



United Nations Association in Canada
Association canadienne pour les Nations Unies

The Responsibility to Protect:

Moving the Agenda Forward



By Maria Banda

March 2007

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Canada

The Responsibility to Protect: Moving the Agenda Forward

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List of Abbreviations

AMIS	AU Mission in Sudan
APC	Armoured personnel carrier
ASEAN	Association of Southeast Asian Nations
ASF	African Standby Force
AU	African Union
AU-PSC	AU Peace and Security Council
CAAC	Children and Armed Conflict
CHS	Commission on Human Security
DDR	Disarmament, demobilization, and reintegration
DPA	Department of Political Affairs
DPKO	Department of Peacekeeping Operations
DRC	Democratic Republic of Congo
DSRSG	Deputy Special Representative of the Secretary-General
ECOSOC	Economic and Social Council
ECOWAS	Economic Community of West African States
EU	European Union
FfP	Fund for Peace
G-77	Group of 77 (G-77)
HLP	UN High-Level Panel on Threats, Challenges and Change
HRC	Human Rights Council
HRW	Human Rights Watch
HSN	Human Security Network
ICBL	International Campaign to Ban Landmines
ICC	International Criminal Court
ICISS	International Commission on Intervention and State Sovereignty
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person
IICK	Independent International Commission on Kosovo
IRC	International Rescue Committee
JTF AFG	Joint Task Force Afghanistan
MDG	Millennium Development Goal
MONUC	UN Mission in the DRC
NAM	Non-Aligned Movement
NATO	North Atlantic Treaty Organization
NFZ	No-fly zone
NGO	Nongovernmental organization
NRF	NATO's Response Force
OAS	Organization of American States
OCHA	UN Office for the Coordination of Humanitarian Affairs
OHCHR	Office of the UN High Commissioner for Human Rights
OSCE	Organization for Security and Cooperation in Europe
P5	A permanent member of the UN Security Council
PBC	Peacebuilding Commission
PMC	Private military company
POC	Protection of civilians
PROCAP	Protection Standby Capacity
R2P	Responsibility to Protect
R2P-CS	Responsibility to Protect-Engaging Civil Society
ROE	Rules of engagement
SAPG	Special Advisor on the Prevention of Genocide
SCR	Security Council Resolution
SHIRBRIG	Multinational Standby High-Readiness Brigade for UN Operations
SRSR	Secretary-General's Special Representative

TCC	Troop-contributing country
UN	United Nations
UNAMIS	UN Advance Mission in Sudan
UNEF	UN Emergency Force
UNGA	UN General Assembly
UNHCR	Office of the UN High Commissioner for Refugees
UNIFIL	UN Interim Force in Lebanon
UNMEE	UN Mission in Ethiopia and Eritrea
UNMIS	UN Mission in Sudan
UNMIT	UN Integrated Mission in Timor-Leste
UNSAS	UN Standby Arrangements System
UNSC	UN Security Council
UNSG	UN Secretary-General
WFM	World Federalist Movement

Forward

The United Nations Association in Canada is very proud to present here the policy and community discussion facilitated to mark 50th Anniversary of UN Peacekeeping in 2006 and 2007. This anniversary noted the important landmarks of the world's first designated UN peacekeeping mission to resolve the Suez Crisis, as well as Lester. B. Pearson's award of the Nobel Peace Prize for his role in proposing this first peacekeeping mission. To reduce tensions in the Suez region, the Canadian proposed that the United Nations send a multinational contingent to the region. "My own Government would be glad to recommend Canadian participation in such a United Nations force, a truly international peace and police force," said Mr. Pearson.

Canadians were in the forefront of creative thinking and robust participation in the early peacekeeping initiatives. They have also been in the forefront of the development of a new concept – the Responsibility to Protect – that states have a primary responsibility to protect their own populations, and that the international community has a responsibility to act when these governments fail to protect the most vulnerable populations.

This paper is one of several important legacies of our ambitious year of activity. Collectively they will provide serious research data and thoughtful analysis for government officials, academics, civil society and others concerned with these important issues; educational resources for teachers and students; and broad community dialogue and engagement. I want to acknowledge the great contribution of Emily Schroeder, UNA-Canada project officer, in both the thinking and organizing of this project. She has organized and managed a remarkable body of work and writings.

Maria Banda, the author of this paper, is a young Canadian who has had her Rhodes Scholarship extended into a DPhil at Oxford University. Her paper on Responsibility to Protect provides a useful map for civil society, governments, and others to move the R2P agenda forward. This paper was framed over long and lively discussions with Maria. I fully expect she will contribute to make a remarkable contribution to the world.

I commend this paper, and the full compliment of our Peacekeeping 50 Peacebuilding suite of resources, including The Report on the UNA-Canada 50th Anniversary of UN Peacekeeping International Panel Series; The Teacher's Handbook on UN Peacekeeping: Canada and the World; and the UN Peacekeeping booklet, all available on the UNA-Canada website at www.unac.org/peacekeeping.

Kathryn White
Executive Director
March 2007

Introduction

Even as the international community commemorates the 50th anniversary of the deployment of the first UN peacekeeping mission,¹ the world is facing a crisis of protection. Inter-state warfare is becoming a thing of the past, protracted civil wars are coming to an end, yet massive displacement, human insecurity, and civilian casualties are on the rise.² The world community, through the United Nations, has intervened in numerous internal crises since the end of the Cold War to stabilize, pacify, and rebuild nations and to protect the innocent. Yet in these low-intensity conflicts and large-scale violence, holding the line between combatants or monitoring the ceasefire is not enough to either keep the peace or to save lives. The new normative principle and operative doctrine which is attracting increasing attention, enthusiasm, and, in some quarters, alarm, is the notion of a “responsibility to protect”—that the international community has a duty to protect civilians from massive human rights violations where their governments are unable or willing to provide security.

R2P is the present-day response to a problem every bit as big, and urgent, as peacekeeping had been 50 years ago. The debate over R2P “is not some abstract, academic exercise of hypothetical simulations,” Lloyd Axworthy observed to a university audience, “this is real, because the issue of intervention—of how, when and who goes in to influence the affairs of another state—is probably the most critical and difficult conundrum...in this new century of ours.”³ We are now facing a surging demand for peacekeeping, peace-enforcement, and peace-building missions, yet our collective record on intervention is far from encouraging. “Concerted, coherent, and systematic international action,” coupled with “positive political engagement” by parties to a conflict, has achieved “significant progress” in many regions.⁴ “The world is, indeed, a safer place for most of us,” the UN Security Council (UNSC) was told in a briefing, “but it is still a death trap for too many defenceless civilians.”⁵ The ongoing violence in Afghanistan, the DRC, Iraq, Somalia, Sudan, Uganda, and elsewhere serves as a poignant reminder that our current international protection regime is still too weak and too limited to provide security for all. The UN has too often failed “to act quickly and effectively,”⁶ while *ad hoc* coalition and regional initiatives (which have emerged as a possible alternative to UN-led—and, even, UN-authorized—operations) have caused serious concerns about their capacity, accountability, and legitimacy to intervene. The global war on terrorism has further “complicated efforts to harmonize and rationalize action for human security,” with many nations less willing to send armed forces into a sovereign country.⁷

The question before us is how we can now turn this normative principle into an operative doctrine that will bring security to vulnerable civilians around the world. The *responsibility to protect*, to be sure, is first and foremost a responsibility to *prevent* conflicts from breaking out. It is also a responsibility to *rebuild*, *reconcile*, and *reconstruct* a post-conflict environment. This triple notion of R2P calls for a comprehensive approach to human security and sustainable development. But our focus here is on finding ways to protect civilians from large-scale violence when it is already too late to prevent yet too soon to rebuild. How can we ensure an effective and timely response to a grave crisis? In Part I, we provide a holistic overview of the *scope* and *significance* of the developing norm of protection. We survey the key doctrinal developments, transnational advocacy, codification, and international practice that have together turned “sovereignty on its head”⁸ since the early 1990s and contributed to the gradual evolution of “R2P” and, in particular, those factors that have enabled its re-emergence since 2001. In Part II, we consider the strategies to take the norm of protection forward. We propose the creation of a national R2P agenda and the construction of an international protection regime through the joint efforts of a transnational R2P coalition. In Part III, we present a series of pragmatic guidelines on operationalizing the norm of protection in the field, with a specific focus on Darfur.

¹ UN Emergency Force (UNEF I) was established as a buffer between Egyptian and Israeli forces in the Sinai (November 1956 - June 1967).

² The number of armed conflicts has decreased from 50 in 1992 to 30 in 2004. Today’s low-intensity conflicts are mainly fought with small arms and light weapons, accounting for the majority of civilian casualties. They are also often accompanied by forced (internal) displacement as one of the most disturbing features of conflict: the overall number of refugees has declined since the early 1990s, but internal displacement figures have remained constant at the 2001 level of 25 million. A lack of humanitarian access to affected populations has been another concern in these conflicts. In 2004, UN agencies were denied access to an 10 million people in need of assistance and protection. See S/2005/740; Human Security Report 2005; ICG Crisis Watch N°43 (1 March 2007).

³ Axworthy, 45.

⁴ Statement by Jan Egeland, the former UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, to the UNSC (28 June 2006).

⁵ Ibid.

⁶ Taft and Ladnier 2006, 2.

⁷ Taft and Ladnier 2006, 3.

⁸ Axworthy 2005, 43.

I. R2P: Normative, Legal, and Operational Developments

1. The legacy of the 1990s

The development of R2P is wrapped up with the challenges, failures, and lessons of humanitarian intervention in the 1990s. While the end of the Cold War had made the UNSC more able, and willing, to intervene in internal conflicts with the goal of protecting civilians, it did so inconsistently, haphazardly, and ineffectively. Nowhere has the international community's failure been greater than in halting ethnic cleansing and genocide.⁹ The Council's record on the protection of civilians greatly compromised the organization's credibility and legitimacy, especially in the Third World. In 1994, as the Council withdrew its peacekeepers from Rwanda, 800,000 people were brutally killed within one-hundred days of genocide. In 1995, the UN blue helmets' reluctance to protect "safe areas" in Bosnia with force showed that the mere presence of peacekeepers or humanitarian aid was no substitute for the political and military action required to stop the atrocities. In 1999, NATO's "humanitarian war" against ex-Yugoslavia split the international community down the middle over the issue of intervention. Only in East Timor—where the Council members, at the Secretary-General's urging, presented a united front and engaged with the national and regional actors—were large-scale killings averted.¹⁰

The tragic lessons of the 1990s revealed that neither traditional humanitarian action nor traditional peacekeeping could effectively protect civilians.¹¹ But they also set in motion a series of developments that ultimately facilitated the endorsement of R2P, starting with a historic reassessment within the UN of its own intervention framework. R2P builds on the broader concept of "protection of civilians" (POC), first identified as a "humanitarian imperative" by the Secretary-General in 1998.¹² The next critical step was taken by the UN Security Council (UNSC) in 1999, which issued a Presidential Statement on the "protection of civilians in armed conflicts" after an open debate convened by the Canadian presidency¹³ and then approved unanimously two resolutions on POC.¹⁴ The Council's two resolutions—SCR 1265 (1999) and 1296 (2000)—were a landmark in the institutionalization of the POC at the UN. By signalling that targeting civilians or denying humanitarian access may in themselves constitute a threat to international peace and security, the Council opened the door to the possibility of coercive action under Chapter VII of the Charter.¹⁵

This legal commitment was soon tested in practice: within one month of the adoption of SCR 1265, the Council authorized its next mission, in Sierra Leone, to "take the necessary action to afford protection to civilians under imminent threat of physical violence."¹⁶ From that point forward, this provision was included in the mandates of all UN-led (or UN-delegated) peacekeeping missions. The Council's justification was later also employed by regional bodies, including the Economic Community of West African States (ECOWAS) (in Liberia and Sierra Leone) and NATO (in Kosovo). The one obstacle to effective implementation, as the subsequent crises confirmed, was neither the *legality* nor the *legitimacy* of the Council's POC mandates: it was a lack of the international community's *capacity* to fulfill them.¹⁷

These new patterns of intervention by the UN and the regional organizations pointed to changing normative and legal understandings of sovereignty and security in the world community. The Secretary-General's Special Representative (SRSG) on Internally Displaced Persons (IDPs), Francis Deng, floated the idea of "sovereignty-as-responsibility."¹⁸ Canada's former Foreign Minister, Lloyd Axworthy, anchored his policy initiatives in the "human security" doctrine.¹⁹ The UN Secretary-General (UNSG) himself played a key role after 1998 in redefining the limits of sovereign rights—and the limits of permissible international action.²⁰ The common thread was that sovereignty was not absolute: it was contingent on the basic norms of humanity.

⁹ A/59/565 (2004), §87.

¹⁰ A/59/565 (2004), §87.

¹¹ Holt and Berkman 2006, 18.

¹² See S/1998/318-A/52/871.

¹³ S/PRST/1999/6.

¹⁴ The Council also approved six statements on POC and passed related resolutions on Women and Children and Armed Conflict, Peace and Security, and Conflict Prevention. The UNGA Millennium Declaration too recognized POC (A/RES/55/2).

¹⁵ A/55/305-S/2000/809, 10.

¹⁶ S/RES/1999/1270 (October 1999).

¹⁷ For reports on UN's failures in Rwanda and Bosnia, see S/1999/1257; A/54/549. Also, A/55/305-S/2000/809; for commentary, see Durch 2003.

¹⁸ According to this doctrine, states must request and accept outside offers of aid when unable to protect their own citizens; if they obstruct access to, and thus imperil, their vulnerable populations, the international community has a duty to respond. See Deng 1995.

¹⁹ For background, see McRae and Hubert 2001; Axworthy 2003.

²⁰ Annan 1999, 6.

The Council's own practice of intervention finally pushed aside the outdated Cold War *modus operandi*, with profound effects on the legal plane. The Council was careful not to establish a new "doctrine" of humanitarian intervention or, even, to acknowledge the future legal implications of its actions. Yet each peacekeeping operation it authorized set a precedent. Thus, by 1999, the Council's interpretation of what constituted a threat—and warranted a Chapter VII mandate—had been sufficiently broadened to include the POC.²¹

But the controversy over Kosovo signalled that the new norm was not universally accepted. NATO's "humanitarian war" in March 1999 bypassed the Council and brought the long-standing controversy over humanitarian intervention to a head. The resultant rift in the world community provided the backdrop for the Secretary-General's address to the UN General Assembly (UNGA) in September 1999, in which he urged the 188 member-states to "find common ground in upholding the principles of the Charter," but also "acting in defence of our common humanity"—by intervening more promptly, and effectively, to prevent or halt massive human rights violations.²² The UNGA reached no consensus in 1999, as a number of developing states in the Non-Aligned Movement (NAM) and the Group of 77 (G-77) rejected the very notion of humanitarian intervention.²³ Two of the UNSC permanent members (P5), China and Russia, also expressed opposition.²⁴ Still, the great majority of UN members wanted to stop massive atrocities, but in line with transparent, consistent, Charter-based criteria. They were too worried about the risk of modifying the law of intervention, however, and opted for continuing legal uncertainty.²⁵

Perhaps an unavoidable expedient in the short-run, this situation was unsatisfactory, and unsustainable, in the longer term, when the UN would yet again be called upon to stop mass atrocities. At the Millennium Summit in September 2000, the Secretary-General therefore issued a second challenge to the international community to reconcile the norms of sovereignty and protection.²⁶ This time, the Canadian Government responded by establishing the International Commission on Intervention and State Sovereignty (ICISS)—an independent commission designed to build the foundations of a new normative and operational consensus on humanitarian intervention. In December 2001, ICISS released its report entitled *The Responsibility to Protect*.

The Commission's central premise was that intervention was both permissible and necessary to protect civilians:

Sovereign states have a responsibility to protect their own citizens from avoidable catastrophe. [When] they are unwilling or unable to do so, that responsibility must be borne by the broader community of states.²⁷

The ICISS Report was a landmark in the evolution of the doctrine of R2P, designed to address the key political debates, legal issues, and operative obstacles. First, ICISS tried to de-politicize the North-South argument and shift the focus from a "right to intervene" to a "responsibility to protect." Second, from the legal standpoint, ICISS concluded on the basis of international customary law, human rights treaties, as well as growing state practice and the Council's precedent-setting resolutions that R2P was an "emerging principle" of law. Finally, the Report tried to provide concrete guidelines on how to translate this principled idea into action by (1) defining the "trigger conditions" for intervention;²⁸ (2) describing R2P as a threefold responsibility to prevent, react, and rebuild; and, (3) outlining criteria for the legitimate use of force.²⁹ ICISS also tried to identify the "right authority" for intervention, but ultimately failed to resolve this issue.³⁰ Still, ICISS obviously felt that a lack of the UNSC authorization could not be a bar to action in a genuine crisis, as Ramesh Thakur, one of the

²¹ Malone 1999.

²² SG/SM/2381.

²³ E.g. G-77, "Ministerial Declaration" (September 1999); "Declaration of the South Summit" (April 2000).

²⁴ They were perceived by many as being less concerned about threats to their own security than to their authority—which depended on the Council's control over the legitimate use of force.

²⁵ The verdict of the Independent International Commission on Kosovo reflected the prevailing preference for: the intervention was "illegal but legitimate" (IICK 2000).

²⁶ "[If] humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica—to gross and systematic violations of human rights that offend every precept of our common humanity?" (A/54/2000, 48).

²⁷ ICISS 2001a, viii.

²⁸ They included genocide; large-scale loss of life, "actual or apprehended"; ethnic cleansing; crimes against humanity and war crimes; state collapse; and natural disasters. It expressly excluded other violations warranting a response but falling short of military action (e.g. systematic racial discrimination or repression of political dissent; denial/overthrow of democracy; terrorist attacks) (pp. 32-4).

²⁹ I.e. right authority, just cause, right intention, last resort, proportional means, and reasonable prospects.

³⁰ ICISS argued that the UNSC "should be the first port of call on any matter relating to military intervention for human protection purposes. But the question remains whether it should be the last" (p. 53). Beyond suggesting that the P5 refrain from the use of the veto, ICISS offered no recommendations on the question of unauthorized interventions; the Commissioners only warned, if the UNSC "fails to discharge its responsibility to protect...concerned states may not rule out other means to meet the gravity and urgency of that situation" (emphasis added) (p. viii).

Commissioners, confirmed: “Nowhere did we find an absolute and uncompromising rejection of intervention under all circumstances. On balance, the desire to avoid another Rwanda was greater than to avoid another Kosovo.”³¹

The Commission’s objective from the outset was for its Report “to have a practical and concrete political impact.”³² By getting past the polemics and the impasse in the intervention debate, the Commission sought to strengthen the prospect for obtaining action to save civilians, on a collective and principled basis.³³ ICISS identified several possible venues to move the norm forward within the UN: formulating intervention guidelines for the UNSC’s internal use; passing a more formal resolution by the UNGA or, as a few Commissioners had suggested, drafting a new international convention or amending the Charter itself. In the end, recognizing the limits of the possible in a political environment dominated by 9/11, ICISS put forward a more modest plan on how to “give substantive and procedural content to these ideas” in the immediate term and outlined specific recommendations for the three key UN organs—the Secretary-General, the Council, and the General Assembly—on how to advance the report’s substance and action.³⁴ But the decisive endorsement of R2P will ultimately have to come from the human rights community at large—governments, parliamentarians, politicians, nongovernmental organizations (NGOs), the media, and individual citizens. How this support-base might be enlarged and cultivated is one key issue we hope to probe further in this paper.

