancing the capacity of the AU and of other regional mechanisms in the prevention, management and resolution of conflicts, as well as post-conflict reconstruction.

#### The European Court of Human Rights

The European Court of Human Rights was established to enforce the European Convention on Human Rights, and its parliamentary Assembly of the Council of Europe (PACE). Any State or individual claiming to be a victim of a violation of the Convention for the Protection of Human Rights (a precursor to the Universal Declaration) may declare a breach directly with the Court. The Court has recently shown criticism aimed at some of its newest members—including Armenia, Azerbaijan, and Georgia—for breaching human rights and democracy standards which, similarly to human rights requirements set as a pre-condition for membership of the EU, may act as a deterrent to major violations.

#### EU AND USE OF FORCE

More recently, the EU has deployed military force, such as in Macedonia in 2003, Bosnia in 2004, Eastern Congo in 2003/2006, and Chad and Central African Republic in 2008. Challenges to these missions include difficulties in obtaining human resources and logistics on the ground, as seen during the recent involvement of EUFOR in Chad. There remains much to accomplish in garnering political will to intervene, as well as developing capacity to protect civilians from atrocity crimes.

- The **European Battlegroups**, military forces consisting of multi-national contributions which reached full operational capacity on 1 January 2007. These 1,500 troops were envisioned as the smallest deployable, sustainable, and self-sufficient military group to respond to peacekeeping, humanitarian intervention, and rescue missions.
- The EU continues to develop the **‘Helsinki Headline Goal’** a military capability comprised of 60,000 soldiers available since January, 1st of 2007. The European Council made the commitment to be able by 2010 to respond with rapid and decisive action to crisis.
- **The North Atlantic Treaty Organization (NATO)** has shown capacity to intervene to halt mass atrocities in Operation Allied Force in Kosovo from March to June 1999. Other missions taking place with UN Security Council authorization include the Implementation Force (IFOR) and Stabilization Force (SFOR) in Bosnia from 1995 to 2004, the Kosovo Force (KFOR) from June 1999, and the International Security Assistance Force (ISAF) in Afghanistan since 2001. Since 2006, NATO has a fully operational force called the NATO Response Force (NRF) consisting of 25,000 troops available for rapid deployment as a collective defense, crisis management, or stabilization force.
- **The Organization for Security and Co-operation in Europe (OSCE)** is the world’s largest regional security organization and the most inclusive, and plays an essential non-military role in promoting peace and stability and advancing democracy and human rights in Europe. The OSCE offers a forum for political negotiations

and decision-making in the fields of early warning, conflict prevention, crisis management and post-conflict rehabilitation. The OSCE has a Conflict Prevention Center which maintains an early-warning situation room and implements confidence-building measures. The Office for Democratic Institutions and Human Rights (ODIHR) focuses on issues around elections, democratization, nondiscrimination, and the protection of minorities.

### **CIVIL SOCIETY REGIONAL ADVOCACY IN THE EU**

Much work remains in consolidating the civil society constituency in support of R2P. Many groups in Europe who are working in the areas of human rights, genocide prevention and other related mandates, should explore how to incorporate R2P advocacy into their work plans. This may also involve mainstreaming R2P within existing networks, such as those focused on country-specific crisis response, peacebuilding, and conflict prevention.

**In addition to the general recommendations in the main section above,** civil society highlighted the following activities to advance the EU's work on addressing mass atrocities:

#### **Objective 1: Further the understanding of R2P among civil society, policy-makers and the public**

- Organize roundtables with European NGOs in Brussels to ensure that all relevant groups with R2P-related mandates are given the opportunity to plan coordinated strategies on advancing the norm.

#### **Objective 2: Strengthen normative consensus for R2P at the international, regional, sub-regional and national levels**

- Push for an EU debate on R2P during Sweden's presidency (July-Dec 2009) and corresponding resolution expressing EU consensus on R2P. Member states could produce a document expressing support for the norm which could include the endorsement on the criteria on the use of force laid out in ICISS as well as a statement against the use of veto in the Security Council in R2P situations.

- Push for an EU response to the Secretary General's report on R2P in advance of the General Assembly debate planned for March 2009.
- Advocate for EU Member States to adopt R2P in domestic legislation.
- Push for the establishment of early-warning indicators, that EU Special Representatives and Envoys could refer to in statements and reports.

