

# Delivering on the Responsibility to Protect: Four Misunderstandings, Three Challenges and How To Overcome Them, Gareth Evans

Address by Gareth Evans, President, International Crisis Group, to SEF Symposium 2007, *The Responsibility to Protect (R2P): Progress, Empty Promise or a License for 'Humanitarian Intervention'*, Bonn, 30 November 2007

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One of the things that has most sustained me over 40 years of public life, more than 20 of them working in international affairs, is a fairly unquenchable sense of optimism: a belief that even the most horrible and intractable problems are soluble, that rational solutions for which there are good, principled arguments do eventually prevail - that good people, good governments, and good governance will eventually prevail over bad.

Just occasionally my generic optimism is rewarded, as it was for me in the Australian election results last weekend! But when it comes to international relations issues, and in particular the great issues of war and peace, violence, and catastrophic human rights violations with which we are concerned in this symposium, there is a well-established view that anyone who approaches things in a generally optimistic frame of mind must be incorrigibly naïve, if not outright demented.

Certainly in the case of genocide and atrocity crimes - either directly committed by a government against its own people, or allowed to happen by a government unable or unwilling to stop it - it's hard for even the incorrigibly naïve to remain optimistic. We are talking here about the 'never again' situations - the Holocaust which we said must never happen again, the Cambodian genocide, Rwanda, Srebrenica - after which we said each time 'never again', and then had to look back each next time, with varying degrees of incomprehension, horror, anger and shame, asking ourselves how we could possibly have *let* it all happen again.

But then at last it seemed like we had a breakthrough, that optimism would have its day on something that really mattered. After centuries of more or less passive acceptance that state sovereignty was a license to kill, and after all the sterile arguments of the 1990s which accompanied the horrors of Somalia, Rwanda, Srebrenica and Kosovo, about whether there was or wasn't a 'right to intervene' - with the defenders of 'humanitarian intervention' fighting pitched political battles with defenders of unrestricted state sovereignty - it seemed at last that a little ray of light was shining through.

It came first with the report of the Canadian sponsored International Commission on Intervention and State Sovereignty in 2001, which turned the language of humanitarian intervention on its head and argued not for a 'right to intervene' but a 'responsibility to protect'. Then the light shone a little brighter as this idea, and all the argument that went with it, was picked up by the Secretary-General's High Level Panel on Threats, Challenges and

Change in 2004, and even more importantly by the Secretary-General himself in his own subsequent report to the 2005 World Summit.

And then, wondrous to behold, the concept was actually picked up and adopted unanimously - albeit not without a lot of agony along the way - by the 150 heads of state and government attending that 60th Anniversary UN Summit and incorporated it unequivocally in the Outcome Document. The key paragraphs, 138 and 139, were - in the finest traditions of multilateral drafting - wordier and woollier than they needed to be, but the core messages could not have been clearer:

*Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity... We accept that responsibility and will act in accordance with it...*

*The international community, through the United Nations, also has the responsibility to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII..., should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.*

In the space of just five short years, a blink of an eye in the history of ideas, the concept of R2P - and with it, above all, the notion that sovereignty was *not* a license to kill, had it seemed evolved from a gleam in a rather obscure international commission's eye, to what now had the pedigree to be described as a broadly accepted international norm, and one with the potential to evolve further into a rule of customary international law.

But then the wheel started turning again, and with it all the slipping and sliding and backsliding that challenges one's faith in human progress all over again. It never takes much more than a few days around the corridors and meeting rooms of the UN in New York to have your latest dose of optimism beaten out of you, or at least to have your faith put to some pretty supreme tests. And in the last few months, it seems, the Huns and Visigoths of the international community have been out again in force, with the 'responsibility to protect' firmly in their sights.

Just a few days ago, I'm told, a Latin American and some African members of the UN's budget committee were objecting to the Secretary-General's appointment of a special adviser on R2P because '*the World Summit rejected R2P in 2005*'. The paragraphs I have just quoted, it was said with apparently straight faces, were about the protection of civilians from specific crimes, not the endorsement of the concept of 'the responsibility to protect': if R2P was never adopted, how could the Secretary-General have the effrontery to ask for funding for a special adviser for it?

This little foray did not come out of a clear blue sky. Back in July, the head of my New York office told me of a conversation in which the head of mission of a major country in the Arab-Islamic world had said to him: '*The concept of the responsibility to protect does not exist except in the minds of Western imperialists*'.