2. International uptake post-9/11

ICISS had articulated “R2P” as a new political, legal, and operative principle, which Kofi Annan and the Canadian government promptly acknowledged and supported. But the international uptake of R2P got entangled with the fallout of 9/11 even before the Commission’s Report saw the light of day. Not surprisingly, the ICISS Co-Chairs noted in the Preface that counterterrorism was both conceptually and operationally distinct from an R2P-type intervention. But they could not isolate the norm from the impact of 9/11.³⁵ In the shadow of the wars in Afghanistan (October 2001) and Iraq (March 2003), few governments were willing to discuss military intervention: the new counterterrorism agenda had reduced the North’s political willingness and military capacity to conduct humanitarian missions; it had also produced a “new hostility” in the global South to commit to R2P.³⁶ The Canadian government was almost alone in trying to ‘operationalize’ the Report.³⁷ The UNSC was not interested in taking up the subject of R2P at all, while NAM blocked Canada’s procedural resolution on R2P at the UNGA in late 2002. Washington’s use of humanitarian justifications for the invasion of Iraq only compounded fears of unilateral intervention and regime-change in some countries.³⁸

A few R2P watchers saw scope for “sovereignty-as-responsibility” even in this security environment—in so far as state failure could be tied to terrorism, as in Afghanistan, where the coalition’s intervention had imposed a special responsibility to rebuild.³⁹ Others were less optimistic: the key problem was not too much intervention, but too little.⁴⁰ The crisis that erupted in Western Sudan in 2003 confirmed such fears. On the whole, with the onset of the war on terrorism, in 2003 it was “hard to see what contemporary interests would impel states to go beyond their many existing human rights commitments by openly accepting R2P.”⁴¹ And yet, three factors in the intervening years significantly improved R2P’s odds: ongoing protection initiatives; transnational advocacy and diplomatic developments; and, Darfur.

The Practice of Protection

³¹ Thakur 2003b, 175.

³² ICISS 2001, 73.

³³ ICISS 2001, 74.

³⁴ E.g. ICISS urged the UNSC to adopt a set of guidelines (“Principles for Military Intervention”) and refrain from the veto, and asked the UNGA to draft a declaratory resolution on R2P (pp. 74-5).

³⁵ Thakur 2005, 184.

³⁶ Roberts 2003; Weiss 2004, 143.

³⁷ Canada sought to (1) ensure a timely reaction by the UNSC and regional organizations to emerging conflicts and (2) develop principles within the UNGA on state responsibility and the use of force.

³⁸ See US position in Haass 2003. Some countries expressed reservations that preventing (“pre-empting”) state-failure—an ICISS intervention-trigger and a key element of the US national security strategy—could be used as a cover for counterterrorism operations (Thakur 2003, 172; Wheeler 2003, 50; Evans 2005).

³⁹ On a “counterterrorism rationale” for humanitarian intervention, see Chesterman 2004.

⁴⁰ Weiss 2004.

⁴¹ Roberts 2003.

Despite the changed political landscape after September 11, multinational missions with civilian protection mandates proliferated in 2003-5.⁴² None referenced R2P, but each of the Council's Chapter VII operations—in Liberia, Haiti, Burundi, Cote d'Ivoire, and Sudan—provided for POC,⁴³ as did the two UN-delegated interventions (EU in the DRC and ECOWAS in Liberia). The Council also continued institutionalizing POC (though not R2P explicitly) in its decision-making framework.⁴⁴ The Secretary-General made R2P a recurring feature of his thematic reports. As before 2001, the key operational impediment remained a lack capacity or will to act.⁴⁵

Important changes in civilian protection were also underway outside the UN. Africa “moved the furthest towards endorsing R2P,”⁴⁶ where two regional groups *codified* a legal right of humanitarian intervention (to the dismay of their NAM colleagues) and intervened in the region on this basis. In recognition that chronic human insecurity had been a leading cause of state and regional insecurity, West African states granted ECOWAS the authority to use force against a member state to stop a humanitarian emergency.⁴⁷ Similarly, the African Union (AU) formally ratified the *right* to intervene in the internal affairs of a member state to protect civilians from grave human rights violations.⁴⁸ This was a “milestone” for this regional body, which had traditionally eschewed the notion of intervention.⁴⁹

Transnational Advocacy and Diplomatic Developments

The UNSC and African organizations thus continued a pattern of protection begun in the 1990s. But what kept the idea of R2P on the international radar post-9/11 was concerted transnational advocacy, which consisted of Canada's multi-track diplomacy, high-profile endorsements, and NGO lobbying.⁵⁰ After the initial flop at the UNGA, Ottawa changed its tactics: it approached likeminded states, regional groups, and civil society, while the new Prime Minister at the time, Paul Martin, significantly stepped up the international advocacy of R2P. In December 2004, the UN High-Level Panel on Threats, Challenges and Change (HLP) unambiguously endorsed “the emerging norm that there is a collective international responsibility to protect.”⁵¹ In March 2005, the Secretary-General used his framing document for the “Millennium+5” Summit, *In Larger Freedom*, to promote R2P.⁵² The decisive endorsement came at the World Summit itself, where 154 heads of state and government embraced R2P.

The World Summit Declaration was formally adopted on 15 September 2005 after five months of intense negotiations in the 59th General Assembly. The debate brought out the familiar arguments against intervention, yet the fault-lines had shifted since 1999. The division at the Summit resembled the findings of a study of regional attitudes to intervention conducted in 2001-3: Africa, Europe, East Asia, and the Americas, to differing degrees, were all open to the idea; only the Middle East and South Asia were not.⁵³ The considerable cross-

⁴² DPKO launched one operation in 2000-3 (Ethiopia) and then *five* in 2004-5, bringing the total to 18, with more than 85,000 troops. This was a *five-fold* increase in field-personnel since 2000. At its previous peak in 1993, the UN had 78,000 peacekeepers. UNSC authorized also three political/peacebuilding missions through the DPA (in Afghanistan, Iraq, and Bougainville). See DPKO 2005.

⁴³ Holt 2005.

⁴⁴ In March 2002, it adopted OCHA's *Aide Memoire* (to assist it in defining threats to international peace and security, drafting resolutions to better safeguard civilians, and reviewing peacekeeping operations) (See S/PRST/2002/6; S/PRST/2003/37.)

⁴⁵ The force can protect civilians “only if it has the capacity to do so” (See DPKO 2003; Holt 2005).

⁴⁶ FFP 2003, 29. Also, Holt and Shanahan 2005, 8.

⁴⁷ ECOWAS adopted in 1999 a *Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security*, thus institutionalizing a permanent mechanism for conflict resolution and asserting a right of intervention in conflicts in the sub-region.

⁴⁸ The AU Founding Act establishes “the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect to grave circumstances, namely: war crimes, genocide and crimes against humanity.” See Article 4(h) of *The Constitutive Act* (July 2002).

⁴⁹ The Protocol establishing the AU Peace and Security Council (PSC), the organization's operational body, came into force in December 2003. The AU also approved the establishment of an African Standby Force (ASF), which would comprise five “regional” brigades (totaling 20,000 troops by 2010). Feinstein 2007, 34-5; Taft and Ladnier 2006, 13-14.

⁵⁰ Cooper and English 2005, 20; ICISS 2001, §8.19-8.22.

⁵¹ The 16-member Panel was established by the UNSG to help the UN develop a new consensus on collective security. The Panel also sought to operationalize the norm by recommending criteria on the use of force (largely consistent with ICISS): i.e. seriousness of threat, proper purpose, last resort, proportional means, and balance of consequences. The HLP also asked the P5 to refrain from exercising their veto power, but it recognized the UNSC as the *only* ‘right authority’ (authorization could be *post hoc*).

⁵² “I believe we must embrace the responsibility to protect, and, when necessary, we must act on it” (emphasis in the original). See A/59/565 (March 2005).

⁵³ The principal opposition to R2P, as in 1999, came from the G-77/NAM ranks, where a handful of states, led by Pakistan, Egypt, Iran, Syria, India, Cuba, and Venezuela wanted to prevent R2P's inclusion in the Declaration. Inter-regional variation was explained by their unique political histories. For the study, see FFP 2003. ICISS roundtable in Cairo related the opposition to R2P to “Arab experience in relation to double-standards and selectivity” (e.g. Palestine, Iraq, and Sudan) and the perception of the Council's bias (ICISS 2001c).

regional support for the norm strengthened the R2P camp's position. So did the fact that the sceptics were not merely vulnerable developing countries, but countries with some of the worst human-rights records.⁵⁴

The final element that helped put R2P centre-stage, however, was the unfolding human tragedy in Darfur, which reminded a world distracted by terrorism that protection crises could still erupt after 9/11—and that the international community was no better equipped to handle them. The ongoing atrocities convinced the HLP and many Summit delegates that operationalizing R2P had now become a matter of urgency.⁵⁵

The adoption of R2P in the World Summit declaration was a triumph for the human rights community. However, the political wrangling produced a weakened text that was open to *mis*interpretation. As the opposing states saw it, this was not the end, but the *beginning* of much more complicated discussions yet to come.⁵⁶ The future debate will thus revolve around those issues which the Declaration failed to elucidate: When does a situation give rise to R2P? When does a state's responsibility pass on to the international community? When are coercive measures warranted? And, who inherits R2P when the state manifestly fails, or when the UNSC is deadlocked? These ambiguities in the Declaration underline a continued need to advocate, refine, and implement the version of R2P which will truly make a difference in the lives of millions of people in need of international protection.

II. The Way Forward: Bridging the Gap between Theory and Practice

The obvious question to ask at this point is how can we make R2P work? In this section, we explore what kinds of policy initiatives and practical solutions are needed at the domestic and international level to attain effective and timely action to protect civilians from violence. The basic argument is that *we need an R2P program domestically and an R2P regime internationally to realize the promise of protection*. These two projects are interrelated and must proceed in parallel. Both will require mobilization of necessary political will in conjunction with more long-term strategies, such as norm-setting, institutionalization, and codification of the norm. Starting with the political environment at home (Section 1), we consider a range of policy options available to governments to build up the human and material resource-base for R2P in the face of potential opposition/obstacles. We then survey the international setting (Section 2), which comprises its own set of possibilities and challenges. Since the *international* responsibility to protect vulnerable populations rests not only with state governments,⁵⁷ but also with a number of non-state actors, including civil society and international organizations, moving R2P forward will require concerted efforts on the part of all of these groups. It will take nothing less than the establishment of an informal transnational coalition to engage in R2P advocacy and ensure its application.

1. Developing an R2P Agenda/Program at home

Though these recommendations are sufficiently broad to apply to most UN member-states, national attitudes toward intervention, the institutional processes involved, and the political cultures obviously vary from country to country. As ICISS observed, some states are more “instinctively internationalist” or, conversely, “inward-looking,” than others, which might depend on their size, relative power, and geopolitical setting.⁵⁸ Still, regardless of the nature of the individual polity, government leadership remains essential for the operational success of R2P. The basic message is that *governments must make R2P a fundamental part of their foreign policy agenda, while acknowledging its inherent costs and risks*.

Since R2P's most steadfast support comes from within democracies, we are primarily interested in what short- and long-term strategies are available to governments of democratic states. But this also presents R2P activists with a challenge: as governments change every three to five years, so do their national priorities. New reform slogans and campaign promises grab the headlines, and elections are rarely won on foreign policy issues alone. This means that even the best ideas often have a short shelf-life in the electoral cycle. “All politics is local,” American populist senator Tip O'Neill's famous quip is an apt observation of how people vote—and how their elected officials make decisions. We believe that it is nonetheless possible to commit the nation to a principled policy-

⁵⁴ Those same states had traditionally insisted that human rights were an internal matter (China, Pakistan, Libya, Iraq, Egypt, North Korea, Cuba, Indonesia); see Glennon 2001, 134-5); Roberts 2004, 88.

⁵⁵ The HLP had expressed its dismay at the “glacial speed” of the UN's response to “massive human rights violations in Darfur” (§42).

⁵⁶ Confidential interview.

⁵⁷ Under international law, the primary responsibility for the protection of civilians in armed conflict rests with their government and all parties to the conflict.

⁵⁸ ICISS 2001a, 70.

course for the long haul *if* elected leaders can cement their innovative policies into the country's institutional structure which will outlive their time in office, and *if* these initiatives can be embedded into the nation's social fabric and public memory. We discuss each strategy in turn.

a. Locating/Allocating Institutional Responsibility for R2P in the National System

The first step in developing a national R2P agenda is to identify which ministry divisions or departments have been involved with the R2P issue-area (broadly understood) and, second, to allocate individual tasks for the articulation, coordination, and implementation of the R2P program. By its very nature, R2P falls under the purview of several government agencies—namely, the Ministries of Foreign Affairs, Development, and Defence. As with other complex, multifaceted policy initiatives (such as banning landmines or ending trade in conflict diamonds), a degree of institutional overlap on R2P will be inevitable. Yet a failure to assign individual responsibilities for specific dimensions of R2P will lead to policy duplication or, worse, a policy lapse. When everyone is in theory responsible for a project, in practice no one is.⁵⁹

In most cases, a national R2P agenda will not require the creation of new posts or bureaus: most developed nations already have specific government offices in charge of peace missions (from peacekeeping to peacebuilding), human rights promotion, aid delivery, civil society liaison, and international law. What it will require, however, is a clear division of labour, allocation of responsibility, and a focal coordinating point to see a coherent R2P program through to its implementation.

High-level support from the Prime Minister's/President's Office will be particularly important in the early stages. In Canada, R2P received a major boost when the newly elected Conservative Prime Minister upheld his Liberal predecessor's commitment to R2P in his address to the UNGA.⁶⁰ In the United States, President Bush's "Not on My Watch" pledge (to prevent genocide) could contribute in a major way to efforts to institutionalize R2P in the US Administration.⁶¹ In both countries, it is now necessary to develop and follow through with a clear strategy to translate this normative commitment into action. Overall, a more innovative, streamlined decision-making process will be necessary to mainstream the "R2P" language through all of the relevant agencies, including the nation's foreign policy and defence statement, military manuals for peacekeeping operations, or foreign aid guidelines. Different departments should develop internal plans on atrocity prevention and guidelines for cooperation with their allies. For instance, the US State Department has been urged to approve "tailored strategies" for each high-risk country on its watch list, while the Defence Department has been counselled to put protection mission on par with combat operations in terms of troop readiness, capacity, and deployment priority.⁶² It will be equally important to provide a sustainable source of funding for R2P programming.

b. Expanding the domestic support-base for R2P

While it is essential to incorporate R2P into the country's strategic doctrine and its foreign policy document, it is equally important to get the public message right, because the costs of policy implementation will ultimately have to be borne by the domestic society. There is a clear need for parliamentary debate and open dialogue with all the stakeholders. Not surprisingly, mobilizing domestic political will was identified in the original ICISS Report as a critical component of implementing R2P: the "key to mobilizing international support is to mobilize domestic support, or at least neutralize domestic opposition."⁶³ *The second plank of a government's R2P platform therefore relies on the power of good argument to convince the public that a foreign policy which is right, and which is just, is equally in their personal interest.*

The high-level adoption of the responsibility to protect at the UN World Summit in 2005, for instance, though greeted by experts as a "turning point" that removed "some of the classic excuses for doing nothing," went "relatively unnoticed"⁶⁴ in the wider community. Public endorsements of R2P by politicians, civil servants, and parliamentarians are a good way to increase the principle's visibility and recognition with the domestic populace, especially where the proponents are well-known public figures with a clear personal commitment to the norm. In Canada, for instance, Senator Romeo Dallaire's and Justin Trudeau's outspokenness about the international community's failure to put R2P into effect in Darfur has attracted much media attention and public interest,

⁵⁹ The same was observed by ICISS 2001a, 71.

⁶⁰ Canada-DFAIT 2006.

⁶¹ Feinstein 2007, 27-8.

⁶² Feinstein 2007, 28-9.

⁶³ ICISS 2001a, 70.

⁶⁴ Feinstein 2007, 3.

especially with the youth. Making human rights education part of the compulsory high school curriculum is another way to introduce youth to the meaning and the values of good international citizenship. Higher education and awareness of international affairs translate into support for humanitarian initiatives abroad which, in turn, can endow R2P with real political power.⁶⁵

In this process, governments should engage civil society and take advantage of the latter's extensive intellectual capital and expertise. They should also support the work of think-tanks, research institutes, academics, and NGOs working on R2P-related issue-areas. A number of governments have already found a reliable partner for promoting and refining R2P in the public/non-profit sector. For instance, the Fund for Peace (FfP), a Washington-based research institution, conducted a comprehensive study of regional attitudes to intervention in 2003.⁶⁶ The survey revealed the contours of a far-reaching international consensus around the question of protection, while exposing some of the concerns triggered by the ongoing counterterrorism campaign. Its findings accurately forecast the positions taken by governments in the World Summit negotiations two years later, which should have enabled R2P-advocates to bolster their own position, as well as to pre-empt the sceptics' arguments. In another survey of capabilities and gaps in the existing peacekeeping system, the FfP called for "a coordinated strategy for strengthening and harmonizing regional capacities, both within regions and among them."⁶⁷ The Stimson Centre, with funding from the Canadian and Dutch governments and the Carnegie Endowment, is now leading efforts to develop the operational side of R2P through in-depth empirical analysis and interviews with military officials in national departments of defence, UN peacekeeping missions, and regional forces.⁶⁸ Finally, there is the Responsibility to Protect-Engaging Civil Society project (R2P-CS), which was set up by the World Federalist Movement (WFM) with the express purpose of promoting R2P.⁶⁹ All of these organizations represent a rudimentary transnational alliance on R2P which governments can engage in their efforts to build a national R2P program. The important thing to remember is that the basic structure is already in place: our R2P process builds on, and can feed off of, the earlier projects on human security which are gradually "[recalibrating] public policy for the protection of individuals."⁷⁰

c. Securing support for R2P in practice

Getting the public to accept R2P as a *principle* is one thing; garnering its support for an actual *intervention* when our responsibility calls for it is quite another. The human and financial costs of a government's decision to intervene are borne not by some imaginary international community but by its own people. Protection is not free: "[Enforcing] the responsibility to protect entails risks. If the prevailing policy is zero tolerance for casualties, then enforcement of the responsibility to protect is an empty promise."⁷¹ While a significant portion of our political establishment and the public will have internalized the values of R2P—and thereby accepted the costs and consequences of its implementation—we should expect a degree of domestic opposition to putting our money, and our troops, where our mouth has been.

Defusing Opposition

Domestic opposition to R2P in Western democracies tends to come primarily from two segments of society: a *pacifist/isolationist* element (i.e. ideological opponents of military engagement abroad) or a *nationalist* strand (i.e. opponents of international peacekeeping and development aid based on financial or security considerations). Understanding the reasons for their opposition and their reservations is essential to developing and sustaining a strong R2P program.

The first group, which tends to be small, is opposed to the application of military force abroad, but might accept diplomatic pressure or economic sanctions against the transgressor(s). Beyond that point, however, this group has to be convinced that once all reasonable measures short of the use of force have been exhausted, military intervention may be the only option to save civilians. In Western democracies, foreign policy isolationism

⁶⁵ See below on public opinion polls.

⁶⁶ FfP 2003. Also, see www.fundforpeace.org/.

⁶⁷ Taft and Ladnier 2006, 12.

⁶⁸ See Holt 2005, 2006a, 2006b; Holt and Shanahan 2005; Holt and Berkman 2006. Some of its recommendations are taken up in Part III. For more information, see Future of Peace Operations Program at www.stimson.org.