#### **Objective 3: Encourage more effective international, regional, sub-regional and national responses to genocide and mass atrocities**

- Push for the EU to develop early-warning indicators and instruct missions to use them to report to Brussels on the situation on the ground.
- Strengthen the EU's expertise on the use of sanctions, incentives, and punitive measures and the EU's capacity to apply and monitor their application.
- Push for increased information-sharing between the EU and the International Criminal Court, given the EU's Memorandum of Understanding with the ICC.
- Press the EU to refrain from including amnesty clauses in peace processes when individuals are responsible for mass atrocities.
- Ensure that the AU capacity is strengthened by monitoring the developments of the 2007 EU Action Plan of the Africa-EU Strategic Partnership, as expressed at the Lisbon declaration of the EU-Africa Summit.

## LATIN AMERICA AND CARIBBEAN

Throughout much of the 20th century, Latin American and Caribbean states witnessed broad political transitions, economic instability and fierce repression. Massive human rights violations occurred throughout the continent. The issues that evolved in light of the Dirty War in Argentina, the Pinochet dictatorship in Chile, the series of military governments in Guatemala, the Peruvian insurrection launched by the Sendero Luminoso group, and many other instances of human rights violations have placed the Latin American continent in the spotlight. However, in recent decades there has been a clear decrease of internal conflicts, leading advocates to question why R2P is relevant in Latin America.

While many initial proponents of R2P at the UN were originally from Latin America, and many governments have since supported the conceptual shift away from absolute sovereignty, others in the region still strongly consider R2P to be a military interventionist charter and yet another expression of Western or U.S. hegemony. There remain no provisions in regional mechanisms which address responses to cases of genocide, ethnic cleansing, war crimes and crimes against humanity.

## REGIONAL BODIES AND POSSIBLE ENTRY POINTS

The following bodies nonetheless have existing mandates to promote peace processes and the defense of human rights, an avenue where R2P-related work, especially preventive, can be advanced:

### The Organization of American States (OAS)

The human rights protection system of the OAS includes the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. Other relevant bodies in the OAS include the Committee on Juridical and Political Affairs which promotes human rights and international humanitarian law, the Inter-American Commission on Women which promotes women's rights, the Inter-American Institute of Human Rights which is a center for teaching, research and promotion of human rights, and the Central American Integration System which promotes peace and human rights in Central America.

### Central American Integration System (SICA)

It includes three separate organs: the Central American Court of Justice (CCJ), the Central American Parliament (PARLACEN) and the Secretariat General of the Central American Integration system. The structure of the institution includes the representation of civil society.



31 March – 1 April: “Dialogue on the Responsibility to Protect: Latin American Perspectives” Buenos Aires, Argentina”.

Credit: Marion Arnaud

### Conference of Central American Armed Forces (CFAC)

Conference of the Central American Armed Forces (CFAC) is a regional security and defense body which can warn international organizations about deteriorating situations in Central America.

### CIVIL SOCIETY ADVOCACY IN LATIN AMERICA:

There is a need to articulate a strategy to further awareness and endorsement of R2P by Latin American governments and institutions. Civil society suggested moving individual states toward supporting R2P by highlighting R2P as a mechanism to protect human rights. In the meantime, groups with R2P-related mandates will need to consolidate their efforts to target national endorsement in countries that were already supportive of the norm (i.e. those most supportive of R2P at the World Summit: Argentina, Chile, Guatemala and Mexico). Increasing civil society involvement in conflict prevention and in building a culture of dialogue, negotiation and trust with regional mechanisms also remains a priority for many groups. The following civil society platform is especially relevant to this goal:

#### **The Latin American and Caribbean Platform for Conflict Prevention and Peacebuilding**

The Latin American and Caribbean Platform for Conflict Prevention and Peace Building (LAC Platform) is a network of Latin American and Caribbean civil society organizations and wider networks working proactively towards peacebuilding through the prevention of armed and/or violent conflict. Through coordinated actions with representatives of governments, IGOs and NGOs at the sub-regional, regional and international levels, the network aims at preventing the outbreak, escalation or recurrence of armed and/or violent conflict and developing of early warning and early response mechanisms.

**In addition to the general recommendations in the previous section,** civil society highlighted the following to introduce the R2P norm to the region:

#### **Objective 1: Further the understanding of R2P among civil society, policy-makers and the public**

#### **Strategy 1: Develop messaging and educational tools**

- By using the prevention ‘perspective’ of R2P, encourage the strengthening of existing regional human rights instruments and increased respect for the rule of law.
- Stress that the absence of R2P favors situations of unilateral or interventions rather than multilateral approaches.
- Make R2P more tangible to civil society by providing concrete examples of cases where *it would have been useful* within the region with respect to advocacy.
- While R2P may not be applicable to current crises in the region, there is nonetheless a need for Latin American governments to recognize their international Responsibility to Protect.

