

## UN Reform, the freedom to live in dignity, and the *Responsibility to Protect*

### 2005: The Year of Reform

Throughout the year 2005, civil society has real opportunities to influence the way governments and the United Nations address security threats of all types. This September, heads of state and government will assemble in New York for a high-level meeting where they will be asked to commit to strengthening international institutions, especially the United Nations, so that global security challenges are indeed met with global responses. Security in this context means security for *all* people, including protection from genocide, freedom from poverty, and safety from environmental degradation and disease.

Within this reform process are many recommendations that if adopted could significantly address one of the worst shortcomings within the global security system, the failure to prevent and respond to genocide, large scale violations of human rights and other atrocities. Negotiations are going on now in capitals and at the UN. Civil society organizations must engage in this process to ensure that their governments commit to an improved international system that will better protect the entire international community and especially the world's most vulnerable populations.

### The Reform Process

2005 marks five years since the governments of the world agreed on the Millennium Declaration, an ambitious 21<sup>st</sup> century agenda for global cooperation on security, development, the environment and other pressing global issues. The September Summit is intended to review progress on the Millennium Declaration and on implementation of and follow-up to the outcomes of the major United Nations conferences and summits in the economic and social fields.

In preparation for the Summit, the Secretary-General was asked to report on the implementation of the Millennium Declaration. In making his recommendations, the Secretary-General drew on his own experiences as well as the findings of two recent reviews of global challenges. One is the report of the UN Millennium Project which is directed at achieving major poverty reduction, global health, gender equality and environmental goals. The other is the report of the High Level Panel on Threats, Challenges and Change. This report, *A More Secure World: Our Shared Responsibility*, was drafted by a panel of experts who were asked by the Secretary-General to assess the most urgent global security threats and issue recommendations on needed changes. More analysis of this report is at our website at: [www.wfm.org/protect/unreform/](http://www.wfm.org/protect/unreform/).

Members of the High Level Panel concluded that addressing global security threats requires an approach that does not discriminate between "hard threats" (issues such as terrorism and weapons of mass destruction which are often considered the greatest threats by western governments) and "soft threats" (security concerns arising from social and economic causes such as poverty and disease). Rather, the premise of the report is that collective security will require addressing the security concerns of *all* states, meaning fighting poverty and AIDS, preventing and resolving wars between and within states, countering terrorism, and addressing environmental degradation and organized crime.

This report, while controversial, was generally welcomed at the United Nations and by many governments as a step forward in defining the most urgent global security threats and offering guidance toward solutions. The Secretary-General endorsed the broad security perspective of the High Level Panel and supported many of its recommendations. After consultations with governments and UN officials and with input from many civil society organizations, the Secretary-General published his report *In larger freedom: towards development, security and human rights for all* (March 2005). The Secretary-General's report advances recommendations for what issues heads of state and government should take up at the Summit and in the years to come.

## **What is on the proposed agenda?**

The Secretary-General posed a far-reaching challenge to governments: "We must aim... 'to perfect the triangle of development, freedom and peace'" (*In larger freedom*, para. 12). Reform proposals are divided into the following broad categories:

- **FREEDOM FROM WANT** Poverty reduction and promotion of global prosperity are the primary goals within this category, with an emphasis on the achievement of the Millennium Development Goals which were agreed to as part of the Millennium Declaration during the summit of world leaders in 2000.
- **FREEDOM FROM FEAR** This set of recommendations is geared at creating an "equitable, efficient and effective collective security system" with "comprehensive strategies" for confronting a broad range of security threats (*In larger freedom*, para. 6(a)). Recommendations relate to terrorism, organized crime, weapons of mass destruction, small arms and light weapons and criteria for the use of force by the Security Council.
- **FREEDOM TO LIVE IN DIGNITY** These recommendations are rooted in principles of rule of law, human rights and democracy, which are at the heart of the UN Charter and the Universal Declaration of Human Rights. Governments will be asked to recommit themselves to these principles, including by affirming the emerging norm of the "responsibility to protect".
- **STRENGTHENING THE UNITED NATIONS** These proposals are aimed at strengthening the UN's capacity to meet the needs and circumstances of the 21<sup>st</sup> Century. The Secretary-General acknowledges that "it must be open not only to States but also to civil society" (*In larger freedom*, para. 153). Recommendations include streamlining the work of the General Assembly, expanding the Security Council so that it is more representative of the world's demographics and the UN plus 60 geopolitical realities. The report also calls for the establishment of a Human Rights Council as a new principal organ within the UN system.