A month later I went to Sri Lanka to give a rather cautiously worded lecture in Sri Lanka in August about the concept of R2P and what it meant for that country, which unleashed a storm

of hostility, a lot of it around the theme that, as one media comment put it: *“The so-called responsibility to protect is nothing but a license for the white man to himself intervene in the affairs of dark sovereign countries, whenever the white man thinks it fit to do so.”* I also came in for some ferocious personal attention, not much of which was very flattering, with the exception of the following line which I shall forever treasure: *“Just like in the past when Columbus in 1492 and Vasco da Gama in 1498 came with the Bible and the sword, the likes of Gareth Evans now come in 2007 with R2P”*.

To set at rest any thought that antipathy to R2P in Asia might be just a peculiarly Sri Lankan phenomenon, let me conclude this little gaggle of disconcerting quotes with perhaps the daddy of them all, one from *USA Today* last month recording a named Shanghai professor as saying *“China has used tanks to kill people on Tiananmen Square. It is Myanmar’s sovereign right to kill their own people too.”*

So it seems, to put it gently, that the optimism most of us felt after the World Summit that we were at last on the way to ensuring that conscience-shocking genocides and other atrocity crimes really were a thing of the past, was a little premature. What’s gone wrong here, and what can we do about it? Why is there so much continuing resistance to a principle which has seemed to so many others to be an important breakthrough, capable of resolving an age-old debate in a practical and principled way? What can we do to get the debate back on the rails.

## **The Conceptual Challenge**

It seems to me that the most immediately important thing we need to do is clearly answer four big conceptual misunderstandings about R2P that exist to some extent everywhere, but are particularly prevalent in the global South. Sometimes the misunderstandings in question are cynically and deliberately fostered by those with other axes to grind, or interests to protect, but rather more often I think they are real, and the product of quite genuine misapprehension as to what R2P is all about.

### *Misunderstanding One*

The first is that *R2P is only about military intervention*, that it is ‘simply another name for humanitarian intervention’. This is absolutely not the case, and that cannot be said too often. R2P is above all about taking effective *preventive* action – recognizing those situations that are capable of deteriorating into mass killing, ethnic cleansing or other large-scale crimes against humanity, and bringing to bear every appropriate preventive response: political, diplomatic, legal and economic. The responsibility to prevent is very much that of the state itself, quite apart from that of the international community. And when it comes to the international community, a very big part of *its* preventive response should be to help countries to help themselves. Paragraph 138 of the World Summit Outcome Document makes that very clear. It begins with words I have already read:

*Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity.*

But then it goes on:

*This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. The international community should as appropriate encourage and help States to exercise that responsibility*

Paragraph 139 of the document, in another sentence I didn't read before, again makes the preventive dimension of R2P crystal clear, when the world's leaders said, again unanimously:

*We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.*

Of course there will be situations when prevention fails, and reaction becomes necessary. But reaction does not have to mean military reaction: it can involve political and diplomatic economic and legal pressure, all measures which can themselves each cross the spectrum from persuasive to intrusive, and from less to more coercive – something which is true of military capability as well. As the ICISS Commission insisted, *'the exercise of the responsibility to both prevent and react should always involve less intrusive and coercive measures being considered before more coercive and intrusive ones are applied'*. Coercive military action is not excluded as a last resort option in extreme cases, when it is the only possible way – as nobody doubts was the case in Rwanda or Srebrenica, for example – to stop large scale killing and other atrocity crimes. But it is an absolute travesty of the R2P principle to say that it is about military force and nothing else.

#### *Misunderstanding Two*

The second misunderstanding, at the opposite end of the spectrum, is that *R2P is about the protection of everyone from everything*. I remember first thinking that this might become something of a problem when a distinguished international statesman, who had been much involved in the intervention versus sovereignty debate in the 1990s, asked me a few months ago whether I agreed that the international community had a 'responsibility to protect' the Inuit people of the Antarctic from the consequences of global warming! Of course, linguistically, one can argue that there is indeed a responsibility to protect of *some* kind in this case – and in the case of HIV/AIDS, or the proliferation of nuclear weapons, and much more besides. But 'human security' is much more appropriate umbrella language to use in these cases than 'R2P'.

To use the R2P concept in any of these ways is, frankly, to dilute to the point of uselessness its role as a mobiliser of instinctive, universal action in cases of conscience shocking killing, ethnic cleansing and other such crimes against humanity: the whole point of embracing R2P language is that it is capable of generating an effective, consensual response in extreme, conscience shocking cases, in a way that 'right to intervene' language was not.