⁶⁹ R2P-CS is working with civil society partners to "deepen the debate, promote international norms and monitor the responses of governments, the Security Council and other international bodies." The project has received the financial support from the Canadian and UK governments, as well as the MacArthur Foundation. See www.responsibilitytoprotect.org/.

⁷⁰ Axworthy 2005, 42.

⁷¹ Feinstein 2007, 41.

emerges as a recurring concern only within the United States, which had reportedly experienced a “steady rise in isolationist sentiment” since 2000.⁷² But, as we discuss below, evidence suggests that US public, and the Congress, supports foreign engagement to protect civilians.

The second, “we-first,” group carries more political weight, because it speaks to the issues that are important to the voting public at home. Its preoccupation with *domestic* security, wellbeing, and prosperity does not necessarily square with the goals of R2P, which are, by definition, *international* and other-regarding. It is conceivable that a government could face pressure from the business sector when formulating its policy toward a region or a conflict zone in which its companies have large investments (e.g. oil fields).⁷³ Public opinion may be decisive in such a scenario, as it was in the case of Canada’s Talisman Energy Inc. in 2003.⁷⁴

However, there is a strong *economic argument* in favour of early prevention, reaction to violence, and post-conflict rebuilding. As ICISS concluded in relation to Kosovo, “almost *any* kind of preventive activity—whether it involved more effective preventive diplomacy, or the earlier and sharper application of coercive preventive measures like the credible threat of ground-level military action—would have had to be cheaper than the \$46 billion the international community” had committed by 2001 in fighting the war and following up with peacekeeping and reconstruction.⁷⁵ (This figure is now considerably higher, and rising.) The same is true of Afghanistan. Armed conflict also imposes considerable *direct* costs on most trading nations in today’s globalized world, which have an obvious economic interest in keeping resource supply-lines, trade routes, and markets open: peace is nowadays much better for business than war.⁷⁶

In the alternative, this group may worry about the domestic consequences of diverting military resources from what are deemed to be more pressing concerns (e.g. homeland security). But there is a compelling *security argument* in support of international crisis prevention. The implosion of failed or failing states raises the spectre of *regional* destabilization, refugee outflows, and regional insecurity: the wars that erupted in eastern and central Africa in the 1990s have become synonymous with unstable neighbourhoods. But September 11 have shown that the “neighbourhood” has gone global. The attacks have also made the nexus between human security crises in distant countries, extremism, and terrorism more palpable in the minds of Western decision-makers, leading to a greater commitment to conflict resolution and rebuilding in such places as Somalia and Afghanistan. This argument carries particular weight in the United States, where a growing concern with “failed states” turning into havens for terrorists has aligned the country’s “strategic interests with ‘humanitarian’ issues and support for international peace operations” to an unprecedented degree.⁷⁷ The most recent statement of the US strategic vision now calls for an increase in the global ‘conflict intervention’ capacity.⁷⁸ However, we should be careful not to over-emphasize this dimension of R2P. By viewing R2P solely through the prism of counterterrorism, it is easy to overlook genuine humanitarian disasters that have no direct bearing on our national security (e.g. Rwanda). We also risk confounding security operations (e.g. Iraq) with R2P, which would further discredit the norm in the South.

Taking the public pulse and raising awareness

While anticipating, and defusing, domestic opposition to R2P is important, it is equally important to recognize the strength and the resonance of the moral argument with the general public. On the whole, protection missions—interventions in defence of human rights—are well-received in Western democracies. For instance, a majority of

⁷² According to Pew’s 2005 survey of foreign policy attitudes, 42% of Americans said the US should “mind its own business internationally,” up from 34% in 2004 and just 30% in 2002. There are major socioeconomic and political differences on this issue: 51% of those with a high school education or less (as opposed to 25% of college graduates) thought the US should mind its own business; far more Democrats than Republicans favoured full cooperation with the UN. (See PRC 2005).

⁷³ The Tories’ attempt to raise human rights in Canada’s relations with China in November 2006 provoked an angry reaction from Canada’s exporters and investors, forcing the government to backtrack.

⁷⁴ Under public pressure, the company sold its Sudan holdings, while Ottawa moderated its support for the company. Talisman is currently involved in a civil lawsuit in the US, brought in 2001 by the Presbyterian Church of Sudan on behalf of current and former residents of southern Sudan on charges of war crimes (Neumeister 2005).

⁷⁵ ICISS 2001a, 71.

⁷⁶ ICISS 2001a, 71-2.

⁷⁷ Holt and Berkman 2006, 27.

⁷⁸ “Where perpetrators of mass killing defy all attempts at peaceful intervention, armed intervention may be required” (2006 US *National Security Strategy*).

Americans believe the United States “has a responsibility to do something about the ethnic genocide” in Darfur and favour the use of US troops—participating in a multinational force—to stop the atrocities.⁷⁹

This is a highly significant finding. In a similar study, the International Crisis Group (ICG) found a “much greater public backing for America to play a leadership role in stemming this catastrophe than has been the conventional wisdom in Washington.”⁸⁰ Americans, regardless of their party and religious affiliation, demanded a much tougher response from their government: 84% said the US should not tolerate the continuing attacks on civilians and should use military force (short of sending in ground troops) to end them.⁸¹ It is also noteworthy that 40% of the respondents favoured putting US combat troops on the ground—at the height of the public discontent with the war in Iraq. As the ICG concluded, this “suggests a widespread belief among the American public that the [US] has a fundamental responsibility to directly help protect civilian populations. Given such findings, it is hoped that the United States government will begin to embrace more concerted and direct efforts to end the tragedy in Darfur.”⁸²

Other cross-country surveys suggest that public opinion on R2P is far more favourable than what their governments’ official positions might lead us to believe. The majority of African *leaders* in the AU have strongly resisted the Secretary-General’s and the human rights’ community proposal that non-African forces be allowed to intervene in Darfur. Yet in eight African countries surveyed, a majority of the *public* felt that the UN should have the right to intervene to stop human rights abuses; moreover, the UN was seen as the most popular force to intervene in situations like Darfur, ahead of the AU.⁸³

Still, the level of public interest in (and concern about) humanitarian crises abroad is not nearly significant enough to figure in a government’s decision-making process—or to pressure it into action. As the Pew Research Center for the People & the Press found in the case of the United States, “The crisis in Darfur is not registering with most Americans.”⁸⁴ In December 2006, only 13% of Americans had followed media reports about Darfur “very closely.”⁸⁵ In comparison, three times as many Americans (42%) paid very close attention to news about Iraq.⁸⁶ This could arguably be a function of the disparate media coverage of the two crises. Since public attitudes to protection missions are influenced by their awareness of a given crisis through media exposure⁸⁷ and education,⁸⁸ with greater news coverage, public support for humanitarian action would grow.⁸⁹ The media’s vital role in shaping public opinion, generating domestic and international pressure, and prodding decision-makers into appropriate action (from conflict prevention intervention)⁹⁰ therefore carries a concomitant responsibility to report such events continuously and proactively.

Even though public polls consistently reveal a bipartisan consensus *favouring* intervention in the case of Darfur, it is telling that a large proportion of American public is pessimistic about the prospect of obtaining international action.⁹¹ The key problem therefore is not so much a lack of public support for R2P as it is “the lack of political leadership in the United States and internationally.”⁹² Ultimately, “a great deal comes down to the leadership of

⁷⁹ More specifically, 51% of Americans believe the USA “has a responsibility” to act in Darfur and 53% favour the use of US troops (Allen and Doherty 2006). In comparison, in a PIPA-Knowledge Networks poll taken one year earlier, 74% of Americans felt that the UN should step in with military force and stop the genocide, and 60% felt the US should be part of that military operation (WPO 2005a). This was confirmed in a GlobeScan poll, according to which 61% of Americans favoured a UN-led intervention in Darfur, with 54% willing to contribute US troops; 70% favoured NATO’s support (including the US) for the AU mission in Darfur (WPO 2005b). There was also support (72%) for the *principle* of sending US troops into humanitarian crises, especially genocide (75%), according to a July 2004 poll by Chicago Council on Foreign Relations (see WPO 2005a).

⁸⁰ The ICG commissioned a public opinion survey in the US in May 2005 (see ICG 2005).

⁸¹ This includes 81% who supported tough sanctions on Sudanese leaders controlling the militias, 80% who backed establishing a no-fly zone (NFZ) over Darfur, and 91% who wanted the US to cooperate with the International Criminal Court (ICC) to help bring to justice those accused of crimes against humanity.

⁸² ICG 2005.

⁸³ WPO 2005b

⁸⁴ PRC 2006.

⁸⁵ (About the same proportion as in May 2005 and July 2004). See Allen and Doherty 2006.

⁸⁶ Allen and Doherty 2006. This number compares to 46% of Americans who reported following news from Iraq “very closely” in a survey conducted in January 2007 by the Pew Research Center for the People & the Press (see PRC 2007).

⁸⁷ Among the one third of the public that had followed reports at least fairly closely, the support for the use of US troops was higher (at 66%). See Allen and Doherty 2006.

⁸⁸ For instance, 68% of college graduates—but only 40% of those with a high school degree or less—felt the US has a responsibility to do something about Darfur; partisanship was not a factor. See PRC 2006.

⁸⁹ WPO 2004.

⁹⁰ ICISS 2001a, 26, 74.

⁹¹ Asked whether they think “the international community, including the US,” will “step in with military force and stop the genocide in Darfur,” 47% felt it would not (vs. 42% who thought it would). See WPO 2005a. This was consistent with the attitudes in 2004 (WPO 2004).

⁹² Feinstein 2007, 4.

key individuals and organizations.”⁹³ Some of the greatest advances in humanizing and moralizing international relations were built on the lofty ideals, innovative solutions, and, often, the dogged commitment of our political and civic leaders. “Someone, somewhere,” as ICISS observed, “has to pick up the case and run with it.”⁹⁴ *When the leadership is wanting on the political level, it needs to be taken up by other actors, in civil society and the media, working in partnership to push the agenda forward.* Bureaucrats, advocates, and journalists may sometimes make for unlikely, even uneasy, bedfellows, but part of the strength of R2P partnerships lies precisely in their diversity.

2. Constructing an International R2P Regime

The lessons from the domestic context can be extrapolated and applied to the international arena, which offers as many potential partners and advocacy channels to advance the processes of institutionalization and norm-setting. Mobilizing international political will “requires the same kind of commitment and leadership, and the same kind of constant campaigning.”⁹⁵ The decisive question is whether we can muster the support, and the resources, to build a protection regime in the “global public domain.”⁹⁶

The current efforts to get R2P off the ground are for the most part unfolding in relative isolation from each other, which not only leads to a waste of scarce resources (through duplication) but also slows down and weakens the overall process. An *international regime*, however, could build synergistically on these individual initiatives, making it more durable and robust. International regimes are typically created in response to complex problems of global governance, which cannot be solved by any single country. Today there are hundreds of regimes governing and administering all aspects of international life that require coordination among states and other stakeholders—from public health and the environment, non-proliferation and collective defence, to human rights and the protection of civilians. The trade regime, for instance, comprises a dense body of international trade law, a governing institution, and a standard-setting forum (i.e. the WTO). In this section, we explore how a coherent international protection regime might emerge from the web of principled ideas, laws, institutions, and practices, and what it might look like.

2.1 Building Consensus

a. Building an R2P Network

While the area of humanitarian aid procurement, delivery, and distribution is dominated by civil society actors, the (legitimate) use of force is still a reserved domain of the sovereign state. The overarching structures of the protection regime must therefore be laid down through *interstate* cooperation, starting within the United Nations as the foremost institution of global governance and a guardian of international law, but also in consultation with other relevant stakeholders.

States: The first port of call for all concerned with moving the R2P agenda forward are those states with a particular interest in seeing this principle implemented in real-life crises. This includes not only the “norm-entrepreneurs” who have been at the forefront of efforts to recognize R2P as an emerging norm, but also those countries that might benefit from R2P capacity-building, early warning instruments, and protection. The pro-R2P governments are easily identified by their outspoken advocacy of the norm in international forums, such as the UNGA. At the World Summit, R2P received significant cross-regional support, namely from Canada, the European nations (the 25 EU member-states, plus the associated or accession states), Australia, and New Zealand. Essential for its endorsement was that many Latin American and African countries had crossed the floor since 1999 to join the North Atlantic bloc on the question of intervention, such as Argentina, Chile, Costa Rica, Peru, Mexico, Rwanda, Senegal, South Africa, and Tanzania, while within Asia, both Japan and Korea endorsed the norm. We should make sure that these countries that have shifted their official position from supporting non-interference to urging non-indifference in human rights crises stay engaged in the R2P efforts. The United States also eventually threw its weight behind R2P, partly under the impact of the recommendations of the US congressional task force on UN reform, co-chaired by Newt Gingrich and George Mitchell.⁹⁷ The 2008 US

⁹³ ICISS 2001a, 71.

⁹⁴ ICISS 2001a, 71.

⁹⁵ ICISS 2001a, 72.

⁹⁶ Axworthy 2005, 50.

⁹⁷ See USTF 2005, 7, 15, 29, 31

elections represent a unique opportunity to ask the candidates from both parties to spell out their position on R2P, and Darfur, and to see that this policy is implemented under the next administration.

But not all countries are equal in terms of their moral weight. Those with the reputation or credibility as good international citizens have a particular responsibility to *lead* in the promotion of R2P. Canada, the lead-negotiator on R2P at the World Summit, secured critical support from likeminded governments, such as the members of the informal Human Security Network (HSN). Their cooperation was facilitated by years of joint efforts to construct other governance regimes, like the ICC, the Kimberly Process, or the Kyoto Protocol. *Canada should continue spearheading R2P-initiatives and engaging other likeminded governments*, as discussed below.

International organizations: The main institutional agent to oversee the construction of the R2P regime is the UN, not only because it has the capacity to manage R2P's multi-dimensional, multi-year agenda, but also because the final authority over the use of force rests with the UNSC. The responsibility to protect, to be sure, is first and foremost a responsibility to *prevent* conflicts from breaking out. And that calls for a comprehensive approach to human security and sustainable development, as recognized in the Millennium Development Goals (MDGs).

Much of the intellectual heavy-lifting in articulating R2P and bringing it to the world's attention since 1998 was done by the UN Secretariat, whose periodic reports and recommendations greatly contribute to the Council's deliberations and determine the range of possible options.⁹⁸ The Office of the Secretary-General, as ICISS has noted, is the obvious starting point when looking for multilateral leadership on the norm of R2P, as well as on constructing and maintaining multinational coalitions for an intervention.⁹⁹ The new Secretary-General, Ban Ki Moon, appointed in January 2007, expressed his support for R2P in his first address to the UNGA.¹⁰⁰ He should now place genocide prevention at the center of his mission and agenda.¹⁰¹ He should also ensure that his Special Advisor on the Prevention of Genocide (SAPG) be given sufficient political support and resources to carry out his mandate.¹⁰² The former Secretary-General should be kept engaged in the ongoing advocacy efforts. After all, R2P was Kofi Annan's personal venture,¹⁰³ and both the sovereignty-protection debate since 1999 and the establishment of ICISS itself would have been "unlikely" without his prompting.¹⁰⁴

Individual advocates: The UNSG is not the only international figure with the credibility and the stature to stand up for R2P in the court of world opinion. A number of other individuals would be an asset to the growing R2P coalition, such as Canada's former Foreign Minister Lloyd Axworthy, UNHCR High Commissioner (and former Portuguese Prime Minister) António Guterres, Nobel Prize winner Desmond Tutu of South Africa who has been outspoken about Darfur and R2P, well-known current and former UN officials like Jan Pronk or Francis Deng, or members of the two international task-forces, ICISS and the HLP, who have helped build international consensus on the principle. Some of the ICISS Commissioners have done much to keep R2P on the international radar through the maelstrom of 9/11; for instance, Gareth Evans, the head of the International Crisis Group, has been calling on the international community to protect the people of Darfur. Other political leaders, Nobel Laureates, prominent public personas, and even Hollywood celebrities should be brought into the campaign. This would not cheapen or commercialize the norm: to induce or shame governments into action, a humanitarian disaster needs sustained media and public attention.

Civil society: Neither governments nor the media, given their notoriously short attention-spans, can be entrusted with the task of keeping R2P on the international agenda. Instead, we need civil society groups to sustain the "R2P-moment" beyond the ICISS Report and the UN World Summit—and help with the problem of the global attention deficit: "NGOs have a crucial and ever increasing role...in contributing information, arguments and energy to influencing the decision-making process, addressing themselves both directly to policymakers and

⁹⁸ As ICISS observes, this can be positive, as well as negative: Rwanda was a failure of UN member states, but also the Secretariat (pp. 72-3).

⁹⁹ ICISS 2001a, 72-3.

¹⁰⁰ "As Secretary-General, I will make the most of the authority invested in my office by the Charter and the mandate you give me. I will work diligently to materialize our responsibility to protect the most vulnerable members of humanity and for the peaceful resolution of threats to international security and regional stability" (See UN News 2006).

¹⁰¹ HRW, Amnesty International, and the Institute for Global Policy in a joint letter addressed to the UNSG argued that he must renew and strengthen the SAPG post when it expires at the end of March, adding that the position would lose clout if it were merged with another UN role (see Nichols 2007). For similar recommendations, also Feinstein 2007; HRW 2006; Hicks 2007; RI 2006.

¹⁰² The source of the SAPG mandate is SCR 1366 (2001) on conflict prevention. The mandate was circulated by the UNSG to the members of the UNSC on 24 March 2004, and the first SAPG, Juan Mendez, was appointed on 13 July 2004 (see S/2004/567). Mr. Mendez's Office has thus far issued notes on the situations in Darfur, DRC, and Cote d'Ivoire, among others.

¹⁰³ "Of all my aims as Secretary-General, there is none to which I feel more deeply committed than that of enabling the [UN] never again to fail in protecting a civilian population from genocide or mass-slaughter" (Annan 1999a); also, see UN Press Release (7 April 2004); SG/SM/8125.

¹⁰⁴ ICISS 2001b, 217.

indirectly to those who, in turn, influence them.”¹⁰⁵ The landmine ban, one of the success stories of the human security movement, for instance, started with a grassroots campaign in the United States, which caught the attention of several US Senators and the President, and was then taken up by the Canadian government, in close cooperation with the International Campaign to Ban Landmines (ICBL).¹⁰⁶ Similarly, today, with public funding and encouragement, civil society groups across North America and Europe have promptly internalized the idea of R2P. *They should now use the Summit commitment to hold governments accountable for their actions in Darfur and other global hot-spots.*

b. Defusing Opposition

Once the informal network is in place, it is necessary to address the other side. The sources of international opposition to R2P differ considerably from those domestically—and so do the relevant counterarguments. This section describes in brief the nature of the political challenge to R2P on the international stage and discusses the available strategies of engagement. The basic message is that *the opposition can be neither coerced nor wished away; but, it can be engaged, gradually persuaded, and eventually socialized into the protection regime* because, ultimately, the moral case rests squarely on the side of R2P.