## **Reforms Relating to Prevention of Conflicts and Protection of Civilians**

Many proposals within this agenda are aimed at changing the way the international community responds to massive crimes against the world's populations with the goal of preventing a future Rwanda or Darfur. There are vocal opponents to these initiatives, particularly within the Non-Aligned Movement and the G-77, who believe that they codify a system of coercion and intervention.

*The Responsibility to Protect-Engaging Civil Society* project (R2P-CS) believes, to the contrary, that the proposed reforms set forth below - including endorsing the "responsibility to protect," installing a stronger human rights mechanism, creating a Peacebuilding Commission designed to prevent countries emerging from conflict from sliding back into violence, establishing standby reserves of peacekeepers and civilian police - have great potential as a system of protection rather than intervention. If this package of changes is agreed upon and implemented by governments, there will be far greater likelihood that states can and will act collectively *before* thousands of lives are lost. An effective preventive system could, in most cases, eliminate the need to consider whether a "right to intervene" exists. Moreover, the suggested criteria to determine when the Security Council should react would restrict the possibility of unilateral or unauthorized

preemptive wars being conducted under the guise of humanitarian intervention. We urge civil society to support this package of reforms.

### ***The responsibility to protect***

The Secretary General recommends that governments embrace the **responsibility to protect**, an emerging norm proposed by the High Level Panel and the International Commission on Intervention and State Sovereignty (ICISS),<sup>1</sup> as a basis for collective action to rescue populations in grave danger when their governments are unable or unwilling to act.

The UN Charter affirms a principle of non-interference in the domestic affairs of a sovereign state but also states as one of its purposes “achieving international cooperation...in promoting and encouraging respect for human rights”. The responsibility to protect is a policy/normative statement intended to reconcile what duties the international community has in the face of grave human rights abuses within a sovereign state. According to these principles, state sovereignty must be upheld, but sovereignty should be defined as including the state’s responsibility to protect its population. The responsibility to protect framework further recognizes that based on historical example, “it cannot be assumed that every State will always be able, or willing, to meet its responsibilities to protect its own people” (High Level Panel Report, para. 29). When a state is unable or unwilling to protect a population in danger of genocide or other large scale atrocities, the international community has an interest in responding to the needs of the population. In these circumstances, the responsibility to protect principles support the role of the international community “to use diplomatic, humanitarian and other methods to help protect the human rights and well-being of civilian populations” (*In larger freedom*, para. 135).

The responsibility to protect is a commitment to collective action for prevention, reaction and rebuilding with an emphasis on prevention. This is a rules-based approach that we believe is highly preferable to either allowing states to permit or conduct atrocities against their citizens or relying on *ad hoc* coalitions to protect them.

Traditional notions of sovereignty only partly explain the past failures of the international community to act collectively in the face of genocide and other grave atrocities. The lack of political will is at least equally to blame, as is the absence of global institutional authority and mechanisms to preserve and enforce peace. The responsibility to protect and many of the other recommendations described below are aimed at achieving a collective commitment to human protection.

### ***When should the UN intervene for human protection purposes?***

To fulfill the responsibility to protect, if prevention fails to avert a humanitarian crisis, “the Security Council may out of necessity decide to take action under the Charter of the United Nations, including enforcement action, if so required” (*In larger freedom*, para. 135). World leaders are therefore being asked to adopt principles setting forth when such interventions would be legitimate. Such principles could serve as indicators for when the Security Council *should* intervene, as well as determine when “responsibility to protect” justifications are disguising other motives. The Secretary-General, the High Level Panel and the International Commission on Intervention and State Sovereignty have called for the adoption of criteria that must be satisfied in order for the Council to authorize the use of force.<sup>2</sup>

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<sup>1</sup> *The Responsibility to Protect: the Report of the International Commission on Intervention and State Sovereignty* (2001).