#### **Strategy 2: Disseminate information about R2P**

- The Latin America Platform on conflict prevention offers opportunities to raise awareness of the R2P norm, to identify partners for collaboration in developing a strategy for the region.

#### **Objective 2: Strengthen normative consensus for R2P at the international, regional, sub-regional and national levels**

- Identify and engage with key governments within the region to push for national endorsements (such as Argentina and Chile).
- Examine potential for regional bodies to discuss/debate R2P.
- Examine potential for regional parliamentary endorsements.

#### **Objective 3: Encourage more effective international, regional, sub-regional and national responses to genocide and mass atrocities**

- Assess the mechanisms for early conflict prevention at the regional and OAS level and determine the channels of participation and interaction civil society has with these mechanisms.
- Push for the OAS’ fact-finding system to be quicker and more effective.
- Share information with the OAS on mass human rights violations, also denouncing and monitoring in-country situations.

## AFRICA

African regional and sub-regional institutions, more than in any other region, acknowledge the importance of protecting civilians from mass atrocities and the need to more effectively prevent and halt war crimes, ethnic cleansing, crimes against humanity and genocide. In fact, the AU is the world's only regional body that explicitly recognized that sovereignty should yield to the principle of protection in grave circumstances, several years before the 2005 World Summit.

### REGIONAL BODIES AS POSSIBLE ENTRY POINTS

#### The African Union

##### *Normative advances*

While the 2005 World Summit Outcome Document was a historic step, by 2000, African states had already enshrined principles echoing the Responsibility to Protect into law. The founding document of the AU, the Constitutive Act signed by Member States in 2000, represents the switch from the 'non-interference' approach of the Organization of African Unity (OAU) to the 'non-indifference' approach of the AU. The

AU's Constitutive Act defines the core objectives of the Union as the promotion of peace, security and stability and the promotion and protection of "human and people's rights". It also identifies the "respect for democratic principles, human rights, the rule of law and good governance", the "respect for the sanctity of human life" and "condemnation and rejection of impunity" among the central values. Most importantly, in Article 4 (h) of the Constitutive Act, AU member states embraced the "right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely war crimes, genocide and crimes against humanity."

Equally significant, in March 2005, at its 7th Extra Ordinary Summit of the Heads of States and Government of the African Union, African governments endorsed the Responsibility to Protect report known as "Ezulwini Consensus". The report recognizes the authority of the Security Council to authorize the use of force in situations of genocide, crimes against humanity, war crimes and ethnic cleansing and insists that in such cases regional organizations in areas of proximity to conflicts should be empowered to take



**Ms. Thelma Ekiyor, Executive Director of the West Africa Civil Society Institute (WACSI) and Bill Pace, Executive Director WFM-IGP, address participants of the roundtable in Ghana.**

Credit: Courtesy of WACSI and FFP

action. The AU Constitutive Act and the Ezulwini Consensus were important milestones that set the stage for support of Paragraphs 138-139 during the World Summit, and display the inherent commitment of the AU to the protection of civilians.

These embraces, as well as the creation of the African Court of Justice and Human Rights (recently formed through the merger of the African Court of Justice and the African Court on Human and Peoples' Rights) and the African Commission on Human and Peoples' Rights, displays the commitment of the AU to make the protection of human rights a defining principle. The challenge now facing the AU is how these principles, powers and mechanisms can be harnessed to both prevent and ensure accountability for international crimes in Africa, against the background of complex political and economic realities on the continent.

*Entry points:*

#### **AU'S PEACE AND SECURITY ARCHITECTURE**

The African Union, consistent with its Constitutive Act and through its 2002 Protocol on the Establishment of the Peace and Security Council, has taken concrete steps for the establishment of a comprehensive continental architecture for the maintenance of peace and security, as one of the prerequisites for development and integration on the continent. This continental peace and security architecture includes the Peace and Security Council, the Continental Early Warning System, the Panel of the Wise, a Peace Fund and the African Stand-by force. The following section outlines some of the AU bodies which can take forward the prevention, reaction and rebuilding elements of R2P:

##### **The Peace and Security Council (PSC)**

The Peace and Security Council was launched in May 2004 as a standing decision-making organ for the prevention, management and resolution of conflicts, supported by quiet diplomacy of the AU chairperson. The Peace and Security Council also includes a post-conflict reconstruction unit. The Protocol establishing the PSC does recall as one of its guiding principle "the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely war crimes, genocide and crimes against humanity, in accordance with Article 4(h) of the Constitutive Act".

