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Oxfam International conference
The African Union and the Responsibility to Protect:
From Non-interference to Non-indifference

The Critical Role of CSOs in the Evolution of R2P

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Excellencies, Distinguished guests,

I wish to thank the sponsoring organisations for inviting me to attend this high-level symposium on the Responsibility to Protect and to chair this panel on the role of civil society in promoting the norm.

My name is William Pace and I am the executive director of the World Federalist Movement-Institute for Global Policy (WFM-IGP) based in the Hague and New York, with several small regional offices in Africa, Asia, Latin America and the Caribbean, in Yemen for the Middle East and North Africa, and in Brussels for Europe.. Some of you may know my organization has had the great honor to serve as secretariat for the Coalition for the International Criminal Court, another major global human security campaign. I am honored to speak today on behalf of another campaign of ours called the Responsibility to Protect-Engaging Civil Society (**R2PCS**).

It is a pleasure to be here in the 'capital of Africa,' the host city of the African Union. At earlier meetings this week with NGOs, governments, and the Deputy Prosecutor of the ICC, Fatou Bensuda from The Gambia, I described how crucial the support of Africa was in the adoption of the Rome Statute and the establishment of the ICC. Almost all of the first situations that the ICC has been asked to assist in are in Africa. In fact, four African nations have referred crimes in their territories to the ICC, and the UN Security Council has referred the situation of Darfur to the ICC. Thus, it is no exaggeration to state that initial success or failure of the Rome Statute and the ICC, which are among the greatest advances in international law in history, will be determined by Africa. The ICC cannot succeed without the strong cooperation and support of African States and the African Union.

I believe the same can be said about the Responsibility to Protect. Inspired by the disastrous failures of the international community to prevent genocides and other crimes

against humanity in the 1990s, the unanimous adoption of R2P by the heads of government in 2005 was considered by many, including the Secretary-General, to be the most important achievement of the UN summit.

Since the Summit, opponents of the new norm have tried to misrepresent R2P, claiming it was promoted by Western governments seeking a new means for military intervention and occupation. As an NGO that was deeply engaged in the Summit negotiations, let me state categorically this is a false and revisionist description. The main proponents of the R2P norm were from Africa and Latin America. Without the crucial efforts of key African and Latin American governments, and Secretary-General Kofi Annan, there would have been no agreement on R2P at the Summit.

Let me also state that when the UK prime minister tried to describe the invasion of Iraq in R2P terms in 2003, he was firmly, universally, and effectively repudiated – and his government never mentioned this argument again. Indeed, one of the little understood strengths of R2P is how the application of the norm and the principles could serve as a powerful deterrence to aggression, unilateralism and preemptive military actions.

The development and the later adoption of the R2P norm at the 2005 summit were examples of the ‘new diplomacy’ in which like-minded governments from the South and the North, supported by global civil society, and a handful of other world and international organisation leaders helped achieve a major advance in the struggle for peace and the conviction that ‘never again’ should governments or the international community allow massive crimes against humanity to occur.

I am here today to encourage the governments and the African Union to help in taking the next steps beyond the summit in promoting support for and implementation of the Responsibility to Protect norm. I offer to you the support of many civil society organizations from Africa and around the world.

The responsibility to protect, as defined in the ICISS report, includes the responsibility to prevent, the responsibility to react and the responsibility to rebuild. During the World Summit negotiations, world leaders did not include the responsibility to rebuild in Paragraphs 138 and 139 of the Outcome Document. The role of the UN in peacebuilding, which was not framed as a “responsibility,” was articulated in the creation of the Peacebuilding Commission (PBC). Some have argued that the creation of the PBC satisfies the UN’s “responsibility to rebuild”, but this is not the case as the work of the Peacebuilding Commission is more broad than initially outlined by ICISS. The responsibility of the international community to rebuild after an intervention authorized for mass atrocities still needs to be addressed by the United Nations. The African Union could set an important precedent by passing a resolution endorsing the Responsibility to Protect that supports not only the responsibility to prevent and react, but also to rebuild.