The R2P network needs to identify the norm’s key opponents and pinpoint the reasons for their opposition. As discussed in Part I, the World Summit negotiations exposed a deep rift between the “pro” and the “anti” camps, which had yielded a weaker R2P text. But the same debates also offered several key insights. The first thing to realize is that the opposition, though vocal and tenacious, is remarkably small. Though it claims to speak for the developing world at large, the anti-R2P group is in reality limited to a handful of hold-outs, such as Algeria, Bangladesh, China, Cuba, Egypt, Iran, Pakistan, Syria, Russia, Venezuela, and Zimbabwe. Where necessary, we should name names. This line-up unfortunately includes two of the five UNSC permanent powers and several G-77/NAM heavyweights, but the reasons for their opposition were more about the politics than the principle of R2P. It is critical to ensure that these countries not be allowed to “hijack” the agenda of such forums as the UNGA, the AU, NAM, or the G-77 through block-voting and consensus-based declarations that obscure the diversity of opinion among their membership—and hide the overwhelming support for R2P among the silent majority. For instance, Sub-Saharan states (who favour R2P) often vote with their North African counterparts (who oppose R2P) because of regional loyalties or political pressure. If they can be peeled away from their default bloc-voting position and if they can be persuaded to join a principled rather than a regional bloc, we could see a significant breakthrough on R2P. The Rwandan government’s efforts were commendable in this regard, as they thwarted a forced “consensus” (against R2P) in NAM in the lead-up to the 2005 World Summit.

The second insight from the Summit negotiations is that the opposition’s arguments are largely extraneous to R2P. There is an astonishing degree of normative convergence among states around the fundamental message of R2P—that the international community has an indisputable moral obligation to save civilians from mass atrocities. *No state was prepared to stand up in New York in the fall of 2005 saying that a failure to respond was an option.* The dissenting states had objected to the specifics of R2P (e.g. the mechanics and processes of intervention), not the norm itself. That said, *it is still necessary to engage seriously with their arguments, because they point to some deeper grievances.*

First, R2P’s advocates must recognize the extent of the damage done to the norm by the war in Iraq—and to address it. The two occupying powers, the United States and the United Kingdom, have used humanitarian rhetoric to justify *post hoc* the intervention.¹⁰⁷ In so doing, they fed into the pre-existing perception in the developing world that the powerful nations could try to further their own narrow interests under the guise of R2P. These few opponents need to be persuaded—and many others reassured—that R2P would not become a “Trojan horse” for neo-colonialism and regime-change. The norm’s supporters must draw a firm distinction between the two types of intervention currently practiced by the international community: the counterterrorism/security campaigns in Afghanistan and Iraq and the humanitarian/protection operations in Africa, Central America, and the South Pacific. The two anti-terrorism campaigns, obviously, contain a humanitarian component. But they are not “R2P missions,” and they are not consistent with the criteria suggested by ICISS, the HLP, or the Secretary-General. The states that are genuinely concerned about the potential for abuse and unilateralism must be reassured that the World Summit formula already contains all the necessary checks—from affirming a state’s

¹⁰⁵ ICISS 2001a, 71.

¹⁰⁶ Axworthy 2005, 41-2.

¹⁰⁷ See Roberts 2003, 150; Weiss 2004, 143; Evans 2005.

primary responsibility for the protection of its citizens to placing the decision for intervention, as last-resort, with the UNSC alone, within a multilateral, just-war framework.

The charges about selectivity and inconsistency levelled by the South are much harder to rebut, because they are largely true. The UN Security Council has intervened on many occasions since 1989, but it has done so unevenly. Yet a failure to respond to humanitarian crises *everywhere* cannot be a reason not to intervene *anywhere* at all. Obviously, intervention in a P5 is a non-starter: the situation in Chechnya or in Tibet will never be the object of a UN peace mission. (But neither should this shield a P5 from scrutiny). In other cases, the UN may be hampered by a lack of capacity, logistics, or overstretch. Thus, instead of “[lamenting] the inevitable unevenness of application,”¹⁰⁸ *we should insist that the Council follow voluntary (or, eventually, mandatory) criteria on the use of force*, which are uniquely positioned to ground our moral aspirations in the hard realities of power.

A few states have used the Security Council’s unrepresentative character to block debate, pointing to the UN General Assembly as the only *legitimate* forum for a discussion of R2P. A more fairly designed or representative UN may be a desirable goal, but making it prior to an effective R2P regime is morally indefensible. Clearly, the protection of civilians cannot be made contingent on the restructuring of the international system, and the immediate provision of physical security cannot wait for the UNSC reform.

In the end it may become necessary to expose this group’s criticism, concerns, and stonewalling for what they are: whether misguided, insincere, or self-interested, the effects of their opposition to R2P for the victims of a crisis are nothing less than deadly. The Canadian negotiators at the Summit were right to question the moral integrity of the sceptics’ position: “We cannot have it both ways—deplore a lack of effective action in Rwanda, the Balkans, and Darfur—and at the same time reject a framework of principles intended to provide a rational basis for determining how and when to intervene in such cases.”¹⁰⁹

2.2 Laying down the regime foundations

Before they can begin, and win, the normative debate with the “sceptics,” *R2P’s advocates have to strengthen R2P’s normative and legal position in international society*. As our discussion of R2P’s pre-cursors in the 1990s has shown, the protection of civilians within the UN system has harnessed the power of four synchronous developments: norm-setting, institutionalization, codification, and practice on the ground. Ensuring the survival of R2P beyond the World Summit will take nothing less.

a. Norm-setting

The changed patterns of international behaviour over the past century—and our own perceptions of what qualifies as “good governance” or “legitimate statehood”—attest to the importance of setting precedents and embedding norms in the structures of international governance. Social norms, as standards of appropriateness, have helped redefine international expectations about—and prescribe—what constitutes proper state behaviour vis-à-vis its peers, and, increasingly, its own citizens. There is a lengthening list of practices that are today considered to be antiquated, outlawed, or taboo, such as duelling, piracy, slavery, or torture. Much in the same way that the R2P transnational coalition is now lobbying for systemic change in the field of protection, other principled issue-networks over the past century had devoted considerable energy and resources to make other practices inconceivable. Their efforts lowered the limits of international tolerance of—and indifference to—injustice. We no longer engage in them not because they are illegal, but because they are unthinkable. The fact that there is now national and international legislation in place makes these norms more robust, but the first victory was won on the normative plane. The decisive legal battle for the correct interpretation of R2P is still some years away; the regime-builders meanwhile need to strengthen the principle through a combination of ongoing advocacy and consistent practice.

A central task of the norm-setting project is to make “R2P” a part of the international vocabulary. Beyond bilateral contacts with potential partners, multilateral forums (e.g. the annual meetings of the G8, G20, or APEC) represent a key venue to put R2P on the international agenda, as do regional or international organizations, such as ASEAN, AU, ECOWAS, OAS, OSCE, NATO, and, of course, the UN. In the UN’s galaxy of agencies, the UNGA, as the world’s most representative forum, is typically seen as the organization’s *norm-setting* body. Not surprisingly, it was also the focus of Canada’s efforts to get a declaratory resolution on R2P. Despite the sceptics’

¹⁰⁸ Feinstein 2007, 12.

¹⁰⁹ Statement by Ambassador Allan Rock, Permanent Representative of Canada to the UN, at the informal thematic consultations of the UNGA to discuss the Report of the Secretary-General “In Larger Freedom” Cluster III (“Freedom to Live in Dignity”), 20 April 2005.

argument to the contrary, the UNSC is equally justified in taking up the issue of R2P—not merely as a matter of its *right* under the UN Charter, but as a function of its *responsibility* for international peace and security. The early contours of R2P, after all, were laid out in the Council’s resolutions and practices. Importantly, the Council’s decisions go beyond norm-setting to *law-making*. As such, what happens in the Council is essential to the third plank of our regime-construction strategy which we discuss below.

In addition to these efforts to mainstream the language of R2P through the UN and intergovernmental meetings, significant strides are being taken by the international civil society. Despite opposition from a handful of states and difficulties with implementation, there is a “growing acceptance” of both the R2P concept and terminology¹¹⁰ in the human rights community. NGOs, including Human Rights Watch (HRW), the ICG, Refugees International, and Oxfam, now regularly cite R2P in their statements and country reports.¹¹¹ The norm has also attracted the attention of some national legislatures and related bodies.¹¹²

The normative process takes on a momentum of its own as it becomes increasingly a part of the global public consciousness and as it adjusts to the changing realities of our times. Peacekeeping, for instance, was “invented” in 1956/7 as a deployment of a transnational *force*—at the height of the Cold War—as a stop-gap solution to keep the superpowers out of conflict. While the political deep-freeze at the time meant that the original mission’s mandate was limited to ceasefire supervision (despite Lester B. Pearson’s loftier aspirations), from that point forward, the *peacekeeping norm* kept evolving, maturing, and adapting itself to new international circumstances and needs. Now a typical UN peacekeeping mission will do everything from elections monitoring, disarmament, demobilization, and reintegration (DDR), international administration, to, vitally, protecting civilians. The first post-Cold War generation has come to *expect* peacekeepers to stop the chaos, violence, and lawlessness—at times, to do the impossible; it also *expects* the governments to deploy armed forces where they are needed. R2P is, in many ways, the next chapter in the evolution of a protection regime that got started with the invention of peacekeeping and the emergence of a modern human rights system half a century ago.

b. Institutionalizing R2P

Up until now, the thrust of the R2P movement has come from the fluid transnational coalitions that have formed outside the UN and from within the UN Secretariat (namely, the Secretary-General’s office). This was the maximum attainable in a post-9/11 environment where the R2P consensus seemed weak and limited. The World Summit, however, has strengthened R2P’s position by (1) revealing the extent of the consensus on intervention and (2) by embedding it in a soft-law document (the UNGA Declaration), which was then reaffirmed by the Security Council in its most recent resolution on the POC in armed conflict. The next step is to find a permanent “home” for R2P in the international institutional structure.

Institutionalization is essential while a norm is still contested. Once principles have been “internalized” by various actors in the system (i.e. they are complied with because they have become self-evident or “taken for granted”), they require little further elaboration or lobbying to be observed in practice. But the majority does need ongoing support, especially where there is a considerable risk of non-compliance. Having an institutional base internationally, as in the case of domestic programs, brings distinct advantages, such as an annual budget or earmarked programming funds; advisory boards and intellectual refinement; ongoing promotion and higher visibility; organized coordination and advocacy efforts; monitoring and follow-up reporting in the implementation stage.

But having a home-base is not enough in itself. The 2003 report of the Commission on Human Security (CHS), an independent international task-force funded by the government of Japan, led to the creation of a Human Security Unit (HSU) in the UN Office for the Coordination of Humanitarian Affairs (OCHA).¹¹³ Yet all

¹¹⁰ Holt and Berkman, 30.

¹¹¹ HRW and the ICG have called for UN peacekeepers to “protect civilians” in conflict zones such as the DRC; other NGOs are urging the AU (and the UN) forces to protect civilians in Darfur; Amnesty has engaged with the question of the use of force and developed guidelines in 2005 for when it would call for military intervention to end human rights abuses. See Holt and Berkman, 30.

¹¹² The UK House of Commons International Development Committee, for instance, has condemned inaction in Darfur and urged the UK government and the international community to exercise their “responsibility to protect.” (See UK-HOC-IDC, “Darfur, Sudan: The responsibility to protect”). A US congressional task force on UN reform, co-chaired by Newt Gingrich and George Mitchell, endorsed R2P and urged the US administration to adopt—and apply—the doctrine (See USTF 2005, 7, 15, 29, 31).

¹¹³ The HSU was established in May 2004 with the objective of integrating human security in all UN activities; it combines the management of the UN Trust Fund for Human Security (UNTFHS) with the promotion activities of the Advisory Board on Human Security (ABHS) in an attempt to “[translate] the concept of human security into concrete activities” (<http://ochaonline.un.org/webpage.asp?Page=1516>). On the CHS and its Final Report, see CHS 2003.

discussion of human security was dropped from the World Summit Declaration in 2005. This should serve as a note of caution to the advocates of R2P: before the new concept of protection can become an obvious duty for the international community (the way that fighting forest fires or providing emergency services have become in the domestic society), R2P will require a support-network with long-term commitment to the norm. *To have practical impact, institutionalization must be accompanied by parallel efforts in the realm of advocacy and implementation.*

It is essential to make further progress on POC at the UN, starting with the Council. The language of R2P should be incorporated into the Council's thematic resolutions (i.e. the protection of civilians in armed conflict, peacekeeping, conflict prevention, international justice and the rule of law, women's and children's rights), as well as in the text of its Chapter VI and VII resolutions. The Council could set up its consultative or monitoring committee on R2P, as it has done with children's rights in armed conflict.¹¹⁴

The 15 members of the UNSC have a clear duty to keep implementing POC and R2P—in line with their past decisions and the World Summit Declaration. But other UN member-states can also influence the Council. In fact, the rest of the membership has a *responsibility* to oversee the Council's POC activities and to bring situations to the attention of the Security Council in open debates and by other means.¹¹⁵ R2P's proponents can back the efforts of the current non-permanent UNSC members to have the principle of R2P endorsed within the Council. Interested delegations can also encourage the rotating Council presidency to hold open debates on topics relating to R2P (e.g. peacekeeping or civilian protection), in which they can take part by submitting a request to the Council's President. Some, like Canada, have been active participants in these meetings. Another tactic is to submit policy proposals to the Council, whether individually or with partners (e.g. with other members of the HSN), containing actionable policy recommendations, whose contents should be made public on the delegation's website and shared with such UN watchdogs as the *Security Council Report*.¹¹⁶ The obvious implication is that these countries must themselves be willing to enact the measures they are proposing. They cannot “volunteer” others to implement their principled ideas. The middle powers, as R2P's greatest backers, must lead by example: i.e. they must find the political will, and the resources, to carry their share of the sizeable humanitarian task which they so eagerly advocate. To do otherwise would make their position on R2P look moralizing or hypocritical, and weaken the entire protection agenda.

The Council's decisions also directly shape the agenda of other UN bodies, which are charged with implementing the protection mandates. Since the concept of R2P spans four pillars of the UN's operations—humanitarian, human rights, security, and development—a number of agencies are entrusted with furthering R2P's objectives across different stages of implementation:

- The Department of Peacekeeping Operations (DPKO) sits at the center of the global peacekeeping regime, which is tasked with planning, preparing, managing, and directing UN peacekeeping missions;¹¹⁷
- Its humanitarian counterpart in the field is OCHA—the UN agency in charge of coordinating humanitarian response, policy development, and advocacy in response to complex emergencies.¹¹⁸ (OCHA has, until now, also provided the institutional support for the POC program within the UN);
- The Secretariat's “good offices” capacity, the mediation of disputes, peacemaking, and political missions are managed by the Department of Political Affairs (DPA);¹¹⁹

¹¹⁴ Composed of all 15 UNSC members under the French chairmanship, the Working Group on Children and Armed Conflict (CAAC) was set up in July 2005 pursuant to SCR 1612 (2005). Its mandate includes, *inter alia*, (1) reviewing the reports of the *monitoring and reporting mechanism* (MRM) defined in SCR 1612 (2005); (2) reviewing progress in the development and implementation of the action plans; (3) recommending measures to protect children (e.g. appropriate mandates for peacekeeping missions); (4) engaging other UN bodies in the implementation of SCR 1612 (2005). For the CAAC Terms of Reference, see S/2006/275. The CAAC is supported by the Office of the SRSG for Children and Armed Conflict (see www.un.org/children/conflict/).

¹¹⁵ As pointed out by Liechtenstein in one such debate (S/PV/5319r.1, 9 Dec 2005).

¹¹⁶ To answer the growing demands for accountability at the UN, the *Security Council Report* was set up in 2004 as the Council's watchdog. It is an independent not-for-profit organization affiliated with Columbia University. It was founded with the encouragement of the former UNSG, Kofi Annan, and with the support of the governments of Canada and Norway, the Rockefeller Foundation, and the MacArthur and Hewlett Foundations. Its up-to-date, impartial reports provide a unique window into the Council's workings, which used to be inaccessible to civil society and even other UN member-states. See <http://www.securitycouncilreport.org>.

¹¹⁷ It serves as the central coordinating point for all mission-related activities between the Council, troop and financial contributors, parties to the conflict, as well as other governmental and non-governmental entities on the ground. DPKO's mission to secure a “timely deployment of quality equipment and services, adequate financial resources and well-trained personnel” is central to the implementation of an R2P mandate. For the mission statement, see <http://www.un.org/Depts/dpko/dpko/info/page3.htm>.

¹¹⁸ OCHA conducts its function through inter-agency decision-making in cooperation with all humanitarian partners, including UN agencies, the ICRC, and NGOs. These responses include needs assessments, consolidated appeals, field coordination arrangements and the development of humanitarian policies. See <http://ochaonline.un.org>.

- The Office of the United Nations High Commissioner for Refugees (UNHCR) coordinates the international protection and relief efforts relating to refugees and IDPs in conflict zones;¹²⁰
- The Office of the United Nations High Commissioner for Human Rights (OHCHR), a department of the UN Secretariat, is heading the UN's human rights agenda.¹²¹ As such, its R2P-related activities range from early warning (prevention) to monitoring and ending impunity (post-conflict);
- Although we are not focusing in this paper on the *responsibility to prevent* or *to rebuild*, we still recognize the necessity to engage the UNDP, whose field-presence and expertise are key to formulating good long-term policy.¹²²

These technical agencies should integrate the relevant dimensions of R2P into their mission statements and operations. There is a tremendous scope for inter-agency cooperation to oversee the implementation of the entire R2P continuum.¹²³ One option to coordinate the UN's R2P program is through an inter-agency "Working-" or "Advisory Group on R2P," which could also act as the primary point of dissemination of information on R2P; liaison with government, regional groups, and humanitarian NGOs; and, depository of good practices/lessons learned. An R2P regime would thus act as a bridge between the international human rights regime, conflict-prevention regime, and sustainable development regime. Building these structures requires a "whole-of-the-UN" approach (i.e. the international equivalent of the "whole-of-government" approach domestically).

The two most recent additions to the international institutional architecture, the Human Rights Council (HRC) and the Peacebuilding Commission (PBC), both established by the 2005 World Summit Declaration, represent another venue to embed R2P. The new HRC,¹²⁴ a replacement for (and, hopefully, an improvement over) the old UN Commission on Human Rights, can play an important role in the early-warning phase of protection by (1) alerting the international community to emerging patterns of abuse and by (2) calling on, and assisting, the state in question to exercise its primary responsibility for the safety of its citizens. The HRC will need to be far more proactive, objective, and apolitical in its work than its predecessor had been; it will also need to issue country-specific resolutions when warranted by the facts on the ground. An impartial determination by the HRC would help depoliticize human rights and thus facilitate the UNSC's conflict prevention efforts. The PBC, on the other hand, is the 'what comes after' step: post-conflict reconstruction, reconciliation, and development. Although the PBC does not come into play during the "reaction" phase, it is nonetheless important that it be consulted about the post-conflict planning from the earliest stages, as it will likely inherit the international responsibility for nation-building in these countries. The international community, and the intervening forces, must also be committed to financing the mission and contributing to sustainable post-conflict development.¹²⁵

¹¹⁹ See <http://www.un.org/Depts/dpa/>.

¹²⁰ The UNHCR works in conjunction with other UN agencies, including the World Food Program (WFP), which supplies food and basic commodities to refugees, the UN Children's Fund (UNICEF), the World Health Organization (WHO), the UNDP, OCHA, and the OHCHR; as well as external organizations, such as the International Committee of the Red Cross (ICRC), the International Federation of Red Cross and Red Crescent Societies (IFRC), the International Organization for Migration (IOM), and 565 NGOs (see UNCHR 2006). The UNHCR has been designated as the agency with "primary managerial responsibility and accountability" for the protection of IDPs in complex emergencies (S/2005/740).