##### **Continental Early Warning System (CEWS)**

The Establishment of an AU Early Warning System aims at facilitating prompt response and action to prevent the outbreak and escalation of conflict, working in cooperation with the five Regional Communities' Early Warning System as building blocks for CEWS. The System includes an observation and monitoring centre known as "The Situation Room", which is located at the Conflict Management Directorate and is responsible for data collection and analysis and uses early warning indicators;

##### **Panel of the Wise**

The African Union has inaugurated a panel of distinguished citizens on 18 December 2007 to promote efforts to prevent conflict on a continent that has seen more than its share of wars. The Commission of the African Union established the panel of five eminent persons each serving a three-year term to represent the continent's five regions on conflict prevention issues. The Panel is to influence present and future African leaders to acquire a new culture of mediation and its members will be devoted to the prevention of conflict, supposedly free of political pressure.

##### **The African Standby Force (ASF)**

The African Standby Force is an international, continental peacekeeping force including civilian and police components for deployment in times of crisis in Africa. The force will be based on five regional brigades to be established by each of the sub-regional organizations (ECOWAS, SADC, IGAD, ECCAS and UMA). Some progress has already been made both at the continental and sub-regional level to operationalize the ASF, and the international community is providing continued support where required and requested. The Force will be operational by 2010.

In addition, the following bodies of the AU offer additional entry points for R2P:

**AU Assembly:** The Assembly gives directives to the Executive Council, the PSC and the Commission on the management of conflicts, wars, emergency situations and the restoration of peace. The Assembly decides on intervention in a Member State with respect to war crimes, genocide and crimes against humanity.

**AU Commission:** The Commission is the Secretariat of the Union. Relevant departments within the Commission include the Department for Peace and Security and the Department for Political Affairs, which promotes good governance, rule of law and human rights.

**AU Peace and Security Directorate:** The Commission's Peace and Security Directorate engages in mediation and resolution of conflicts, assists in post-conflict reconstruction and prepares Standard Operation Procedures for AU deployments.

**AU Peace and Security Committee:** The Peace and Security Committee of the Economic, Social and Cultural Council (ECOSOCC) was established as a key operational mechanism of ECOSOC to formulate opinions and provide inputs into the policies and programmes of the African Union regarding conflict anticipation, prevention, management and resolution, use of child soldiers, illicit proliferation of small arms and light weapons, as well as post-conflict reconstruction and peace building, among other issues.

#### **The African Commission on Human and Peoples' Rights (ACHPR)**

The Commission is officially charged with three major functions: the protection of human and peoples' rights, the promotion of human and peoples' rights and the interpretation of the African Charter on Human and Peoples' rights. In November 2007, the African Commission on Human and Peoples Rights at its 42nd Ordinary Session in Congo Brazzaville passed a resolution on 'Strengthening the R2P in Africa'. The Commission is tasked with promoting and protecting human rights in Africa and the resolution refers to the AU's Constitutive Act, the Ezulwini Consensus, the ICISS report and the World Summit Outcome Document. This resolution complements the work that the NGO Forum on the ACHPR had been doing the previous year, resulting in the passage of an NGO resolution endorsing R2P in May 2007. This unique precedent is one more indication of the conceptual readiness to act when confronted with massive threats and human rights violations in Africa.

#### **AFRICA-WIDE CIVIL SOCIETY REGIONAL ADVOCACY**

The African Union since 2002 has shown increased willingness to recognize the principles of R2P and establish relevant bodies for the prevention and reaction to armed conflict and mass atrocities. Civil society must continue to increase the awareness of R2P among civil society groups, states and AU bodies to build on this momentum. Groups will also need to press key governments to be influential in garnering political will to ensure timely and effective response to the prevention and reaction in the face of mass atrocity in country-specific instances. The following civil society platform answers the need for civil society to become more involved in AU decision-making and can serve as a platform to increase civil society participation in policy-making discussions on civilian protection.