In my written presentation, which I can only summarise in my comments, I describe the involvement of civil society organizations in the evolution of R2P, our view of some of the key challenges that must be overcome, some of the efforts on behalf of R2P by civil society in Africa, and at the African Commission on Human and Peoples Rights, the need to defend the integrity of the new norm, and the most important challenge of implementation. Let me finish my opening remarks as I began them. Without the combined support of governments, international organizations and civil society the promise of the Responsibility to Protect cannot be realized; and the most critical support will be the support of African civil society, African states, and the African Union.

Following is the written presentation to describe the role of civil society in the evolution of the responsibility to protect, and to highlight some of the challenges that we face with our advocacy today.

For the past 4 years, WFM-IGP has been working to bring attention to the concept of responsibility to protect or R2P. As you know, when the International Commission on Intervention and State Sovereignty (ICISS) released its report *Responsibility to Protect* in 2001, R2P was greeted with great skepticism by those who feared it was a tool of powerful countries to further erode the sovereignty of smaller developing countries. In the months following the report's release, the discussion focused mainly on the issue of whether R2P would justify the use of unilateral force. However, ongoing humanitarian disasters, including the failure to protect the people of Darfur, signaled that more needed to be done by the international community as a whole to respond to genocide and other massive threats against populations.

Civil society organizations, particularly those dedicated to human rights and the protection of civilians also began considering the responsibility to protect principles. After the release of the ICISS report, my organization 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 (NGOs) for the expansion of the notion of sovereignty to include protection 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 the responsibility to protect was limited in the initial period after the release of the ICISS report, the crisis that began in early 2003 in the Darfur region of Sudan again highlighted the need to improve the international community's response to emerging humanitarian crises. By the spring of 2004 the fact that crimes against humanity, if not genocide, had been taking place for well over a year without the international community's comprehensive effort to bring them to an end prompted calls for strengthened norms of the responsibility to protect and the capacity to do so. Many

civil society organizations turned to the responsibility to protect framework as a basis to call for further international action on Darfur.

The growing support for the responsibility to protect led to its consideration within the context of the Secretary-General's agenda for reforming the UN to better advance development, security, and the protection of human rights. As you know, in September 2005, world leaders made a historic commitment to transcend the existing concept of sovereignty by agreeing that states and the international community have a responsibility to protect populations from genocide, war crimes, crimes against humanity and ethnic cleansing. This outcome is a vital new tool for civil society to hold governments and the international community accountable when they are manifestly failing to respond to grave threats against humanity.

While there is a growing understanding of the significance of the international community's acceptance of sovereignty as responsibility and an international community's responsibility to take action, there is still need for an effective system of protection to be put in place by the international community. Since the World Summit Outcome, civil society has been working to overcome several important challenges so as to move R2P from principle to practice.

First, we have been working to consolidate the World Summit consensus. The World Summit declaration on R2P is viewed by many as an important shift in the conception of state sovereignty and for this reason, many governments have resisted a re-conception of sovereignty and, notwithstanding the Summit Outcome Document, claim that R2P is not an accepted doctrine. Some countries have expressed "buyer's remorse" regarding their approval of the R2P doctrine and are seeking to roll back the consensus. Moreover, it is true that few officials in government or civil society, much less the general public, know that governments have accepted a responsibility to protect. Greater acceptance of the norm of sovereignty as responsibility can only come with substantial efforts to raise awareness of the issue and subsequently by pushing governments to reconcile existing doctrines on non-interference.

In an effort to raise awareness of R2P in Africa, WFM-IGP has been working to convene informational workshops with civil society organizations. In the fall of 2006, we partnered with FEMNET-Mali and the West African Civil Society Forum (WACSO) in Nigeria, to organize two one-day workshops on the Responsibility to Protect in Bamako, Mali and Abuja, Nigeria. There were over 50 participants at each event, including representatives of NGOs and NGO networks, government officials, UN officials, and local journalists. In both countries, the meetings resulted in the creation of national networks to promote better understanding of R2P in the region and mobilize for action in response to existing and emerging crises. At the World Social Forum in Nairobi in 2007, we also participated in three panels exclusively dedicated to the issue of responsibility to protect. By raising awareness of civil society for the norm, national NGOs enhance their capacity to demand action and hold their governments accountable.