<sup>2</sup> The ICISS report recommends principles for intervention in cases of actual or apprehended genocide or ethnic cleansing. By contrast, the High Level Panel and the Secretary-General recommend the application of these principles for all uses of force, not only those conducted for human protection purposes.

These are:

- the seriousness of the threat;
- the proper purpose of the proposed military action;
- whether means short of the use of force might reasonably succeed in stopping the threat;
- whether the military option is proportional to the threat at hand;
- whether there is a reasonable chance of success.

(*In larger freedom*, para. 126). Many governments fear that these criteria will be used to legitimize military actions intended to advance neo-imperialist ambitions rather than human protection. We believe, to the contrary, that these criteria could form a standard by which Security Council actions and inactions could be assessed, thus improving accountability and deterring unilateral and illegitimate preemptive wars.

These criteria are aimed not only at curbing improper interventions, but also at addressing the historical failure of the Security Council to respond to conscience-shocking abuses. Currently there is no consensus about when the Security Council *should* intervene for human protection purposes. The recommended criteria, in partnership with an affirmation of the responsibility to protect, would advance a standard for more effective responses by the Security Council. This would make it far more difficult for one country to block action based on its own national economic or strategic interests.

### ***Peacebuilding Commission***

Relating to the UN's role in assisting countries that are emerging from conflict, UN member states will be asked to create an inter-governmental **Peacebuilding Commission** to address the "gaping hole" in the UN system that leaves the UN without the institutional machinery to properly assist countries transitioning from war to lasting peace (*In larger freedom*, para. 114). The Secretary-General also asked for a peacebuilding support office to be created within the UN Secretariat to support the work of the Commission.

The Peacebuilding Commission is proposed to include members of the Security Council and the Economic and Social Council (ECOSOC), national or transitional authorities from the subject country, donor governments and troop contributors. This body would have a monitoring and coordinating role for the various stakeholders during post-conflict recovery. It could devise plans for transition, attend to countries in need through the many stages of recovery and marshal the necessary resources from donor governments and IFIs. This idea is generally supported by member states, although the details on its formation are still under negotiation.

We strongly support efforts to address the gap in international capacity to prevent the reemergence of conflict and are hopeful that this commission will be given the mandate and resources to meet this challenge.

### ***Peacekeeping***

Due to the increased number of peacekeeping missions that have been deployed in recent years, the demand for peacekeepers is "severely stretched" (*In larger freedom*, para. 111). The Secretary-General therefore calls for the creation by member states of **strategic reserves** that can be deployed rapidly and the establishment of a UN civilian **police standby capacity**. The report also recognizes the importance of regional organizations. Governments have been asked to support a stronger relationship between the UN and regional organizations and to consider linking regional peacekeeping capacities to the UN peacekeeping system.

We support strengthening effective rapidly deployable forces and mechanisms at all levels: national, sub-regional, regional, SHIRBRIG or *ad hoc*, and international. These mechanisms are directly related to the international community's responsibility to protect: one of the most pressing issues for protecting the world's citizens is whether the international community has the capacity to do so in a quick and effective manner.

### ***Advancing human rights***

A central theme within the Secretary-General's report is the need to elevate human rights issues within the UN system: "Human rights must be incorporated into decision-making and discussion throughout the work of the Organization" (*In larger freedom*, para. 144). The Secretary-General recommends replacing the Human Rights Commission, currently a subsidiary body of the Economic and Social Council that meets for six weeks a year, with a standing Human Rights Council that could meet year-round.

The Human Rights Commission plays a key role in the universal human rights framework. It draws attention to human rights issues; it provides a forum for developing UN human rights policy; it establishes a system of "independent and expert special procedures to observe and analyse human rights compliance" by theme and by country (*In larger freedom*, para. 181). It also closely engages with civil society in a manner that is unique within the UN system. But the Human Rights Commission suffers a crisis of credibility, in particular because "States have sought membership of the Commission not to strengthen human rights but to protect themselves against criticism or to criticize others" (*In larger freedom*, para. 182). Some of the worst human rights offenders have gained seats on the Commission with a view to blocking international condemnation of their actions.