#### **Centre for Citizen's Participation in the African Union (CCP-AU)**

When the OAU transformed into the African Union in 2001, the AU's Strategic Plan for 2004-2007 included in one of its five Priority Programmes the need to 'actively involve African citizens at large and members of the Diaspora in the process of building continental integration.' With this aim in mind, civil society groups have been organizing consultation meetings to be included in the AU's decision-making bodies and to distribute information on AU processes and decisions. Answering the need to increase the coordination of groups around AU and Regional Economic Communities' Summits, the CCP-AU was established as an informal platform aimed at facilitating and coordinating African NGOs for a more effective engagement with the AU, through continental conference and training of NGOs.

Although the roundtables were specific to East Africa, South Africa and West Africa, we generated the following Africa-wide recommendations. These should be read in conjunction with the **general recommendations in the above section:**

#### **Objective 1: Further the understanding of R2P among civil society, policy-makers and the public**

##### **Strategy 1: Develop messaging and basic education tools<sup>24</sup>**

- Use existing protocols/Acts/Resolutions referring to R2P for each region/sub-region in advocacy

materials (such as in statements, reports...). Refer to the official language of Article 4(h) of the AU Constitutive Act.

- Consider the recent Resolution on R2P by the ACHPR in November 2007 as a significant achievement. This important precedent can be used by groups in their messaging, as a reminder of the deep commitment of states to R2P (ACHPR resolutions are agreed to by heads of state at the AU).
- Emphasize that R2P relates to existing cultural values in Africa, such as collective responsibility over the community.
- Refer to Article 20 of the 2004 AU Peace and Security Protocol, which encourages civil society involvement in the work of the AU.

#### **Strategy 2: Disseminate information about R2P**

- Co-organize an Africa-wide civil society R2P meeting.
- Engage with the new Centre for Citizens' Participation in the AU (CCP-AU) to increase awareness of R2P within civil society and strategize on advancing the norm within the AU.
- Continue to hold workshops, conferences, roundtables, and events to raise awareness of the norm.
- Identify and target key actors within the AU and governments (region-wide) to educate about R2P and engage in discussion/debate on R2P.

#### **Objective 2: Strengthen normative consensus for R2P at the international, regional, sub-regional and national levels**

- Mobilize for the AU and/or the ACHPR to create a Special Advisor/AU Envoy position on R2P.

#### **Objective 3: Encourage more effective international, regional, sub-regional and national responses to genocide and mass atrocities**

- Explore with civil society how the AU can ensure more effective operational capacity of mechanisms in the AU's peace and security architecture (such as Early Warning System, Panel of the Wise, Africa Standby Force) to protect in cases of genocide, war crimes, crimes against humanity and ethnic cleansing.
- "The Situation Room", part of the AU's Continental Early Warning System in Addis is an observation and monitoring center with email and telephone hotlines, where civil society can report conflict or violations, and call for action.

#### **EAST AFRICA**

The International Conference of the Great Lakes Region (ICGLR), the Common Market for East and Southern Africa (COMESA), the East African Community (EAC) (set to merge with COMESA pursuant to a decision reached at a Kampala summit of regional economic communities held in October 2008), and the Inter-Governmental Agency for Development (IGAD) were identified as possible mechanisms for NGOs to conduct advocacy to further the inclusion of R2P language and activities in East Africa. While these institutions do not explicitly endorse R2P, they nonetheless have mechanisms and operational capacity pertinent to civilian protection.

#### **REGIONAL BODIES AS POSSIBLE ENTRY POINTS**

##### **The Common Market for East and Southern Africa (COMESA)**

Among the regional organizations discussed here, COMESA is perhaps the most economic focused. However, Article 163(1) of the Treaty establishing the COMESA specifically mentions that the Member States agree to foster and maintain an atmosphere that is conducive to peace and security through co-operation and consultations on issues pertaining to peace and security of the Member States with a view to preventing, better managing and resolving

<sup>24</sup> *Partnership to Protect: CSOs and the AU; An advocacy toolkit for civilian protection*, published in May 2008 by African Center for Humanitarian Action, is designed for African CSOs who want to learn more about civilian protection and how to advocate for it. It is available at: <http://www.africanhumanitarianaction.org/uploads/An-advocacy-toolkit-for-civilian-protection.pdf>

inter-State or intra-State conflicts. COMESA has also established in 1994 a Court of Justice with human rights jurisdiction.

#### **COMESA Inter-Parliamentarian Forum**

In 2002, COMESA's Peace and Security Programme produced a list of responsibilities for regional Parliaments in the promotion of a culture of peace and security. This led to the establishment in 2006 of the COMESA Inter-Parliamentarian Forum dedicated to matters of peace and security. In addition to providing of forum of interaction for government and parliamentarians on relevant issues, the Forum provides oversight to ensure implementation of international instruments and peace agreements and serves as a regional early warning mechanism.