¹²¹ Its mandate includes preventing human rights violations, promoting international cooperation to protect human rights, coordinating related activities, and strengthening and streamlining the UN system in the field of human rights. The Office also seeks to integrate a human rights approach within all work carried out by UN agencies (see <http://www.ohchr.org>).

¹²² Development needs to take into account issues of sustainability in an R2P regime more broadly conceived. The linkage between "environmental scarcity" and conflict was a subject of academic theorizing until climate change brought it center-stage in Darfur and Sub-Saharan African, where recurrent droughts, creeping desertification, and changed weather patterns are a growing cause of tribal conflict. See statement by Jan Pronk to the UNSC on 4 November 2004 (S/PV/5071).

¹²³ Coordination of R2P projects could emulate the model employed by the humanitarian sector, namely PROCAP and CERF. The Protection Standby Capacity (PROCAP) is a mechanism that supports the strategic and operational protection response of UN agencies for IDPs and other vulnerable populations. It provides the UN with access to emergency protection expertise from a pool of qualified and experienced protection officers through formal standby agreements among UN protection-mandated agencies (OCHA, OHCHR, UNHCR, UNICEF), as well as civil society partners. The humanitarian response is already being coordinating through a modernized Central Emergency Response Fund (CERF). CERF was upgraded by the UNGA from the Central Emergency Revolving Fund on 15 December 2005 (in resolution A/RES/60/124) with the aim of ensuring a more predictable and timely response to humanitarian crises. Launched on 9 March 2006, the new CERF is the first concrete outcome of the UNSG's reform process and the Millennium Summit.

¹²⁴ On 15 March 2006, the UNGA created the Human Rights Council (A/60/251) in a vote of 170 to 4 (Israel, USA, Palau, Marshall Islands) with 3 abstentions (Belarus, Iran, Venezuela). The HRC is responsible for promoting and protecting human rights, addressing human rights, and promoting effective coordination and mainstreaming of human rights within the UN. Until March 2007, the HRC held three Regular Sessions, four Special Sessions, and a number of Working Group meetings tasked with developing the operational procedures and guidelines for the Council. The final agreement is expected in time for the fifth Regular Session in June 2007 (the Council's first anniversary). The fourth Regular Session is scheduled for March-April 2007.

¹²⁵ The PBC, established in December 2005, works in conjunction with the UNGA, the UNSC, and the Economic and Social Council (ECOSOC), to facilitate reconstruction, institution-building, and the promotion of sustainable development in post-conflict countries. Sierra Leone and Burundi are

c. Codifying R2P: International law

As the third strand in our regime-building strategy, we must clarify and strengthen R2P's status under international law. To make R2P—both as an idea and as an operative principle—foolproof from political manoeuvring and quick fixes, its long-term growth has to unfold in the legal space. Legalism is oftentimes seen as a counterpoint to pragmatism. But unjustly so: in the case of R2P, the law and politics must work in tandem.

An international convention on intervention would be too ambitious at this stage, as well as prone to the same kind of politicking we witnessed at the Summit negotiations. More to the point, a robust regime makes a treaty process superfluous if the same objective of protection can be met through other means. A pragmatic and functionalist approach suggests continuing to develop R2P through UNSC resolutions (which do have immediate—and binding—effect), plus consistent practice on the ground.

We anticipate that even this process will be a lengthy and polarizing one. Three of the P5 strongly oppose any “legalization” of R2P, for different reasons: Washington is primarily concerned that new *legal* obligations stemming from R2P might force its military into intervening; Russia and China, ironically, fear that R2P would license America’s unilateral interventions. Still, continued debate about R2P’s standing under international law is necessary. The sceptics at the World Summit sought to dismiss R2P’s position as a “new idea” that needs “further consideration.” They are still trying to challenge its inclusion on the UNSC agenda (supposedly pending the General Assembly’s decision on the issue). But R2P is not merely a good *idea*: it is a principle grounded in a large and growing body of international law and state practice.

The legal framework—which comprises international humanitarian law, international criminal law, human rights law, and refugee law—has been significantly enhanced¹²⁶ over the past seven years, namely through the adoption of the 2005 World Summit Outcome Document and the three Council resolutions on the protection of civilians in armed conflict. The World Summit was a formative moment for R2P: the text of the Declaration not only represents the will of the “peoples,” but a quasi-legal document or *soft law*. The Outcome Document is non-binding, but it has the potential to develop into a rule of customary international law, which *is* binding on states, as several landmark UNGA resolutions have in the past.¹²⁷

The Security Council’s practice, in contrast, can add an instant “hard law” element to the norm. In the six years since the adoption of SCR 1296 (2000), the Council’s engagement in crisis areas has been more systematic—with better peacekeeping mandates that addressed specific protection needs, enhanced humanitarian response, greater mediation efforts, and a more effective judicial recourse.¹²⁸ Still, because its response was “too often inadequate and grave areas of concern [persisted],”¹²⁹ the Council was urged to develop adequate tools to confront the new challenges of protection, to update the international POC framework, and to improve the UN’s capacity to respond.¹³⁰

The most recent POC resolution, SCR 1674 (2006)—adopted unanimously on 28 April 2006 after lengthy negotiations—sought to do just that. SCR 1674 takes a holistic view of the protection of civilians and asks that “all peace processes, peace agreements and post-conflict recovery and reconstruction planning” include specific protection measures.¹³¹ Second, it seeks to close the gap between the relatively robust legal regime and the patchy record of protection by putting more emphasis on ensuring adequate POC mandates for the UN’s peacekeeping, political and peacebuilding missions.¹³² More specifically, the Council stated its intention to (1) provide “clear

the first beneficiaries of the PBC grants, aimed at generating confidence and encouraging economic recovery (UN News Service 2007). The HLP, however, had recommended that the PBC be created to coordinate the UN’s activities with the efforts of other international financial institutions, donors, and NGOs to “avoid state collapse, the slide into war, or assist a country’s transition from war to peace.” But at the World Summit, the UNGA approved a limited version of the PBC, restricting its functions to post-conflict activities (Feinstein 2007, 23).

¹²⁶ See S/2005/740.

¹²⁷ E.g. UNGA Resolution 2625 (Declaration on Friendly Relations between States, 1970) is often quoted as a legal source of authority by countries defending the principle of sovereignty.

¹²⁸ Statement by Jan Egeland, the former UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, to the UNSC (S/PV.5476, 28 June 2006).

¹²⁹ Statement by Jan Egeland to the UNSC (S/PV/5319, 9 Dec 2005).

¹³⁰ S/2005/740.

¹³¹ This entails “(i) the cessation of attacks on civilians, (ii) the facilitation of the provision of humanitarian assistance, (iii) the creation of conditions conducive to the voluntary, safe, dignified and sustainable return of refugees and internally displaced persons, (iv) the facilitation of early access to education and training, (v) the re-establishment of the rule of law, and (vi) the ending of impunity.”

¹³² The protection mandate include “(i) the protection of civilians, particularly those under imminent threat of physical danger within their zones of operation, (ii) the facilitation of the provision of humanitarian assistance, and (iii) the creation of conditions conducive to the voluntary, safe, dignified and sustainable return of refugees and internally displaced persons.”

guidelines as to what missions can and should do to achieve” their protection goals; (2) give priority to the protection of civilians in decisions about the use of available capacity and resources; and, (3) ensure that protection mandates are implemented. Finally, the resolution contains an explicit reference to R2P. Despite their reservations expressed at the Summit and in the Council, the two dissenting P5 agreed to this clause, which other UN delegations supported and defended vigorously.

While this is no trivial success, the norm will gain credibility and long-term legal significance only if the Council’s pronouncements are accompanied by supporting practice in real-life crises. At this stage, however, “serious gaps remain in the implementation of the legal framework.”¹³³ The main weaknesses in the current regime arise in the areas of “prevention, protection, humanitarian access, impunity,” which can be redressed “only by combined action” by parties to conflict, individual States concerned, the international community, and UN agencies and peacekeeping and peace support missions.¹³⁴

d. Practicing protection

This brings us to the last element: consistent practice. Part of the reason why we got to this point—where we believe that R2P is not only necessary but also legitimate—is because of the precedent-setting interventions launched by the UN or regional groups to “rescue humanity from hell.” From now on, the challenge will be to move R2P forward *despite* them. Just as there are positive, progressive precedents, there are also the negative, retrogressive ones. If Darfur was “the first ‘test case’ of the responsibility to protect, there is no point in denying that the world has failed the entry exam.”¹³⁵ The international community’s response to Darfur has the potential to set R2P back ten years. In the next section, we look specifically at R2P’s operational dimension, its challenges, and what it will take to make R2P work in practice.

III. Operationalization: Making R2P work on the ground

In the final analysis, the success of the new protection regime will be measured not by the number of high-level endorsements of R2P but by the number of civilian lives saved. So how can we ensure a “timely and effective” response to a crisis? In this section, we examine the structures of the current peacekeeping regime, centered on the UN and, increasingly, regional organizations or coalitions of the willing. We identify the gaps in the global protection capacity and focus in particular on several cooperative solutions to make the system work better, including regional partnerships, training, and interoperability. We also consider what the “protection of civilians” means for the military and civilian actors in the field, and how R2P mandates can be fulfilled.

1. The decision to protect

The initial decision to protect civilians, either by diplomatic means or military force, is taken by the members of the UN Security Council. *It is therefore essential that the Council have timely access to more consistent and accurate reporting about the situation on the ground.*¹³⁶ The lack of a multisectoral monitoring and follow-up mechanism is one of the main gaps in the current POC framework, and the Council has been urged to follow the model accepted for children in armed conflict.¹³⁷ The Secretariat should be supported in its effort to develop an inter-agency framework for reporting global trends to assist the UNSC decision-making and analysis.¹³⁸

The UNSC should also be more open to briefings by senior UN officials—e.g. the High Commissioner for Human Rights, High Commissioner for Refugees, Assistant Secretary-General for Peacekeeping, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, and the Secretary-General’s Special Adviser for the Prevention of Genocide (who, in the past, has occasionally been denied access to the Council meetings)—as well as civil society representatives (such as the ICRC or HRW). Having early-warning data and ongoing situation updates would spare the UNSC the polemic over whether a state is *willing* or *able* to enact

¹³³ S/2005/740.

¹³⁴ UK statement to the UNSC (S/PV/5319r.1, 9 Dec 2005).

¹³⁵ Feinstein 2007, 38. See, also, ICG *Africa Briefings* on the crisis.

¹³⁶ S/2005/740.

¹³⁷ See statements by Argentina et al. in the POC debate on 9 December 2005 (S/PV/5319). Also see note 118 in this document.

¹³⁸ Future reports on the POC will include empirical information and a systematic analysis of the major trends affecting civilian protection. A number of UN missions in high-risk countries are also establishing incident-reporting systems and databases for reports to the Security Council. The data-collection mechanism is being established jointly with the DPA, DPKO, OHCHR, UNICEF, UNHCR, the Office of the Special Representative of the Secretary-General for Children and Armed Conflict and UNRWA. It will also seek active collaboration with academic institutions engaged in this area (S/2005/740).

protective measures: it is sufficient that the facts on the ground demonstrate otherwise. A timely decision by the Council would, in turn, enable the UN's implementing agencies to protect civilians with an appropriate mandate and adequate resources.

This, however, still leaves the fundamental problem of what the international community could, and should, do if the UNSC finds itself paralyzed again. Left unresolved at the time of the Kosovo intervention, this question has resurfaced with Darfur, where China's threat to veto more coercive (and effective) actions against the Sudanese government has tied the Council's hands. One proposal which is quickly gaining international support is an informal understanding among the P5 not to veto an intervention where their existential interests are not at stake,¹³⁹ or, in the alternative, to justify publicly the grounds for their opposition.¹⁴⁰ It is believed that opening up the P5's motives to international scrutiny would enable the Council to act where needed.

China's default position—to support non-intervention, non-interference, and state sovereignty—has emerged as a serious concern for human rights protection, which, by definition, places priority on human security. China has traditionally “used its opposition to humanitarian intervention to win influence in parts of the developing world where intervention, humanitarian or otherwise, is still associated with colonialism or proxy Cold War interventions.”¹⁴¹ Given Beijing's growing interest in Africa's energy resources—and Africa's prevalent enthusiasm for R2P—China has kept a relatively low profile on R2P in the Summit negotiations, though it has tried (and failed) to take out all references to the norm in SCR 1674 (2006). We can assume that China might moderate its opposition to R2P in an open debate. As the next great power on the African continent, Beijing needs to be convinced that human security in Africa, and elsewhere, is in its own interest. It seems probable that a more unified, resolute, and committed international support for R2P could go a long way in socializing Beijing to the norm of protection. Secondly, China's changing role in international peacekeeping may provide a further incentive to embrace R2P. In recent years, China has faced pressure “to provide the experience behind its votes to veto or go forward with a peacekeeping mission.”¹⁴² Perhaps reports from its peacekeepers will moderate Beijing's reluctance to approve more robust protection mandates. Finally, we should not shy away from the “naming, gaming, and shaming” strategy to hold obstructionist countries to account.¹⁴³ China “has not faced much criticism, or any tangible consequences, for its role in protecting Sudan. How Beijing would resolve competing claims if it felt genuine international pressure is an untested proposition.”¹⁴⁴

2. The protection continuum

The use of force, to be clear, is the option of last resort. The doctrine of R2P puts a sizable array of non-military measures at our disposal. The first response, still in the prevention stages, ought to be a *cooperative* one, which engages the state. As soon as this becomes insufficient to “mitigate the risk of mass atrocities,” *coercive* measures should be threatened, and, where necessary, applied.¹⁴⁵ This includes international sanctions, which may be political/diplomatic, legal, economic, or military. In recent years, the UN has been moving away from the blunt, across-the-board sanctions to targeted sanctions against the state leadership or armed groups. Political sanctions may entail limiting diplomatic representation; restricting travel against leaders and their families; or, suspending the country's membership in an international body.¹⁴⁶ Legal measures, such as the threat of international criminal prosecution through the ICC or other tribunals, have increasingly become the policy of choice to induce individual accountability and deter violations. Economic sanctions (e.g. freezing foreign assets of country leaders, rebels, or terrorists or restricting income-generating activities from the sale of oil, precious stones, timber, and narcotics) are an alternative to freezing funds. Military sanctions include a wide array of actions: suspending military cooperation and training; arms embargoes; preventive military deployments; no-fly zones (NFZs); naval blockades; and, lastly, armed intervention.¹⁴⁷

¹³⁹ This was raised by ICISS, HLP, the UNSG in his Millennium+5 report, as well as by UN delegations in the Council's POC debates (see statements in the Council's POC debate on 28 June 2006).

¹⁴⁰ “If [the big powers] begin to use a veto to stop an effort to protect people, then they're going to have to answer the question, why? What gave you the right to stop the kind of intervention that must be brought to bear in [Western] Sudan or many other places?” (Axworthy 2005, 46).

¹⁴¹ Feinstein 2007, 13.

¹⁴² Especially as Japan is increasing its role in UN missions and strengthening its bilateral ties with the US, Beijing has taken a more proactive role and even sent troops to UN missions (Taft and Ladnier 2006, 34). With 1,861 military and police troops in the field, China was the twelfth largest contributor to UN peace operations in January 2007 (DPKO 2007).

¹⁴³ Axworthy 2005, 55.

¹⁴⁴ Feinstein 2007, 13.

¹⁴⁵ Feinstein 2007, 17.

¹⁴⁶ The AU suspended Mauritania and Togo in 2005 after coup attempts against democratically-elected governments (Feinstein 2007, 17-18).

¹⁴⁷ Feinstein 2007, 17-18.

Some combination of all of these measures is necessary to ensure that civilians are protected. Merely referring a situation to the ICC, say, might help end a culture of impunity or jolt the top-level officials into cooperating, but it cannot provide immediate protection on the ground the way that a peacekeeping force could. The fact that the ICC was seized of the international violations in Darfur, for instance, will make little difference to millions of vulnerable civilians unless accompanied by other actions. The international legal system must not become a “cop-out” or a substitute for other measures that may be necessary to prevent, deter, and end violence. The application of the various types of punitive sanctions has been sub-optimal. The Council has been urged to use targeted sanctions in situations where civilians are being targeted, where “access for humanitarian operations is denied as a result of specific attacks on those involved in the provision of humanitarian assistance,”¹⁴⁸ and, finally, where its own resolutions are being flouted. Each time that a UNSC deadline for compliance passes unobserved—and goes unpunished—it weakens the credibility and the authority of the UN and the international protection regime as a whole. *The international community must ensure that the UNSC resolutions are enforced and punitive measures applied.* While military force is only the option of last resort, when force is authorized, it should follow the criteria developed by ICISS and the HLP.

3. The capacity to protect

Finding the requisite political will for coercive measures is often difficult, especially if it involves putting peacekeepers on the ground. But a willingness to act must be matched with a material capability to act. Jean Chrétien’s offer in 1996, Canadian Prime Minister at the time, to lead a UN protection mission in Eastern Zaire (now Congo) stumbled on the reality that his country had no spare military capacity. The DRC today remains one of the most challenging peacekeeping environments—and one of the greatest humanitarian tragedies.¹⁴⁹ This problem is not unique to Canada: there is a *global* shortage of well-trained, well-equipped troops to meet the growing demand for complex peace-missions.¹⁵⁰ And this “lack of actual *capacity*—diplomatic, military, and otherwise—reinforces the *political* barriers to early and effective action.”¹⁵¹

This issue is not new: ICISS had warned that the UN may soon find itself in a situation where it has no capacity to deploy another mission.¹⁵² If the capacity gap in the international peacekeeping regime was problematic in 2001, it has become daunting by 2007, as individual UN member states are even less able to spare troops for humanitarian operations. In October 2006, deployment of UN peacekeepers reached a record-high, with 80,976 military and police personnel and some 15,000 civilians serving in peace operations.¹⁵³ This “unprecedented surge”¹⁵⁴ represents a *six-fold* increase in personnel numbers since 1998, not to mention the growing difficulty and complexity of the 18 operations the UN is currently running in Africa, Asia, the Caribbean, Europe, and the Middle East. The upward trend started in October 2003, with the deployment of five new operations (Liberia, Côte d’Ivoire, Haiti, Burundi, and southern Sudan¹⁵⁵) and the expansion of the mission in the DRC. Since mid-2006, a newly established presence in Timor-Leste and the increased deployment in southern Lebanon added “to the record-breaking number of uniformed personnel in the field.”¹⁵⁶ Once the UN Interim Force in Lebanon (UNIFIL) and the UN Integrated Mission in Timor-Leste (UNMIT) complete their full deployment—and if the UN Mission in Sudan (UNMIS) moves into Darfur, as authorized by the UNSC—over 140,000 military, police, and civilian personnel will be serving under UN mandates.¹⁵⁷ “These new demands have also brought unprecedented challenges,” Jean-Marie Guéhenno, UN Under-Secretary-General for Peacekeeping Operations, has pointed out, “including in the areas of personnel, resources, management, logistical support, quality assurance,

¹⁴⁸ Statement by Jan Egeland to the UNSC on 28 November 2005.

¹⁴⁹ The International Rescue Committee (IRC) estimates that 4 million people have died from the war in the DRC since August 1998; less than 2% of the fatalities are due to direct violence; the remainder are caused by displacement, disease, and lack of health care, food, and water (IRC 2004). See, also Holt 2006.

¹⁵⁰ Holt and Berkman 2006, 75

¹⁵¹ Feinstein 2007, 13.