A second challenge for civil society is protecting the integrity of the norm. There has been a danger of R2P being defined too narrowly, as only being about non- consensual military intervention. Some have chosen to define it too broadly, encompassing all human security related problems, such as poverty, climate change and HIV/AIDS. The challenge for civil society has been to focus the concept on the crimes of genocide, war crimes, crimes against humanity and ethnic cleansing and also making sure the toolbox for action includes not just force but non-military measures as well.

Another important focus of our work has been on strengthening the acceptance of the responsibility to protect norm at the international, regional and national levels. At the national level, we have been working our NGO partners to ensure understanding and support for R2P, by seeking affirmations of R2P within national security and human rights policies, and parliamentary resolutions. At the regional level, NGO partners should engage with regional forums, initially to raise awareness of R2P and, where feasible, seek endorsements of R2P.

As a result of our West African workshops, a partner organization in Nigeria worked with us to introduce a resolution on R2P at the NGO Banjul Forum for the African Commission for Human and People's Rights (ACHPR) in December 2006 and most recently in May 2007. A resolution supporting the responsibility to protect was passed without objection by both NGO Forums. It was also introduced at the African Commission but has not yet received support. We will need to continue to support our partners in their efforts to pressure the Commission to adopt a resolution in 2007

At an international level, it is important to gain support within the UN to ensure that R2P continues to be invoked and affirmed in relevant resolutions and policies. It is likely that R2P will be discussed further by the General Assembly and the Security Council and it is imperative that any such consideration does not retreat from or water down what was agreed to by the Summit.

Finally, civil society has been working to put the mechanisms and guidelines in place so that the *concept is operationalized* at the UN, regionally and nationally. While much has been written about the potential of the Summit outcome on R2P, governments are not yet committed to frameworks and guidelines to implement these principles at the UN or in their own policies and practices. With the encouragement and guidance from civil society and supportive governments, the Security Council and other UN bodies must begin discussing outstanding institutional issues that need to be addressed so that the UN is prepared to exercise its responsibility to protect. [See below for more on national, regional and international implementation]

Today, we are here to better understand how Africa is working to improve its response to deadly crises. Despite all the challenges that may lie ahead, we believe that with the commitment of a group of like-minded governments from all regions working in cooperation with international, national and local civil society organizations from around the world, we can move R2P from principle to practice.

IMPLEMENTATION

At the national level, NGOs should interact with their governments to call for implementation of R2P through:

- assessments of whether capacities are lacking or need strengthening within the government to build capacity to prevent mass atrocities;
- national security strategies that incorporate protection of populations from atrocity crimes
- coordination among governmental departments on this agenda, in particular, ministries and agencies for foreign affairs, defense and development.

National advocacy efforts should also include correspondence and meetings with officials in the ministries of foreign affairs, defense and/or development, with parliamentarians and the media.

In the region of Africa, NGOs need to assess the capacities available to regional institutions to fulfill R2P. This will require stronger mechanisms for early warning and response; enhanced capacity for preventive action; targeted sanctions measures; and a range of civilian capabilities.

At the international level, civil society should continue to engage the Security Council in developing guidelines for when threats to civilian populations rise to the level requiring Security Council attention. They should also consider formulating guidelines for the use of force such as suggested by the *IC/ISS* report and the Secretary General in the *In Larger Freedom* report. With regard to the issue developing a common understanding of the appropriate measures to be considered for the international community to fulfill the responsibility to protect in specific crises, it will be important to develop a more common understanding of what are the possible measures short of the use of force that should be considered as R2P measures.

Paragraphs 138-139 of the World Summit Outcome Document

138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.

139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter of the United Nations, to help

protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.