#### **The Inter-Governmental Agency for Development (IGAD)**

IGAD is developing a peace and security strategy which includes mechanisms relevant to the R2P framework, especially with regard to the following initiatives: First, the Conflict Early Warning Response Mechanism (CEWARN) is relevant to the prevention aspect of R2P, as it is designed to anticipate and respond to violent conflicts including genocide, war crimes, ethnic cleansing and crimes against humanity in a timely and effective manner. Second, in terms of conflict management and resolution within the region, IGAD undertakes numerous mediation roles, such as in relation to the Sudanese Comprehensive Peace Agreements and the Somali conflict. IGAD also aims at monitoring and supporting post-conflict transitions.

#### **The International Conference of the Great Lakes (ICGLR)**

The International Conference of the Great Lakes Region (ICGLR), through its Pact on Security, Stability and Development in the Great Lakes Region, deals with aspects of R2P's three stages of responsibilities (prevent, react, rebuild) in at least five of its ten

Protocols, including its Protocol on Non-Aggression and Mutual Defence, which explicitly acknowledges Member States' responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, and in its Protocol on the Prevention and Punishment of the Crime of Genocide, War Crimes and Crimes Against Humanity<sup>25</sup>.

#### **The East African Community (EAC)**

The EAC, in its Treaty, upholds the "recognition, promotion and protection of human and peoples rights in accordance with the provisions of the African Charter on Human and Peoples' Rights". The EAC has presented in April 2008 its second draft Protocol on Peace and Security, in which the Partner States re-affirm their faith in the purposes and principles of, among others, the Constitutive Act of the African Union. Also, in Article 5, the Protocol specifically mentions that Partner States shall establish an EAC Early Warning System in order to facilitate the anticipation and early responses to prevent, contain and manage conflict and crisis situations. Moreover, the 2006-2010 Development Strategy provided the development of strategies and programs aimed at the promotion and protection of human rights in East Africa.

#### **Great Lakes Parliamentary Forum on Peace**

The Great Lakes Parliamentary Forum on Peace or AMANI Forum is a regional network of parliamentarians with national chapters in the seven parliaments of Burundi, DRC, Kenya, Rwanda, Tanzania, Uganda and Zambia. The AMANI Forum is an effective network with the legislative power to take R2P forward in national parliaments. The AMANI Forum had an important role in responding to the crisis in Kenya, including a fact-finding mission in Kenya and the production of a report launched by the speaker of the Kenyan National Assembly, which offered recommendations taken on board by the mediation team led by Kofi Annan.<sup>26</sup>

25 A useful resource for civil society initiatives can be found in *The Great Lakes Pact and the rights of displaced people: A guide for civil society*, written by the Internal Displacement Monitoring Centre, the International Refugee Rights Initiative, and the Norwegian Refugee Council. It was published in English and French, in September 2008.

26 In contrast to the crises in Rwanda in 1994 and Darfur in 2003, the international community moved much faster in reacting to prevent further ethnic violence from occurring. Indeed, the active involvement of a high-level mediation team, the willingness of the US and the EU to sanction those resisting a peaceful solution and the expressions of concern and commitment by the UN Secretary-General and the Security Council showed political will and early response. This type of preventive reaction short of military intervention is precisely the type of reaction prescribed by the R2P framework.

## CIVIL SOCIETY ADVOCACY IN EAST AFRICA

In addition to the general recommendations above, civil society highlighted the following:

### **Objective 1: Further the understanding of R2P among civil society, policy-makers and the public**

- Pressure IGAD, the ICGLR and the EAC to hold debates at their Summits on the protection of populations from mass atrocities.
- Organize NGO forums in advance of COMESA, SADC and EAC meetings/summits to introduce R2P to civil society and representative of regional bodies.<sup>27</sup>

### **Objective 2: Strengthen normative consensus for R2P at the international, regional, sub-regional and national levels**

- Lobby governments (through letter-writing campaigns, meetings) to endorse the R2P doctrine at the national level.
- Organize NGO forums in advance of COMESA, SADC and EAC meetings/summits to push for endorsement of R2P through statements, resolutions, and press releases. Forums, meeting and conferences around country-specific crises can offer the opportunity to present R2P as the appropriate framework for the protection of civilians from mass atrocities.
- Advocate for parliamentary endorsements of R2P through the AMANI Forum, and the COMESA Inter-Parliamentarian Forum.