The trouble is, of course, that if you stretch the R2P concept to embrace what might be described as the whole 'human security' agenda, you immediately raise the hackles of those who see it as the thin end of a totally interventionist wedge – as giving an open invitation for the countries of the North to engage to their hearts content in the *missions civilisatrices* that so understandably raise the hackles of those in the South who experienced it all before.

That trouble is compounded when it is remembered that coercive military intervention, while absolutely not at the heart of the R2P concept – as I have just been saying - is nonetheless a reactive response that cannot be excluded in really extreme cases. So any understanding of R2P as a very broad-based doctrine, which would open up at least the possibility of military action in a whole variety of policy contexts, is bound to give the concept a bad name.

The short point, which cannot be repeated too often, is that R2P is *not* about protecting everybody from everything. It's about protecting men, women and children from large-scale killing, ethnic cleansing and crimes against humanity – either occurring now, or imminently feared likely to occur, or readily capable of so occurring if a situation deteriorates through want of effective preventive action.

### *Misunderstanding Three*

The third misunderstanding, and it's really a variation of the second, is that *every conflict or potential conflict situation, and every significant human rights situation, is an actual or potential 'R2P situation'*. The problem here is not so much R2P being stretched to deal with all the world's ills – from HIV/AIDS to climate change - but being too indiscriminately applied to a narrower group of those ills. Of course people do need protection from the horror and misery of any violent conflict, and from the ugliness of tyrannical human rights abuse; again one can easily see how, linguistically, the 'R2P' principle could be seen as having ready application.

But, again, 'R2P situations' have to be more narrowly defined. If they are perceived as extending across the full range of human rights violations by governments against their own people, or all kinds of internal conflict situations, it will be difficult to build and sustain any kind of consensus for action: we will find ourselves rapidly back in the area of North governments worrying about how to justify a to their voters a potential multitude of foreign entanglements, and South governments being concerned about their sovereignty being at risk of interventionary over-reach.

To say it again, 'R2P situations' must be seen only as those actually or potentially involving large-scale killing, ethnic cleansing or other similar mass atrocity crimes - situations where these crimes are either occurring or appear to be imminent, or which are capable of deteriorating to this extent in the absence of preventive action – and which should engage the attention of the international community simply because of their particularly conscience-shocking character.

Looked at in this way, for example, Iraq at the time of the coalition invasion in 2003 was *not* an R2P situation, because although there were clearly major human rights violations continuing to occur (which justified international concern and response, for example by way of censure and economic sanctions), and although mass atrocity crimes had clearly occurred in the past (against the Kurds in the late 1980s and the southern Shiites in the early 1990s) such crimes were neither actually occurring nor apprehended when the coalition invaded the country in early 2003. By contrast, it would be proper to characterise the situation in Iraq *now*, in November 2007, as an R2P one, because there is still every reason to fear that – particularly if there were to be now a precipitate withdrawal of foreign forces from the centre of the country – that the present situation, bad as it is, will rapidly deteriorate into massive outbreak of communal and sectarian violence and ethnic cleansing beyond the capacity of the Iraqi government to control, and from which it would be unconscionable for the wider world to stand aloof.

Burundi since the early 90s is a good example of what can properly be described as an 'R2P situation', although nobody has until now badged it as such. It is one, moreover, which has not at any stage involved coercive military action – just a lot of hard, grinding preventive action to ensure that the worst which everyone feared did not in fact happen. The situation there was certainly capable of deteriorating into the kind of large scale genocidal violence that wracked neighbouring Rwanda, and it arguably only the intense engagement of many

international actors – including among others Nelson Mandela with his mediation, South Africa with its troop presence, the International Crisis Group with our analysis and advocacy, and the new Peacebuilding Commission with its making of Burundi its first case - that has prevented that occurring.

#### *Misunderstanding Four*

The last big misunderstanding is that *R2P justifies coercive military intervention in every case where large-scale loss of life, or large-scale ethnic cleansing, is occurring or apprehended*. What needs to be understood much more clearly than it has been is that not just one criterion but *multiple* criteria must be satisfied if coercive, non-consensual military force is to be deployed within another country's sovereign territory: it is not just a matter of saying that if a threshold of seriousness is crossed, then it's time for the invasion to start.