¹⁵² “Given the magnitude of continuing operations in the Balkans (more than 50,000 troops), as well as the shrinking military budgets of most countries in the post-Cold War era, there are real constraints on how much spare capacity exists to take on additional burdens. UN peacekeeping may have peaked in 1993 at 78,000 troops. But today, if both NATO and UN missions are included, the number of soldiers in international peace operations has soared by about 40 per cent to 108,000” (ICISS 2001a, 71).

¹⁵³ PKO/152 (10 November 2006).

¹⁵⁴ DPKO 2006.

¹⁵⁵ UNMIS has been mandated by the UNSC (in SCR 1706) to expand its operations into Western Sudan; it had not deployed by the time of writing.

¹⁵⁶ In comparison, UN peacekeeping last peaked in mid-1993 with 78,444 troops, some 30% of whom were serving in Bosnia-Herzegovina (PKO/152). For a chart on the UN Uniformed Personnel in UN Peacekeeping: 1991- 2006, see DPI/2444 (22 January 2007) at www.un.org/Depts/dpko/chart.pdf.

¹⁵⁷ DPKO 2006. Only the United States has more troops deployed overseas (Feinstein 2007, 19).

professionalism and oversight, as well as the challenge of maintaining the political engagement of Member States.”¹⁵⁸ The UN is thus facing both a *military* and *political* overstretch.¹⁵⁹

But the UN is not alone in its difficulties. Other national and regional groups which have occasionally stepped in where the UN was unable to go are themselves coping with multiple competing demands on their budgets and troops. The global war on terror has significantly complicated the UN’s peacekeeping efforts, as some of the world’s leading militaries have shifted their resources to counterterrorism operations. It is now questionable whether NATO, as the world’s strongest military alliance, could fill the peacekeeping gap, given that it has “struggled for months to find a few thousand additional soldiers and a few extra helicopters to back up its troops fighting in southern Afghanistan.”¹⁶⁰ Extending Canada’s contingent in Afghanistan to 2009, for instance, has limited that country’s ability to participate in UN peacekeeping,¹⁶¹ as Defence Minister Gordon O’Connor acknowledged: with 2,500 troops in Joint Task Force Afghanistan (JTF AFG), Canada would be unable to mount another “major” operation, though it could “play a supportive role” for a UN-led mission in Darfur or Haiti.¹⁶² (In comparison, Canada had 141 military and civilian personnel serving under the UN in January 2007¹⁶³). The US, UK, and other coalition forces had 160,000 troops stationed in Iraq in January 2007.¹⁶⁴ NATO, the AU, and other groups were fielding some 74,000 soldiers in the Balkans, Afghanistan, the Sudan, and other zones of conflict (this includes 7,000 AU troops in Darfur). The fact that “the world’s political energies are focused on just a few acute problems” leaves the UN “to deal as best it can with many chronic or less visible conflicts.”¹⁶⁵

There is also some concern that civilian protection mandates, because of the heightened risk to the peacekeepers, might dissuade potential troop-contributing countries (TCCs) from offering personnel.¹⁶⁶ However, if “a developed state such as the UK takes the lead, other countries may be more willing to offer troops.”¹⁶⁷ The problem is that Western nations have reduced their military contributions to UN peacekeeping relative to the early 1990s.¹⁶⁸ UN peacekeeping used to be a *métier* of Canada and other middle powers. Now it has become synonymous with the developing world.¹⁶⁹ Yet troop contributors from the South often lack the financial, logistical, and force-projection capacity to deploy, lead, and sustain complex multinational operations;¹⁷⁰ others are facing insurgency problems of their own (e.g. Pakistan). The wealthy nations will thus need to re-commit to protecting human security, with greater financial, military, and political support for UN operations. The enlarged operation in Lebanon in 2006 was an interesting exception—which also underscores the degree to which Western nations *are* able to find and deploy troops on short notice where they see a direct political interest.¹⁷¹ Stability in the Middle East is still treated with more urgency than a humanitarian emergency elsewhere in the world.

4. Closing the capacity gap

4.1 Building up the UN’s Protection Capacity

Observers have pointed to “political constraints at the [UNSC], the slow generation of resources, and inadequate mandates” as the principal reason why the UN has often “found itself under-prepared and out-manoeuvred” in tough environments.¹⁷² Political problems aside, one major obstacle to mounting a “timely” intervention has been the slow pace of mobilization.¹⁷³ The Brahimi Report had recommended a 30-90 day deployment for UN

¹⁵⁸ PKO/152.

¹⁵⁹ DPKO 2006.

¹⁶⁰ *The Economist* (January 2007).

¹⁶¹ It was extended past February 2007 (Struck 2006).

¹⁶² The nature of this support was not specified (Struck 2006). For official information on the JTF AF, see Canada-DND 2007.

¹⁶³ The UN’s two largest financial contributors (not counting the EU)—the US and Japan—have 316 and 33 troops in the field, respectively. Such traditional peacekeeping contributors as the Netherlands have only 227. See DPKO 2007.

¹⁶⁴ *The Economist* (January 2007). In 2007, all NATO states other than the US had 21,000 troops in Afghanistan; 10,000 in Iraq; 5,300 in the Balkans; 2,300 in the DRC; 5,700 in the enlarged UN operation in Lebanon; 550 in Cyprus; and, 440 in the Golan Height (Feinstein 2007, 32).

¹⁶⁵ *The Economist* (January 2007).

¹⁶⁶ Holt and Berkman 2006, 64.

¹⁶⁷ Holt and Berkman 2006, 64.

¹⁶⁸ Holt and Berkman 2006, 64; Holt 2006, 59.

¹⁶⁹ The top ten contributors are Pakistan (with 9,989 troops); Bangladesh (9,656); India (9,612); Jordan (3,819); Ghana (2,907); Nepal (2,710); Uruguay (2,580); Italy (2,479); Nigeria (2,468); and, France (2,049) (DPKO 2007).

¹⁷⁰ Holt 2006, 59.

¹⁷¹ France and Italy dispatched peacekeepers within weeks of the ceasefire in August 2006. This was the first time (since Bosnia) that Western forces “donned blue helmets” (*The Economist* (January 2007)).

¹⁷² Taft and Ladnier 2006, 2.

¹⁷³ Readiness to stop mass violence is often measured by the “ability to deploy forces in sufficient numbers quickly and effectively” (Holt and Berkman 2006, 73-4).

operations, but the organization has yet to reach this target.¹⁷⁴ (Even this would be inadequate to stop mass-slaughter on the scale of Rwanda).

The greatest, and longstanding, weakness of UN peacekeeping is its “inability to field forces in sufficient numbers when it counts.”¹⁷⁵ UN peacekeeping, fifty years after its inception, is “still at the very early stages of institutionalization.”¹⁷⁶ At the root of the problem is the UN’s lack of a rapid-response capacity, which goes back to the organization’s founding days. Kofi Annan used to describe UN peacekeeping as “the only fire brigade in the world that has to acquire a fire engine after the fire has started.” Without a permanent pool of available professional troops, the UN Secretariat scrambles to assemble forces anew for every operation.¹⁷⁷ This practice of “just-in-time” recruitment means that even the most urgent peacekeeping assignments take months to fill, while the blue helmets tend to be of “uneven quality.”¹⁷⁸

The idea of having a rapid response force waiting on standby in home nations for deployment in UN operations is not new. After the failures of protection in the early 1990s, it was endorsed by the then Secretary-General Boutros Boutros Ghali in his 1995 *Supplement to an Agenda for Peace*¹⁷⁹ and reaffirmed by the 2000 *Brahimi Report*.¹⁸⁰ The UN Standby Arrangements System (UNSAS) was developed in response to the need to increase the speed of deployment by providing the UN Secretariat with information about the TCC military resources available for peace operations.¹⁸¹ Among the participating nations, only Jordan and Uruguay have attained the most ready “Rapid Deployment Level.”¹⁸² The US is participating only nominally, far below the level of other militarily-capable states, such as Australia and the UK.¹⁸³ Not surprisingly, between 2000 and 2007, interventions were typically led by a single nation or a regional group as a bridging mission before a UN force could be put in place.¹⁸⁴

There is little enthusiasm, however, to move away from this *ad hocery*. Few governments are willing to earmark troops for rapid deployment under the UN’s auspices, let alone relinquish control and command of their forces. It is “odd, strange, and maybe even just a little silly,” Lloyd Axworthy has noted, that Western nations are “anxiously working to establish a rapid reaction force under NATO to move into areas of crises and conflict,” while they shrink from “the same idea” for the UN.¹⁸⁵ Yet, even “the *perception* of having a ready and capable force at the [UN] would reinforce a habit of taking action, and erode the sense of resignation that tolerates mass killing.”¹⁸⁶

Some steps toward developing a rapid response capacity have been made by individual countries. Denmark, in partnership with other likeminded states with considerable peacekeeping experience, established a Multinational Standby High-Readiness Brigade for UN Operations (SHIRBRIG) as a rapid deployment force within the UNSAS

¹⁷⁴ Holt and Berkman 2006, 63-4.

¹⁷⁵ Feinstein 2007, 21.

¹⁷⁶ The Headquarters are under-staffed, with only 600 people supervising (Ibid.) 18 operations and over 100,000 troops in the field.

¹⁷⁷ Feinstein 2007, 20.

¹⁷⁸ Feinstein 2007, 20.

¹⁷⁹ “I have come to the conclusion that the [UN] does need to give serious thought to the idea of a rapid reaction force,” which would be the Council’s “strategic reserve for deployment when there was an emergency need for peacekeeping troops.” It would comprise battalion-sized units from a number of countries, which would be trained to the same standards, use the same operating procedures, be equipped with integrated, interoperative equipment, and take part in joint exercises at regular intervals. However, as the UNSG noted, the presence of standby arrangements was no guarantee that troops would be provided when called for. The UNSC decision in May 1994 to expand the UN Assistance Mission for Rwanda (UNAMIR), for instance, encountered silence from all 19 Governments which, at that time, had undertaken to have troops on standby (A/50/60-S/1995/1, §43).

¹⁸⁰ The Panel recommended that UNSAS “be developed further to include several coherent, multinational, brigade-size forces and the necessary enabling forces, created by Member States working in partnership, in order to better meet the need for the robust peacekeeping forces” (A/55/305-S/2000/809).

¹⁸¹ UNSAS was launched in the mid-1990s “to enhance the UN’s rapid deployment capabilities and to enable it to respond to the unpredictable and exponential growth in the establishment of the new generation of complex peacekeeping operations”; it serves as “a *database* of military, civilian police and civilian assets and expertise indicated by Governments to be available, in theory, for deployment to UN peacekeeping operations at 7, 15, 30, 60 or 90 days’ notice” (A/55/305-S/2000/809, §102.) Under UNSAS, UN member-states make *conditional* commitments to make available pre-specified resources within the agreed response times for UN peacekeeping operations, which can include civilian and military personnel, services, and equipment. The specified resources remain on “stand-by” in their home country to undergo necessary preparation and training, which are to be used exclusively for peacekeeping operations mandated by the UNSC. When needed, stand-by resources are requested by the UNSG and, *if approved* by their home state, are rapidly deployed to start a new peacekeeping missions or to reinforce existing ones. For further information, see DPKO 2005. This was the model used in the EU Operation Artemis in 2003.

¹⁸² Holt and Berkman 2006, 63-4

¹⁸³ Feinstein 2007, 30.

¹⁸⁴ All of these groups are actively working on improving their speed of deployment into zones of conflict, with varying success. The EU is developing 1,500-troop strong battle-groups of highly mobile forces that could deploy outside Europe within ten days; other organizations have not yet attained that level of preparedness (Holt and Berkman 2006, 63-4; 73-4).

¹⁸⁵ Axworthy 2005, 55.

¹⁸⁶ Feinstein 2007, 20.

framework.¹⁸⁷ Any deployment must be mandated by the UN Security Council. Though initially envisioned for Chapter VI missions, SHIRBRIG has recently also taken on more robust operations on a case-by-case basis.¹⁸⁸ In either scenario, the missions are terminated or replaced by non-SHIRBRIG forces after a maximum of six months.

Several other recommendations of the Brahimi Report have also resulted in positive reforms, such as the creation of stronger central headquarters, equipment inventories, lists of on-call military officers and civilian experts, and inter-agency coordination. The proposals to make “incremental improvements in procurement, airlift, and stockpiling of equipment” ought to be given serious consideration.¹⁸⁹ Yet, as the High-Level Panel observed in 2004, “It is unlikely that the demand for rapid action will be met through [these] mechanisms alone.”¹⁹⁰ We should now go beyond cosmetic changes to complete a system-wide restructuring of the international peacekeeping regime. Needed instead, as the Secretary-General has recommended in 2005, is “an interlocking system of peacekeeping capacities that will enable the [UN] to work with relevant regional organizations in predictable and reliable partnerships.”¹⁹¹ The EU and the AU have each taken preliminary steps to earmark national forces for deployment to UN operations.¹⁹² While this is a step in the right direction, *a more systematic, system-wide effort is required to expand and coordinate the global peacekeeping regime.* We need to involve the major financial contributors to UN peacekeeping (such as United States and Japan); doing so would also spread out the costs and ensure greater accountability.¹⁹³

Better coordination is also needed to identify the essential skills and capacities—whether niche or comprehensive—that individual TCCs can contribute to R2P missions. Traditional troop contributors (such as Argentina, Bangladesh, Canada, India, Jordan, Kenya, Pakistan, and Uruguay) have gathered vital peacekeeping skills over the years,¹⁹⁴ while the more recent participants have all displayed important and complementary capacities.¹⁹⁵ But the only way to assemble a cohesive force from an array of nations with niche capacities is by increasing their interoperability and force compatibility, which has proven a challenge not only for the UN but also for the regional and sub-regional groups.

4.2 Developing Regional Partnerships

There are short-term solutions, however, to restructure the system and close the gap in the global peacekeeping capacity—and, therefore, in the global protection regime—even without major institutional reform and centralization. To explore how this “interlocking system of peacekeeping capacities” might be put into place, we need to take stock of what regional organizations have to bring to the table. Outside the UN, only four regional actors have the willingness and the means to use force to protect civilians: the AU, ECOWAS, the EU, and NATO. This quad has also been the “most forward-looking globally in assuming responsibility for human security.”¹⁹⁶ Other multilateral bodies, such as the ASEAN or the OAS, have yet to determine what role, if any, they are to play if a member state will not or cannot protect its citizens.

In both Asia and Latin America, therefore, the most likely “first responders” remain *ad hoc* “coalitions of the willing” (with a possible follow-on UN mission).¹⁹⁷ Even though these regional organizations do not yet have the *capacity* or the *political will* to conduct humanitarian interventions, their members have all expressed support, to a varying degree, for a more proactive and forceful UN role in R2P operations. In Latin America, military

¹⁸⁷ After exploratory talks in 1995, the original letter of intent was signed by Austria, Canada, Denmark, Netherlands, Norway, Poland, and Sweden in 1996. SHIRBRIG was declared available to the UN in 2000, with a reaction time of 15-30 days following the decision of the participating nations in response to the UN’s request. There are currently 16 nations participating in the SHIRBRIG project (Argentina, Austria, Canada, Denmark, Finland, Italy, Ireland, Lithuania, the Netherlands, Norway, Poland, Portugal, Romania, Slovenia, Spain, and Sweden), while 7 more have observer status (Chile, Croatia, Czech Republic, Egypt, Hungary, Jordan, and Senegal). See <http://www.shirbrig.dk/html/main.htm>.

¹⁸⁸ The brigade first extended support to the UN Mission in Ethiopia and Eritrea (UNMEE) in 2000 under Chapter VI. It has since provided mission planning support for the Chapter VII operation in Liberia (for the transition from the ECOWAS-led mission to the UN). In addition, it has provided planning assistance to ECOWAS in Côte d’Ivoire in 2003 and deployed officers to the UN Advance Mission in Sudan (UNAMIS) in 2004/5 and the UN Mission in Sudan (UNMIS) in 2005.

¹⁸⁹ Feinstein 2007, 21-2.

¹⁹⁰ A/59/565, 69.

¹⁹¹ A/59/2005, 40.

¹⁹² Feinstein 2007, 21.

¹⁹³ Feinstein 2007, 21.

¹⁹⁴ Taft and Ladnier 2006, 2.

¹⁹⁵ E.g., Thailand and Japan have search and rescue missions; Singapore and Chile have the air and naval capacities for rapid deployment in an outside theater of operations; Hungary possesses pre-identified, emergency bio-medical units; Italy, France, Senegal, Romania, and Chile have significant gendarmerie capacities; Ukraine has strategic airlift abilities (Ibid.).

¹⁹⁶ Ibid, 2-3.

¹⁹⁷ Ibid.

intervention (whether to protect human or state security) is seen as the sole responsibility of the United Nations,¹⁹⁸ and Latin American states (save Cuba and Venezuela) have been enthusiastic defenders of R2P in the UNGA and at the UNSC.

Africa, in contrast, has been ahead of the curve in its support of the responsibility to protect. In late 2003, in line with its broadened powers of intervention, a newly re-constituted AU operationalized its Peace and Security Council (to implement “timely and efficient” prevention, management, and resolution of conflicts).¹⁹⁹ ECOWAS, which has been developing its own rapid-deployment capacity since 2004, “has been the most robust organization in Africa” in addressing security issues and stopping humanitarian crises.²⁰⁰ But, the region’s “political will needs resources to be effective.”²⁰¹ ECOWAS is currently dependent on outside donors and contractors.²⁰² For the Liberian mission, for instance, Nigerian troops were ready for deployment *three weeks before* they could secure US assistance to airlift their forces in-theatre.²⁰³ ECOWAS has also faced difficulties with the training and interoperability of its forces, the key divisions being between its Anglophone and Francophone members. As outside donor training and equipment programs have only compounded these differences, the US, UK, and France (as the main providers) have been urged to develop a more unified strategy that encourages harmonization across countries.²⁰⁴ ECOWAS, for its part, has been called on to develop clear rules of engagement (ROE), guidelines, and procedures for future missions, as well as to spell out its role in civilian protection (relative to the AU and the UN).²⁰⁵

NATO has both the military wherewithal to intervene in R2P crises and a suitable mandate.²⁰⁶ NATO’s Response Force (NRF), created in November 2002, can be deployed for a wide range of crisis-response missions, including counterterrorism, peacekeeping, and peace enforcement.²⁰⁷ The NRF’s guiding principle is “first force in, first force out,” which could be deployed either as a “stand-alone force,” an “initial entry force,” or as a “demonstrative force package.”²⁰⁸ Despite NATO’s relative effectiveness in the “hard” peace enforcement, its ability to manage a “soft” peacekeeping mission and the post-intervention activities has been questioned, as has the legitimacy of its “out-of-area” operations.²⁰⁹ The EU, for its part, is expanding its capacity to intervene in humanitarian emergencies. Europe still faces a number of “capability gaps” (especially in the areas of transport capacity, force protection, and integration) that need addressing before the force can become operational.²¹⁰ For the time being, it is focusing on the “battle group concept” in a new program which builds on the success of the EU Operation *Artemis* in the DRC in 2003.²¹¹ Provided the battle groups could be operationalized in the future, they would be a “major asset to international atrocity prevention.”²¹²

Other groups, such as SHIRBRIG, have formed outside these formal institutional structures with the express purpose of facilitating the launch of UN operations. An R2P mission to protect civilians could also be launched by an *ad hoc* “coalition of the willing.” Depending on the contributing countries’ troop capacity, a coalition might

¹⁹⁸ Ibid, 24.