### **Objective 3: Encourage more effective international, regional, sub-regional and national responses to genocide and mass atrocities**

- Increase NGO collaboration with the AU, IGAD and COMESA's conflict early warning and response mechanisms to allow civil society to have a greater role in information sharing and alerting of crimes on the ground. Note: The system established by the Economic Community of West African States (ECOWAS) can serve as a

model for efficient partnerships between regional/sub-regional mechanisms and NGOs.

- Follow-up with EAC officials on the implementation of 2006-2010 Development Strategy recommendations.
- Monitor the implementation of ICGLR's Pact on Security, Stability and Development in the Great Lakes Region, which entered into force in June 2008, in particular its Protocols on the Prevention and Punishment of the Crime of Genocide, War Crimes and Crimes Against Humanity and on Non-Aggression and Mutual Defence in the Great Lakes Region.

## SOUTHERN AFRICA

While the Southern African region does not have many specific entry points besides SADC, South Africa is an influential power in the region. In 2005, South Africa was one of the influential countries who made possible the international commitment to a Responsibility to Protect. Despite concerns about the norm's potential for misuse, South Africa took the lead in organizing and chairing an informal meeting on R2P on 1 December 2008 in the Security Council's Working Group on Conflict Resolution and Prevention in Africa. This initiative displayed South Africa's renewed commitment to ensuring that R2P is not misapplied and the desire to build consensus on the norm.

### REGIONAL BODIES AS POSSIBLE ENTRY POINTS

#### **The Southern African Development Community (SADC)**

The SADC Treaty contains several provisions relevant to R2P: Article 5 provides that the promotion and defense of peace and security is a core objective of the Community; Article 4 requires that Member States act in accordance with the principles of human rights, democracy and the rule of law; and, with particular resonance for R2P, Article 21 urges the Community to cooperate beyond their collective borders in the areas of politics, diplomacy, international relations and peace and security. SADC has a Protocol on Politics, Defense and Security Cooperation, which allows the Community's

<sup>27</sup> In October 2008, IRR1 organized an NGO forum on R2P. See link for more information: [www.refugee-rights.org/Publications/2008/PR.Tripartite%20Summit%20Comm.102108.pdf](http://www.refugee-rights.org/Publications/2008/PR.Tripartite%20Summit%20Comm.102108.pdf).

Organ on Politics, Defense and Security to intervene in situations of intra/inter state conflicts. SADC also has early-warning capacity through its Regional Early Warning System (REWS) and intervention capacity through the SADC Standby Brigade, although a lack of resources and political will has been preventing these mechanisms from proper implementation. SADC's legal architecture also includes a Tribunal, with jurisdiction over controversies involving the interpretation or application of the SADC Treaty, Protocols and other Community instruments and actions of Community institutions. It applies Community law as reflected in the Treaty, Protocols and other community instruments but also has a mandate to develop its own jurisprudence by drawing on general principles of international law and the laws of Member States.

Regionally, South Africa has had an important role in mediating the crisis in Zimbabwe through SADC. In evaluating the role of SADC in mediating the crisis however, civil society groups mentioned the mediation process as lacking transparency, neutrality, openness and consultation, and doubted the efficacy of former-President Mbeki, as a SADC mediator, at resolving the process and preventing further violence. Nonetheless, SADC has the capacity to serve as an influential body with access to preventive and reactive mechanisms to protect civilians.

#### **CIVIL SOCIETY ADVOCACY IN SOUTHERN AFRICA**

In addition to the general recommendations in the previous section, civil society highlighted the following:

##### **Objective 1: Further the understanding of R2P among civil society, policy-makers and the public**

- Take advantage of the influence of South Africa, which can become a champion of R2P at the regional level to take R2P forward. While the UN representatives are well-aware of the norm, officials in ministries, parliamentarians and human rights institutions may not be.

##### **Objective 2: Strengthen normative consensus for R2P at the international, regional, sub-regional and national levels**

- Civil society must find entry points in the South African government to push for official

references to the R2P and the crimes that R2P addresses when engaged in mediation of conflicts, i.e. Zimbabwe.

##### **Objective 3: Encourage more effective international, regional, sub-regional and national responses to genocide and mass atrocities**

- Emphasize the need for greater response mechanisms in crises like Zimbabwe, where the mediation of SADC did not halt the persecution of civilians. Indeed, while SADC and the AU have embraced the commitment to intervene in circumstances such as genocide and crimes against humanity, it is imperative that civil society groups push for influential countries like South Africa to develop the political will to act on their commitments.
- Push for South Africa to prioritize the need to strengthen SADC's Regional Early-Warning System and its Peacekeeping Brigade.