The goal of replacing the Commission with a standing council would be to confer on the body "status, authority and capability commensurate with the importance of its work" (Secretary-General's Address to the Commission on Human Rights, 7 April 2005). In terms of its organizational status within the UN, it would be on par with the Security Council and the Economic and Social Council. Members would be elected directly by the General Assembly by a 2/3 majority, instead of regional voting blocs within ECOSOC.<sup>3</sup> The expectation is that the majority of General Assembly voters would factor in a demonstrated commitment to the promotion and protection of human rights and could block election of human rights violators. Human rights advocates have welcomed this proposal as an opportunity to remedy the shortcomings of the existing system. However, supporters of this recommendation urge that the Council maintain some of the valuable aspects of the existing UN human rights structure, including the system of independent human rights experts appointed by the Commission and the Commission's close relationship with civil society organizations.

### **The Issue of Security Council Reform**

Much of the attention on the UN reform process is focused on the subject of Security Council reform, or more specifically, whether the Council will be expanded to include additional permanent seats. We hope that this most controversial subject will not overshadow other important reforms that are achievable during this time period. Moreover, discussion of Security Council reform must address some of the procedural changes that would greatly advance the human protection agenda. R2P-CS is particularly supportive of several procedural recommendations proposed by the High Level Panel that were not endorsed in the Secretary-General's report. These include calling for a restraint on the use of the veto and implementing a process of indicative voting.

#### ***Preventing improper use of the veto in circumstances of genocide and other avoidable catastrophes***

Even when the majority of Security Council members have agreed that it is necessary to undertake collective measures to restore security, too often one of the five permanent Council members has vetoed or threatened to veto a proposed action based on its own narrow national interests. To address this shortcoming, the High Level Panel (and before that, the ICISS report) recommended that permanent members "pledge themselves to refrain from the use of veto in

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<sup>3</sup> Currently, the 53 seats are elected by ECOSOC with regional distribution: African States (15), Asian States (12), Eastern European States (5), Latin American & Caribbean States (11), Western Europe & Other States (10)

cases of genocide and large-scale human rights abuses” (HLP Report, para. 256) (emphasis added).

This recommendation could curtail improper uses of the veto. It is a misuse of the UN charter for permanent members to exercise the veto to advance extraneous national political interests. The Security Council was established to “ensure prompt and effective action by the United Nations” for maintenance of international peace and security (UN Charter, Article 24). According to the UN Charter, the Security Council carries out its duties on behalf of *all* members of the UN. Restraining the use of veto for matters involving large scale abuses would advance the fundamental purposes of the Council and the UN Charter.

#### ***Transparency in Voting Procedures***

We also believe that a system of indicative voting would increase transparency and accountability of the Security Council. This is a procedure whereby Security Council members could call for public indication of a member’s positions on proposed Council actions. As the High Level Panel Report explains: “Under this indicative vote, ‘no’ votes would not have a veto effect, nor would the final tally of the vote have any legal force. The second formal vote on any resolution would take place under the current procedures of the Council” (HLP Report, para. 257).

Another voting procedure that warrants further consideration is a mechanism whereby Security Council members could call for a paragraph by paragraph vote on resolutions. This vote could be conducted either during the first round of indicative voting or during the formal vote. Measures set out in Security Council resolutions can range from toothless statements of condemnation to strict punitive measures. This mechanism would increase transparency as to which members support the various measures proposed in a draft resolution. Use of this system in situations of large scale human rights abuses would encourage Council members to fulfill their responsibility to protect rather than their own national interests.

### **Role for Civil Society**

The details of these proposals are now the subject of extensive negotiations by member states at the UN and in capitals. Civil society can play a valuable role to ensure that these issues of human protection are given due consideration during this reform process. We are now calling for NGOs to work in their local communities, in capitals, at regional and international organizations to ensure support for these proposals.

**Join the R2P-CS Network:** To connect with other organizations that are working toward changes in the way that the international and regional organizations and governments respond to emerging threats of large-scale loss of life. Sign up at [www.wfm.org/joinr2p-cs](http://www.wfm.org/joinr2p-cs) or contact us at [r2p-cs@wfm.org](mailto:r2p-cs@wfm.org).

**Call on governments, the United Nations and regional bodies** to support implementation of these recommendations.

**Share information** on these proposals with your colleagues and in your networks; let us know how these issues relate to your advocacy efforts.

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