¹⁹⁹ The AU authorized South Africa to lead its first peacekeeping operation in Burundi in April 2003, and deployed the second—an observer mission in Darfur—in June 2004. Neither had the UNSC’s pre-authorization (and it is still unclear whether one is required).

²⁰⁰ The proposed ECOWAS Task Force (TF) would be comprised of national contingents designated for rapid dispatch to a crisis in a member state, consisting of 1,500 rapid reaction troops, a follow-on brigade of 3,500, and a reserve force of 1,500. However, it is not clear when the TF will become fully operational, given the resource constraints on member states (Taft and Ladnier 2006, 18). ECOWAS deployed 3,000 troops to Liberia in 2003. Taft and Ladnier 2006, 18; Feinstein 2007, 34-5.

²⁰¹ Taft and Ladnier 2006, 18.

²⁰² The US private military company, Pacific Architects and Engineers (PAE), provided the logistical support for its intervention in Liberia in July 2003. Nigeria (the organization’s military—and, often, financial—backbone) cannot deploy rapidly without American or European assistance, while ECOWAS cannot sustain its troops in the field without foreign support and a fast UN follow-on mission (Ibid.).

²⁰³ Taft and Ladnier 2006, 20-1.

²⁰⁴ Taft and Ladnier 2006, 18.

²⁰⁵ Taft and Ladnier 2006, 18.

²⁰⁶ NATO identified in 2005 “oppression, ethnic conflict, economic distress, the collapse of political order, and the proliferation of weapons of mass destruction” as new threats warranting the organization’s response (Feinstein 2007, 31-2).

²⁰⁷ The NRF was launched at the Prague Summit and approved at a June 2003 NATO Ministers of Defense meeting. With sea, land, air, and special forces, the NRF can be deployed globally in 5-30 days and sustained in-theatre for a month. NATO plans to have the NRF fully operational, with 21,000 troops, by October 2006 (Taft and Ladnier 2006, 43-4; Feinstein 2007, 31-2).

²⁰⁸ Taft and Ladnier 2006, 43-4.

²⁰⁹ The organization has also been criticized for low coordination with civilian agencies, slow devolution of authority, and reluctant information sharing (Ibid.).

²¹⁰ In 2000, the EU identified 55 such gaps.

²¹¹ In the “Headline Goals 2010” (December 2004), the EU pushed back the deadlines for the rapid reaction force and focused on creating two 1,500-person “battle groups.” (The deployment of 1,700 EU (French) troops in a limited area of the DRC enabled the return of 60,000 refugees).

²¹² Feinstein 2007, 32.

be a good choice for urgent, short-term operations with specific goals such as stopping genocide.²¹³ Its legitimacy might be questioned only if it failed to secure UNSC authorization. The gaps in the global protection capacity have also given rise to more discussion about what role private military companies (PMCs) might play in peacekeeping—beyond the logistical, airlift, and other tasks for which they are currently subcontracted.²¹⁴ But there is considerable resistance within the UN and most quarters to the idea of privatizing peacekeeping in an international context in which the PMCs are neither regulated nor accountable.

Prospects and risks of regional initiatives

The UN has long encouraged regions to take a lead on local conflict-resolution based on the widespread view that if “outside action is necessary to avert atrocities, it is almost always preferable that it come from the region.”²¹⁵ As ICISS noted, “countries within the region are more sensitive to the issues and context behind the conflict headlines, more familiar with the actors and personalities involved in the conflict, and have a greater stake in overseeing a return to peace and prosperity.”²¹⁶ Yet “local solutions to local problems” may be *sub-optimal* in some cases. There is a danger of being “too close” to a conflict. In Darfur, for example, Chad was never regarded as an honest broker by the rebel movements, given that the regime of President Déby was installed and backed by the Sudanese government: N’djamena’s mediation efforts, not surprisingly, faltered amidst renewed fighting and accusations of partiality.²¹⁷ The intractable conflict in the Congo is another classic example of a “neighbourhood” that got involved out of security considerations and then stayed involved for economic gain (resource exploitation and war profiteering) and regional power struggle. There is considerable risk in giving arms for peacekeeping to countries with little history of protection of their own citizens.

Because few regional and sub-regional organizations operate in plain view of civil society, there is often a troubling lack of accountability, transparency, monitoring, and oversight not only of the decision to intervene, but also of its implementation. The AU’s controversial role in Darfur is the case in point: the Sudan was a member of the AU with full voting rights throughout the crisis (and, as such, with direct influence on the AU’s decision-making), *and* it was the next in line for the organization’s presidency in 2006 (deferred twice until 2008). This meant that the AU, for all its peacekeepers’ good work, had little, if any, legitimacy among Darfur’s civilian population.

Moreover, even if there is no issue with actual (or perceived) regional politics, there is still the problem of insufficient expertise or resources to carry out the intervention in a timely and effective manner. The success of the AU Mission in Darfur was significantly compromised by logistical difficulties and troop shortages. The Rwandan and Nigerian troops making up the bulk of the AU observer force for months had no armoured vehicles to protect themselves from the militia attacks (partly because Khartoum was blocking the delivery of the Canadian-donated APCs), which meant that protection of the civilian population had to be weighed against the daily concerns about the troops’ own safety. As a Stimson Centre study concludes, “To carry out their mandate, peacekeepers must have the fundamental capacity to operate, including sufficient equipment, manpower and transport... They must not be so at risk themselves that they cannot provide security to civilians.”²¹⁸

All of these problems underline why the UN must be kept in the picture. The UN is not only the most important international institution with the capacity to translate R2P from a noble idea into a workable plan: it may well be the only one. The UN is where the original program of civilian protection which we have now come to understand as “R2P” first germinated. It is the forum in which states advocated, debated, and fought for the ‘correct’ interpretation of the principle. And, for all its faults, it remains the only global forum in which people place greater trust than in their own governments or regional groups.²¹⁹ It is therefore crucial from the perspective of protection that it not be allowed to be marginalized.

²¹³ Holt and Berkman 2006, 70.

²¹⁴ Feinstein argues this proposal, though controversial, is worth considering (p. 20). Employing private mercenaries as peacekeepers was dismissed by Jean-Marie Guehenno (BBC World Service, *Analysis*, 8 February 2007).

²¹⁵ Feinstein 2007, 34.

²¹⁶ ICISS 2001a, 53–4.

²¹⁷ (Chad eventually itself got dragged into the hostilities because of its dense cross-border tribal ties).

²¹⁸ Holt and Berkman 2006, 28.

²¹⁹ The UN received higher trust levels than other institutions, except for NGOs, but it too experienced a significant decline in trust. On the whole, public trust in national governments, the UN, and global companies in December 2005 declined relative to 2004 and was at its lowest level since the World Economic Forum began monitoring public trust levels in January 2001 (see WEF 2005). A BBC World Service poll of 32 nations in January 2006 also found that publics in most countries continued to view the UN as having a positive influence in the world (59%), though its ratings were slightly lower than in 2005. NGOs received the highest ratings of all global actors (60%) (WPO 2006).

It is important not to lose sight of the purpose of regional involvement in R2P missions: the protection of civilians. The question of “who intervenes?” must be answered solely on the basis of who can provide optimal protection. Moreover, individual states²²⁰ and civil society may be less enthusiastic about the prospect of *regional* intervention than is commonly believed.²²¹ (The African Union, on the other hand, insists on the use of African troops in African conflicts). Trust in the intervening force—i.e. its mission objectives, means of intervention, and post-conflict presence—is central to the success of the protection operation. Because of civil society engagement, monitoring, and overall record to-date, UN peacekeeping missions tend to be welcomed by the local population. The UN’s international profile—its security guarantees, credibility, and expertise—also make it more successful in raising funds for all of the R2P-related activities (from prevention to reconstruction), which accounts in part for the keenness of regional groups to “hand over” to the UN (or “blue-hat”) their short-term missions. The cross-regional consensus among civil society groups is that the UN represents “the most legitimate and preferred organization to authorize a military intervention” in a humanitarian crisis.²²² The challenge now is to translate this into a consensus among governments.

But the UN’s structural deficiencies also make it necessary to explore alternatives, especially in Sub-Saharan Africa.²²³ *Individual states and regions should be enabled to protect civilians from violence—provided that there is ongoing UN oversight and agency involvement in the field.* To strengthen the regional capacity to protect, a number of Western governments have launched training assistance and equipment programs for Africa.²²⁴ This is a step in the right direction, but without inter-donor coordination, external training for peacekeeping in the sub-regions has not translated into greater interoperability among the AU troop contributors, which has, in turn, hampered the AU efforts to deploy an “all-African” peacekeeping force.²²⁵ The donor nations should coordinate their training activities, as well as their provision of in-kind support (i.e. logistics and equipment). The recipient nations/regions also have a responsibility to administer outside funding with accountability.²²⁶ More can be done to improve interoperability, training, and knowledge-sharing (on rules of engagement, cultural sensitization, gender programming etc.).²²⁷ Governments should equally consider the possibility of technology transfer and logistical support to strengthen regional peace initiatives.

5. The protection missions and mandates

The protection of civilians “under imminent threat,” “within capabilities,” and “within areas of responsibility” has become a standard feature of peacekeeping since 1999, but the UNSC has never provided an interpretation of these terms for the troops in the field. The outcome has been confusion about the scope of protection, unclear lines of responsibility between the various actors in the field, and, in some case, a failure to protect. Including R2P in the mission mandate cannot protect civilians if the force in the field does not *understand* the mandate—or does not *implement* it. In short, “Peacekeepers must be given tools, guidance and support if they are to respond [to threats] and provide better protection.”²²⁸

²²⁰ Uruguay has been reluctant to get involved in peacekeeping operations within its region because of concerns about “a breach in neutrality” and potential “neighbourhood” problems. Its forces are mainly deployed in Africa (the DRC). Uruguay is contributing to the mission in Haiti, but UN operations outside of the hemisphere are preferred (Taft and Ladnier 2006, 29).

²²¹ Civil society consultations with representatives from the DRC, Congo-Brazzaville, and Burundi revealed considerable discomfort with regional actions which, in the past, have “lacked transparency” and served as a “cover” for outside actors: “In Eastern Africa, military interventions are about protecting interests, not people.” The discussants believed that the intervention should be carried out by actors with “absolutely no other interest than to stop the conflict for humanitarian purposes,” i.e. from NATO or the EU, and be almost exclusively international in force composition: “If it is a military intervention, then it must be a neutral military, which means it must not be from Africa” (Taft and Ladnier 2005, 10).

²²² Taft and Ladnier 2006, 2.

²²³ Taft and Ladnier 2005, 9.

²²⁴ The US Africa Contingency Operations Training and Assistance (ACOTA); the French Renforcement des Capacites Africaines au Maintien la Paix (RECAMP); and the UK’s British Military Advisory and Training Team (BMATT) all provide important skills for peacekeeping (Holt 2006, 53; Holt and Berkman 2006; Taft and Ladnier 2006, 21). The Canadian government, through CIDA, DFAIT, and DND, has a series of projects aimed at strengthening Africa’s peace and security capacity through a combination of funding and training. CIDA is working in partnership with DFAIT to help regional, national, and local organizations in West Africa carry out peace support operations, namely in cooperation with ECOWAS, the Kofi Annan International Peacekeeping Training Centre (KAIPTC), and relevant UN agencies (see Canada-CIDA 2007). Canada and its G8 partners have also pledged in June 2004 to support the Global Peace Operations Initiative (GPOI) –a multilateral, five-year program (2005-9) to train and equip 75,000 military troops, mainly African, for peacekeeping operations by 2010.

²²⁵ Africa’s regional peacekeeping training centers still have to address the issue of standardization (Taft and Ladnier 2006, 3-4, 16-17).

²²⁶ E.g. so as to avoid situations in which more than €1 million in donor funds was left unprocessed because of insufficient mechanisms or human resources (Taft and Ladnier 2006, 17).

²²⁷ For instance, military exchange programs—which are fundamental in skill-building—should introduce specific training on “R2P missions.” They should also cover military capacity-building initiatives beyond field training, such as doctrine development, civil-military relations, and human rights protection (Taft and Ladnier 2006, 3-4).

²²⁸ Statement by Japan to the UNSC (S/PV.5476, 28 June 2006).

a. Understanding protection

Among national militaries, only a few focus actively on civilian protection: Canada and the United Kingdom are two leading examples.²²⁹ Developing countries typically lack specific national doctrine (or training) for peace operations, let alone a concept of operations *specifically* to protect civilians; so does the AU.²³⁰ The UN, for its part, has treated peacekeeping doctrine and training programs primarily as a *national* responsibility; in a promising move, however, DPKO has tried to clarify the expectations of, and requirements for, its missions.²³¹ There is now overwhelming support in the Council for including clear POC guidelines in the peacekeeping mandates, in line with SCR 1674.

b. Providing capacity

Since the implementation of the protection mandate ultimately depends on the mission's *capacity*, peacekeepers must be given tools to protect themselves and civilians.²³²

c. Implementing mandates

Peacekeepers are duty-bound to protect civilians if they are given sufficient capacity—and a mandate—to do so. States should minimize the use of “national caveats” which are impeding the planning and the execution of POC mandates in peacekeeping operations.²³³ For instance, since troops typically require permission from their national leadership for certain actions, such as the use of force for reasons other than self-defence, UN commanders in-theatre have occasionally had to phone their superiors at home in situations calling for a robust response.²³⁴ The resultant delay is unacceptable from the perspective of protection.

National contingents must apply force to protect civilians from violence if they have sufficient capacity—and a mandate—to respond. In Haiti, the Brazilian leadership of the UN force came under heavy criticism from NGOs and human rights agencies for its failure to suppress armed gangs—despite a robust mandate. Brazil opposed the use of force on principle, believing that political accommodation with the local population would bring security.²³⁵ But, as a steadily deteriorating situation has demonstrated, Brazil's unwillingness to provide *security first* and local goodwill second meant that Haiti got neither.²³⁶ Chile, in contrast, was willing to forcibly deter violence from the start.²³⁷ Thus, despite serving under the same UN flag, *who* interprets the mission's mandate matters as much, if not more, as *what* that mandate entails. Similar failures to protect civilians in the DRC have harmed “MONUC's credibility and made fulfilling the other aspects of its mandate difficult.”²³⁸ The ongoing chaos in both countries underscores a larger point: the provision of human security is a precondition for long-term stabilization.

d. Cooperating in-the-field

Both peacekeepers and humanitarians often find it difficult to translate their POC tasks into coordinated actions in the field.²³⁹ Some military planners still see civilian protection not as a task for the armed forces, but for the law enforcement or civilian police; the latter, on the other hand, are rarely prepared to police highly volatile environments.²⁴⁰ It is imperative that “a common understanding runs from the [SRSRG] through to contingent commanders and individual troops.”²⁴¹ In the same vein, some human rights and humanitarian NGOs have been reluctant to endorse publicly coercive measures because of concerns about impartiality and neutrality in a crisis;

²²⁹ For more information, see Holt 2006, 60.

²³⁰ Holt 2006b, 3.

²³¹ DPKO published a *Handbook on United Nations Multidimensional Peacekeeping Operations* (2003) for field personnel, which states that, “In specific circumstances, the mandate of a peacekeeping operation may include the need to protect vulnerable civilian populations from imminent attack. The military component *may* be asked to provide such protection in its area of deployment *only if* it has the capacity to do so” (emphasis added) (DPKO 2003).

²³² Holt 2006a, 59.

²³³ Taft and Ladnier 2006, 6.

²³⁴ Holt and Berkman 2006, 93.

²³⁵ Holt and Berkman 2006, 96-7; Taft and Ladnier 2006, 26-7.

²³⁶ In the end, UN peacekeepers had to use force; most commentators felt that Brazil, as the nation in charge, had to set a stronger example from the outset. National elections, originally scheduled for November 2005, have been postponed due to the instability (Taft and Ladnier 2006, 25-6; Holt and Berkman 2006, 96-8). For additional information on Haiti, see ICG reports and RI 2005.

²³⁷ Taft and Ladnier 2006, 27.

²³⁸ Holt and Berkman 2006, 28. Also, Bernath and Edgerton 2003, 9.

²³⁹ S/2005/740.

²⁴⁰ Holt 2006b, 2.

²⁴¹ *Ibid.*

they are frequently divided over the policy course; others lack sufficient policy experience.²⁴² However, with a growing concern about the “well-fed dead”²⁴³—i.e. aid delivery in the absence of security—humanitarian groups now accept that reducing and eliminating violence against civilians might require more robust measures.²⁴⁴ The humanitarian sector’s approach to civilian protection over the last decade has outgrown its original operational parameters to include a “continuum” concept of protection,²⁴⁵ what is less clear, however, is how where the military’s role sits in relation to these humanitarian activities. *Military personnel must integrate POC into mission planning, while human rights and humanitarian actors must develop internal guidelines on how to coordinate their protection activities with their military counterparts.*

To meet the challenge of protection, the military and civilian communities must arrive at a shared meaning of R2P and clarify the scope of their own responsibilities. A number of UN missions are employing “civilian protection officers” to assist them with developing an improved and shared understanding of protection needs.²⁴⁶ One example of a more innovative and integrated approach to addressing protection needs has been MONUC, whose Deputy Special Representative of the Secretary-General (DSRSG) has sought to bring together the mission’s humanitarian and military units to spell out the operational dimension of POC.²⁴⁷ The humanitarian sector’s performance in complex emergencies, similarly, is “strengthened by improved guidance and training with military forces in areas of civil-military cooperation to ensure a better understanding of the respective roles and responsibilities of military and civilian actors.”²⁴⁸

It will be necessary to review civilian protection mandates within existing UN operations set up since 1999 in a dialogue between military and humanitarian agencies. Field units should be asked to brief the humanitarian community on how the concept of civilian protection is being operationalized within the peacekeeping missions. Several governments have counselled a more systematic monitoring by the Security Council and the Secretariat of how existing protection-of-civilian mandates are being implemented with the aim of consistently drawing lessons, developing better practices, and improving our collective effectiveness.²⁴⁹

*It is essential that the same definition of civilian protection be integrated in the various bilateral and multinational training programs.*²⁵⁰ At DPKO, POC should be assessed by the Best Practices Section in the analyses of UN peace operations and included by the Integrated Training Service in training modules for the TCCs.²⁵¹ Institutions can, and do, evolve and learn. A RAND study has described the UN’s post-conflict stabilization and peace-building operations as a success, largely because of the UN’s effort to incorporate *lessons learned* into its doctrine and operations: the overall trend is an “ascending” learning curve.²⁵²

In the regional setting, however, this process has been far slower and largely haphazard. The AU went into Burundi without a pre-planned civilian protection doctrine, or even the mission’s rules of engagement (ROE).²⁵³ Similar situations can be avoided through closer cooperation with the DPKO, whose Best Practices Unit can facilitate interagency knowledge-sharing. The UN Secretariat should continue building a “more systematic

²⁴² ICISS 2001a, 73.

²⁴³ Holt and Berkman 2006, 18.

²⁴⁴ *Ibid.*

²⁴⁵ The ICRC has developed its own multidimensional “egg” model of protection, consisting of three types of protective activities: *responsive action*, *remedial action*, and *environment building*. The continuum includes: “encouraging peace and economic development; preventing conflict; promoting compliance with international law; addressing the special needs of women, children and the displaced; stopping small-arms proliferation; ensuring the safety of humanitarian-relief workers and their access to vulnerable populations; disarming, demobilizing, reintegrating and rehabilitating ex-combatants; and tackling hate media” (Holt and Berkman 2006, 19-21).

²⁴⁶ S/2005/740.