#### **WEST AFRICA**

West Africa has the most advanced regional approach to issues of peace and security, which recognize the regional and sub-regional responsibility to protect civilians from mass atrocities, through prevention, reaction and rebuilding.

#### **REGIONAL BODIES AS POSSIBLE ENTRY POINTS**

##### **The Economic Community of West African States (ECOWAS)**

ECOWAS has structures, protocols and instruments to address issues of peace and security in the region, including the ECOWAS Commission, the Community Parliament and Court of Justice.

**The ECOWAS Commission** consists of a number of Commissions focused on issues of peace and security and the protection of civilians. For instance, the Commission for Political Affairs, Peace and Security consists of the Early Warning and Observation Centre, and the unit on Peacekeeping and Security.



**Voke Ighorodje of the Center for Democracy and Development (CDD), Nigeria**

Credit: Courtesy of WACSI and Foundation for Female Photojournalists (FFP)

### **ECOWAS Conflict Prevention Framework (ECPF)**

In January 2008, ECOWAS Heads of States and Governments adopted the ECOWAS Conflict Prevention Framework (ECPF). This progressive framework seeks to:

- Mainstream conflict prevention into ECOWAS's policies and programmes;
- Strengthen capacity within ECOWAS to pursue concrete and integrated conflict prevention and peacebuilding initiatives through ECOWAS institutions including the Council of the Wise and Special Mediators;
- Strengthen awareness, capacity and anticipation within member states and civil society as principal constituencies and actors in conflict prevention and peacebuilding.

The ECPF clearly mentions that ECOWAS has been imbued with necessary “supranational” powers to act on behalf of and in conjunction with member

states, the AU and the UN to protect human security in three distinct ways, namely:

- *The Responsibility to Prevent*: Which involves actions taken to address the direct and root causes of intra and inter state conflicts that put populations at risk;
- *The Responsibility to React*: Which are actions taken in response to grave and compelling humanitarian disasters;
- *The Responsibility to Rebuild*: Which are actions taken to ensure recovery, reconstruction, rehabilitation and reconstruction in the aftermath of violent conflicts, humanitarian and natural disasters.

### **Conflict Early Warning and Response Mechanism (ECOWARN)**

One of the key areas covered within the ECPF is Conflict Early Warning and Response, which will be implemented through the ECOWAS Conflict Early Warning and Response mechanism (ECOWARN).

A distinctive relationship exists between civil society groups and ECOWAS, most specifically in coordinating responses to emerging situations between ECOWAS and civil society. The West African Network for Peacebuilding (WANEP), for instance, had an important role as an implementing partner of ECOWARN.

#### **Economic Community of West African States Monitoring Group (ECOMOG)**

ECOMOG has been established as West Africa's sub-regional 'intervention force'. The ECOMOG Cease Fire Monitoring Group's intervention in Liberia in 1990 was the first time a sub-regional organization used its own troops, resources and logistics without the express permission of the UN.

#### **CIVIL SOCIETY REGIONAL ADVOCACY IN WEST AFRICA**

In addition to the general recommendations in the previous section, civil society highlighted the following:

##### **Objective 1: Further the understanding of R2P among civil society, policy-makers and the public**

- Create a functional R2P secretariat to coordinate and harmonize the activities of members of the network in order to operationalize the R2P doctrine in West Africa.
- Take advantage of the urge by ECOWAS for a relationship with civil society, notably through the Conflict Prevention Framework (ECPF) and the Directorate of Gender, Youth and Civil Society.

##### **Objective 2: Strengthen normative consensus for R2P at the international, regional, sub-regional and national levels**

- Embark on targeted lobbying and advocacy campaigns with appropriate national parliaments and the ECOWAS parliament to galvanize political will to secure support for the norm and its implementation.

##### **Objective 3: Encourage more effective international, regional, sub-regional and national responses to genocide and mass atrocities**

- Push governments to provide resources toward making regional mechanisms operational.
- Engage with the ECPF in ensuring the implementation and monitoring of ECPF framework.
- Conduct advocacy for governments to design national plans for mechanisms to preventing and addressing emerging conflicts within the state, such as Ghana's Architecture for Peace.

To subscribe to our R2P listserv, send a blank email to:  
**R2P-CS-info-subscribe@yahoogroups.com**



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