²⁴⁷ S/2005/740. Also, Holt and Berkman 2006, 48.

²⁴⁸ Statement by Jan Egeland to the UNSC on 9 Dec 2005 (S/PV/5319r.1).

²⁴⁹ Statement by Allan Rock, Canada’s Ambassador to the UN, on 9 Dec 2005 (S/PV/5319). For instance, the Government of Canada, with OCHA’s support, hosted a series of round-tables to take stock of how POC is being implemented on the ground in specific peacekeeping missions. This has included a review of the implementation of MONUC’s protection mandate (November 2005) and that of the UN Operation in Côte d’Ivoire (UNOCI) (May 2006). The MONUC workshop (attended by members of the UNSC, the Deputy Force Commander in the DRC, and the DSRSG in MONUC) made clear that “greater attention” is needed to ensure “that missions can focus on their protection-of-civilians tasks without being overburdened with multiple other responsibilities;” it also underlined the need for special training programs to “help troops and police better understand what it means to participate in a civilian-protection mission” (S/PV/5319).

²⁵⁰ Holt 2006a, 53.

²⁵¹ Holt 2006b, 4.

²⁵² See Dobbins 2005.

²⁵³ The AU Mission in Burundi (AMIB) Commander had to look at the UN “ROEs from Bosnia, Mozambique and Croatia...to cobble together the most appropriate one for AMIB” (Taft and Ladnier 2006, 15).

partnership with regional and other intergovernmental organizations” through annual high-level meetings.²⁵⁴ On the whole, while regional interventions may be more effective (or the only ones possible) in some cases, the UN ought to monitor the process, especially if it is expected to pick up the tab for the intervention or to take over the mission.

One additional reason why “the institutional learning process was lost” regionally is the absence (or the exclusion) of civil society input from the intervention process: in the case of ECOWAS, “every intervention is like reinventing the wheel.”²⁵⁵ The international community’s failure to consult civil society—the actor closest to the ground—is seen as “a main shortcoming in protecting civilian lives,” which has contributed to inaccurate military planning and unnecessary civilian deaths.²⁵⁶ NGOs, through their extensive activities on the ground, often obtain first-hand information on the threats to civilians; as such, *dialogue with civil society should be intensified*.²⁵⁷ Civil society represents “the most authentic voice” on human security concerns, which are often absent from the international agenda; it also serves as “one of the most crucial, and often overlooked, sources of early warning,” which should be engaged from the prevention stages onward as part of a collective effort to bring CSOs more formally into the discussion and the decision-making process.²⁵⁸ As ICISS has noted, beyond advocacy, international NGOs represent a crucial link in the implementation of R2P. But it is equally important to acknowledge the limits of NGO capacity to save civilians. Civil society can only be expected to do so much in a world of states. There is a point at which it is *governments*, with the full force of their political, economic, and military power, need to put into action the international responsibility to protect. NGOs should be a *partner* in this project of constructing a regime of international responsibility, but they cannot be its principal managers or enforcers.

6. Taking responsibility in Darfur

Darfur today represents “the greatest crisis of protection”²⁵⁹ which the international community has failed to resolve for more than three years.²⁶⁰ By 2007, 250,000 people had died and another 3 million were displaced out of a total population of 6 million.²⁶¹ Renewed violence since the January 2007 ceasefire, which has forced humanitarian NGOs to halt their operations, now puts at extreme risk some 40% of Darfur civilians who depend on external assistance for survival.²⁶² For far too long, the major international players’ approach to Darfur “has been defined by tough rhetoric followed by half-measures and inaction,” which they have justified “by citing an array of bureaucratic, diplomatic and political hurdles” standing in the way of a robust response.²⁶³ The origins of the crisis and the inadequacy of the international response to-date have been discussed at length elsewhere.²⁶⁴ Our primary interest here is to consider what diplomatic, economic, and military actions are necessary to implement R2P in Western Sudan. The situation is far from intractable, and many NGOs and UN agencies have proposed good, actionable recommendations to resolve it.²⁶⁵ The big question is whether the international community can now find the political will and the material resources needed to protect the innocent.

For the international protection regime to deliver on its promise, all actors must work synchronously—from NGOs, aid workers, journalists, ceasefire monitors, and peacekeepers in the field, to UN officials and individual UN member-states. This has not been the case in Darfur, where the human rights community began sounding alarm in the early 2003,²⁶⁶ but Western governments, regional groups, and the media were slow to mobilize.²⁶⁷

²⁵⁴ At the initiative of the former UNSG, the UN approved a joint work plan with the relevant organizations in July 2005 to strengthen their partnership (e.g. through the establishment of a network of interested organizations, the development of joint workshops, training programs, policy frameworks, common standards, strategies and tools) (See S/2005/740). The most recent (7th) High-level Meeting between UN and Regional and Other Intergovernmental Organisations took place on 22 September 2006 in New York. The UNSC also endorsed the UNSG’s regional initiatives, including by enhancing regional capacities for conflict prevention, in particular in Africa. See S/RES/1366 (2001).

²⁵⁵ Conference participants agreed that “the best method of ensuring transparency and accountability of national and subregional bodies was through strong civil society” (Taft and Ladnier 2005, 12-13).

²⁵⁶ Taft and Ladnier 2005, 4.

²⁵⁷ Statement by Japan to the UNSC (S/PV.5476, 28 June 2006).

²⁵⁸ Taft and Ladnier 2005, 5.

²⁵⁹ S/2005/740.

²⁶⁰ It was described as “one of the worst humanitarian crises in the world” and compared to the Rwandan genocide by senior UN officials and civil society as early as December 2003.

²⁶¹ 2 million are dispersed in 200 refugee camps in the country and 12 camps in eastern Chad (Feinstein 2007, 39).

²⁶² Feinstein 2007, 39.

²⁶³ ICG 2005.

²⁶⁴ For ongoing reports and updates on the “Crisis in Darfur, see AI (<http://web.amnesty.org/>); HRW (<http://www.hrw.org/>); ICG (<http://www.crisisgroup.org/>).

²⁶⁵ E.g. ICG 2006, 2007; Feinstein 2007; HRW/ICG 2007; KAIROS 2007; periodic statements by Jan Egeland to the UNSC.

²⁶⁶ AI 2003; ICG 2003; for other early-warnings, see Austin 2004, 53-6.

Despite the UN Secretariat's public advocacy and humanitarian efforts, the situation on the ground continued to deteriorate, largely because a handful of UNSC members resisted any discussion of the crisis for months and then obstructed all meaningful measures to save lives.²⁶⁸ Having missed the early warnings, the international community then missed the opportunity at every corner to engage in conflict resolution; send a unified and resolute message to the parties; and apply credible pressure on the Sudanese government.²⁶⁹

This underscores several points about the implementation of R2P:

(1) A tardy response is likely to be far more politically and financially costly, because most R2P "tools" (such as preventive diplomacy) are no longer viable.

(2) Without the Council's willingness to apply adequate measures, the humanitarian and protective capacity of the entire UN system (from its emergency responders to the peacekeepers) can grind to a halt, as is happening now in Darfur. The Council is duty-bound by its role in the maintenance of international peace and security to put on the agenda—and then deal with—those crises that have been referred to it by the Secretariat as urgent. The UN member-states, in particular the veto-holders, have a responsibility to enable the UN to fulfil its purposes under the Charter.

(3) The situation in Sudan makes it clear that a humanitarian presence cannot be effective in an unsafe operating environment.²⁷⁰ The mere presence of aid workers in an emergency zone will not translate into assistance and protection unless accompanied by other measures.²⁷¹

(4) Darfur highlights the risks of regional peace initiatives when the implementing regional organization is too weak, or too hesitant, to provide protection. The AU sponsored a series of abortive peace talks and then deployed the AU Mission in Sudan (AMIS), but its peacekeepers lacked both a robust mandate and sufficient capacity to protect civilians. Despite subsequent enlargements and mandate revisions, AMIS never reached the size it needed to fulfil its protection duties, and it always remained subject to Sudan's goodwill and consent. After much lobbying by the human rights community (including the former UNSG, UN officials, and a number of concerned states), AMIS' limitations eventually led the UNSC, in consultation with the AU, to extend the mandate of UNMIS from southern Sudan to Darfur and invited Khartoum's consent to the deployment of a 20,600-strong hybrid AU-UN force. SCR 1706 (2006), passed on 31 August 2006, was also the first time the UNSC explicitly invoked the principle of R2P in relation to a specific conflict. But the Sudanese government's opposition to non-African peacekeepers has now put the entire transition process on hold.

While arguably "nothing short of a major deployment of competent troops can provide a reasonable guarantee of security," *interim measures are now urgently needed to stave off a second wave of genocide and, also, to get the Sudanese government to accept the blue helmets:*

- *Enforce the existing UNSC resolutions:* The obvious starting point is to enforce the range of punitive measures that the UNSC has authorized since 2004, including sanctions on the petroleum sector and the ban on military over-flights.²⁷² This calls for a joint diplomatic strategy between the main multilateral players (i.e. UN, AU, and the Arab League), as well as those with the enforcement capacity (i.e. US, NATO, and the EU)

²⁶⁷ HRW 2004, 44. The UN's humanitarian agencies stepped in with a massive emergency appeal and the Secretary-General weighed in by the late 2003 with strong calls for effective and immediate protection of civilians. On the 10th anniversary of the Rwandan genocide on April 7, 2004, at which he unveiled the UN Genocide Prevention Plan, Annan warned of the risks in Darfur: "the international community must be prepared to take swift and appropriate action...By "action"... I mean a *continuum of steps which may include military action*" (emphasis added). Also see Annan 2005; Annan and Konare 2005.

²⁶⁸ The UNSC finally agreed to consider Darfur on 2 April 2004, but it did so under "other matters," without formally adding it to the agenda (Ulich 2005).

²⁶⁹ States have failed to implement all sanctions authorized by the UNSC (since the mid-2004) and provide sufficient political and military support to AMIS (Feinstein 2007, 40).

²⁷⁰ As Jan Egeland pointed out, "How much can 13,000 humanitarian workers in Darfur achieve...when their movements are restricted due to threats, harassment and attacks?" (S/PV/5319).

²⁷¹ Yet in Darfur aid workers were "used as an alibi to camouflage the absence of genuine efforts to find lasting political solutions"—essentially, as "an expensive plaster on an open, unhealed wound" (Ibid).

²⁷² The same provision is contained in the 2005 Darfur Peace Agreement (DPA) signed by the Sudanese government. Enforcing this resolution means either destroying/disabling aircraft on the ground (which calls for reinforcing AMIS), or establishing an NFZ over Darfur (by French and US troops stationed in the region and additional NATO support). The latter is a difficult and costly "round-the-clock" operation (similar tactics were applied in Northern Iraq and ex-Yugoslavia) (Feinstein 2005, 45; ICG 2006).

and China, as Khartoum's key backer.²⁷³ Targeted economic sanctions on members of the Sudanese government and the armed militias should be imposed in parallel.²⁷⁴

- *Support a resumption of political talks* among all parties to the conflict within Darfur and the region (i.e. Chad and CAR)
- *Secure full and unimpeded humanitarian access* to vulnerable populations and the safety of humanitarian personnel
- *Extend support to the ICC*: The ICC investigation into war crimes in Darfur resulted in summons for two individuals on 27 February 2007—a Sudanese government minister and a militia leader.²⁷⁵ Civil society groups have called this “an important first step,” but insisted that the ICC must now move up the chain of command.²⁷⁶ To continue investigations in Darfur, the ICC requires full cooperation by the Sudanese authorities,²⁷⁷ which will not be forthcoming without adequate international pressure.²⁷⁸
- *Bolster AMIS (in the short-term)*: The AU force is still below its mandated capacity of 11,000 troops. Individual AU members should be asked to increase their force contributions; some African troops serving under UNMIS could be redeployed to Darfur at once. Western nations and NATO should act immediately to bolster AMIS in the field, including by providing intelligence information, equipment, and funds to help AMIS implement its protection mandate.
- *Assemble an international force for rapid deployment*: Since “the absence of military capacity reinforces an absence of political will,”²⁷⁹ pre-assembling a peacekeeping force for immediate deployment would help remove the last excuse for inaction. For as long as Khartoum sees the present unavailability of troops as a sign of “international division and indifference,”²⁸⁰ it has few incentives to comply. The UN Secretariat, in consultation with the UNSC and the troop-contributors, should put troops on standby for a prospective UN (or UN/AU) operation in Darfur and obtain Chad's consent for deployment along its border with Sudan.²⁸¹ Experts suggest that one brigade-sized unit would be sufficient to secure the entire Darfur region.²⁸² Yet both African and Western governments are waiting to see “who makes the first move.”²⁸³ Western nations with spare capacity are not volunteering partly out of deference to the AU, but partly also because they want an unambiguous message from the AU that outside support is in fact wanted—something the AU has not yet signalled.²⁸⁴ The AU must indicate clearly its willingness to share its responsibility for the protection of civilians in Darfur with external actors, which, in turn, must commit resources to this task. China's participation in the mission could go a long way to mitigating the risks to other troop-contributors: it would provide not only a “political cover” to the Sudanese government, but also put the much needed pressure on Khartoum to accept an international force.²⁸⁵ The fear of a terrorist response in the participating Western countries and backlash in the Muslim world is another obstacle to action,²⁸⁶ which highlights the importance of engaging moderate Muslim states in diplomatic initiatives *and* in the peacekeeping mission, while ensuring absolute transparency of motives. It is also suggested that the US, UN, AU, and EU should start “planning on a contingency basis for a non-consensual deployment to Darfur if political and diplomatic efforts fail to change government policies, and the situation on the ground worsens.”²⁸⁷

²⁷³ The ICG invites US, UN, AU, EU to act together “to the greatest extent possible but as necessary in smaller constellations and even unilaterally.”

²⁷⁴ ICG 2006.

²⁷⁵ Sudan never signed the Rome Statute. The ICC derives its authority to investigate and prosecute crimes in Darfur from the UNSC referral under Chapter VII (Mar 2005), which *is* binding even on non-signatory states. The ICC Prosecutor determined that the crimes in Darfur fell under the Court's jurisdiction and opened investigations in June 2005. He has been reporting semi-annually to the UNSC on the progress.

²⁷⁶ HRW had also identified 20 other individuals as bearing responsibility for war crimes committed in Darfur in its Dec. 2005 report (HRW 2005).

²⁷⁷ This includes granting entry into Darfur to ICC officials, facilitating access to physical evidence, and, most important, *protecting victims and witnesses* from any threats and violence (HRW 2007).

²⁷⁸ MONUC extended essential support to the ICC in the Congo, underlining the degree to which the actions of a peacekeeping operation can assist in the protection of civilians via the fight against impunity, as per SCR 1674 (2006) (see France statement to the UNSC on 28 June 2006, S/PV.5476).

²⁷⁹ Feinstein 2007, 44.

²⁸⁰ Only Bangladesh, Nigeria, Tanzania volunteered to send troops. Norway & Sweden offered a small joint engineering team (Feinstein 2007, 43).

²⁸¹ (SHIRBRIG has already been called upon to assist DPKO in planning for a possible deployment in Darfur as part of the transition from AMIS to UNMIS in 2006).

²⁸² Feinstein 2007, 32. For the study, see Gompert et al. 2005.

²⁸³ Feinstein 2007, 43.

²⁸⁴ Feinstein 2007, 43.

²⁸⁵ Feinstein 2007, 43.

²⁸⁶ Feinstein 2007, 42.

²⁸⁷ ICG 2006, 2007.

IV. Conclusions

R2P has come a long way from the forward-looking idea of “sovereignty-as-responsibility” articulated more than ten years ago. We now accept, as a matter of fact, that a government that massively abuses, or fails to protect, its citizens, should not be able to seek cover behind the norm of sovereignty. By the close of the 20th century, R2P had evolved into an “emerging norm” of international society and, soon thereafter, a rule of soft-law. But it still has a long way to go.

R2P’s trajectory to-date suggests that a particular confluence of factors and mechanisms was involved in its entrenchment, which comes down to a multi-actor, multi-stakeholder, multi-level strategy of advocacy, promotion, and enforcement. The same kind of joint efforts and multi-dimensional processes will now be required to move R2P forward from the normative to the operational plane. We have identified in particular the importance of norm-setting, institutionalization, codification, and principled implementation.

Several other points are worth highlighting:

Clear criteria (whether normative or legal standards) can greatly facilitate and advance the process of regime construction. The key is to depoliticize the debate about R2P by removing the argument from a political into a legal/normative setting. This would weaken the dissenters’ position, because it is harder to oppose R2P on moral grounds. The R2P’s sponsors’ best ally is the integrity of their position, supported by the strength of their principled case for protection. What this regime-building process ultimately comes down to are a good understanding of the institutional process, and good arguments.²⁸⁸

Our review of the international debate since the late 1990s until today shows that the international consensus on R2P is larger than we think. The opposition is thin and concentrated in a small number of laggard countries with poor human rights records. R2P’s support base includes the vast but “silent majority” of the world’s nations. But we have reached a point at which tacit support is not enough: the norm we have adopted at the World Summit is weak and malleable, while our ongoing failure to protect civilians in Darfur is further undermining the new normative regime. We must ensure that the idealism of R2P is now translated into real protection. Members of the R2P coalition should call on the governments that nominally support the principle to act on it when our duty calls for it. In the absence of an unambiguous legal document setting out the rights and the obligations of intervening nations (which is not even remotely possible in the prevailing climate), only consistent *practice* and continued *attention* to the norm will prevent it from being subverted.

Unfortunately, human security still seems to have less political currency than national security. Our continuing failures in Sudan illustrate graphically that “summoning the political will” still remains “the main obstacle to converting [R2P] into a program of action.”²⁸⁹ The pro-R2P states on the UNSC have shown themselves “unwilling to take risks for a humanitarian principle that does not touch their vital national security” by implementing the un-enforced UNSC resolutions.²⁹⁰ Prime Minister Harper justified Canada’s Afghanistan mission on national security grounds,²⁹¹ although this would prevent his country from contributing to a future UN operation in Darfur. The question is whether we can “build the same sense of domain, public interest, and public responsibility on a global level” that would eventually enable us to manage and govern “security in all its dimensions.”²⁹² This is a task that governments will not, and cannot, perform on their own. Respect for the norms of international morality defines not only who we are as states, but also as individuals. Civil society at large has to rediscover a common purpose in standing up for R2P, so “that when the call goes out to the community of states for action, that call will be answered.”²⁹³

²⁸⁸ ICISS 2001a, 71-2.

²⁸⁹ Feinstein 2007, 46.

²⁹⁰ Ibid.

²⁹¹ “Al-Qaeda has singled out Canada, among other nations, for attack. We just cannot sit back and let al-Qaeda, backed by the Taliban, return to power in Afghanistan” (Struck 2006).

²⁹² Axworthy 2005, 50

²⁹³ ICISS 2001a, 70.

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About the Author

Maria Banda is currently writing her doctoral dissertation at Oxford University on the uptake and the implementation of the international "Responsibility to Protect" in the aftermath of 9/11. A graduate of Trinity College at the University of Toronto and a Canadian Rhodes Scholar, Ms. Banda has worked over the past five years with several international agencies, including the International Labour Office (ILO), the UN Office of the High Commissioner for Human Rights (OHCHR), the World Trade Organization (WTO), as well as the UN Association in Canada, and written on issues of global governance, Canada-US relations, and human security. She is presently directing the G8 Research Group/Oxford project on global climate change and energy policies prior to commencing law school in the fall of 2007.