As the ICISS Commission said in its 2001 report, and the High Level Panel in its report to the UN before the 2005 World Summit, and UN Secretary-General Kofi Annan in his pre-Summit report, and as every serious supporter of R2P has made abundantly clear, military intervention for human protection purposes is a desperately serious, exceptional and extraordinary measure, which has to be judged by not just one but a whole series of prudential criteria.

The first of those criteria *is* the seriousness of the threat to people which is occurring or apprehended: this would need to involve large scale loss of life or ethnic cleansing to *prima facie* justify something as extreme as military action. But there are another four criteria, all more or less equally important, which also have to be satisfied: the motivation or primary purpose of the proposed military action (whether it was primarily to halt or avert the threat in question, or had some other main objective); last resort (whether there were reasonably available peaceful alternatives); the proportionality of the response; and, not least, the balance of consequences (whether overall more good than harm would be done by a military invasion).

Even if one stretched the threshold criterion, as to seriousness of human rights threat, to its absolute limit in the case of Iraq in 2003, it doesn't take much analysis – even looking just at what we knew then, not now – to generate grave doubts as to whether the balance of consequences of an invasion could possibly be positive.

One of the many disappointments of the World Summit is that although guidelines for the use of force of just this kind were argued for in all the reports I have mentioned, in the hope that this would lead to their adoption by the Security Council, they were not adopted by the Summit. The issue was caught in a diplomatic pincer movement between the US, who wanted no such restrictions to affect any decision to use force, and some in the South who, I think very misguidedly, argued that to adopt guidelines purporting to limit the force would in fact, by recognizing its legitimacy in at least some cases, on the contrary encourage it.

Of course no prudential criteria of this kind, even if agreed as guidelines by the Security Council, will ever end argument on how they should be applied in particular instances, for example Darfur right now. But it is hard to believe they would not be more helpful than the present totally ad hoc system in focusing attention on the relevant issues, revealing weaknesses in argument, and generally encouraging consensus.

## Other Challenges

I have been focusing in all of this on what I would describe as the *conceptual challenge* to R2P – the challenge of advancing and defending the consensus, fragile though it may have been, that was reached at the World Summit in 2005, and holding the line against backsliding. There are players out there actively seeking to deflate or undermine the concept, sometimes because they understand it all too well and want to limit its effective application to their own behaviour, but I suspect more often – as I have already said – because they have simply misunderstood what the concept is actually about and fear its misapplication and overreach. In both cases what is required is not passive acceptance of a tide of hostility, but active, ongoing diplomatic and other advocacy efforts to explain and defend the concept, addressing head-on the four major misunderstandings I have described.

But the conceptual challenge is not the only one that has to be confronted if R2P is to become a genuinely operationally effective norm. In broad terms there are two others - what might be described as the *challenge of institutional preparedness*, or building capacity, and the *challenge of political preparedness*. This is not the occasion to spell out in full what each of these involve – I have spent too much time addressing threshold conceptual issues - but the essence of each can be very quickly spelt out:

- *The challenge of institutional preparedness* has to be met by building capacity within international institutions, governments, and regional organizations. This requires multiple measures at many levels, including stronger mechanisms for early warning and response; more effective capacity for early preventive action of all kinds; a repertoire of carefully reasoned and appropriately targeted sanctions measures, with an effective mechanism to monitor their application; and a range of civilian capabilities on permanent standby, especially effective civilian policing. In cases where military operations are required, it is essential to have ready access to trained and formed units capable of rapid deployment, backed by detailed doctrine and concepts of operations for R2P in peacekeeping and protection of civilians.
- *The challenge of political preparedness* – or putting it another way, the age old problem of political will – has to be met by having in place the mechanisms and strategies that will maximize the chances of generating an effective political response as each new R2P situation arises. Political will must be generated not only to put in place capacity-building measures, but to respond urgently and effectively to new crisis situations as they arise. This involves having mobilization capacity at two levels: first, top-down, to persuade key officials in key governments, regional organizations and international institutions, including the UN Security Council, to take the necessary action; and secondly, bottom-up, to ensure that the voices of ordinary concerned citizens are heard in the corridors of power, using all the resources and energy of civil society organizations around the world.

Taking forward responses to all these challenges, working closely in the process with like-minded governments and NGOs, is going to be the task of the new Global Centre for the Responsibility to Protect, which will be formally launched in February. You will hear a lot more about this Centre as its organization evolves, but in short, it's the brainchild of a group of global NGOs (the International Crisis Group, Human Rights Watch, Oxfam International, WFM and Refugees International), supported generously so far by a number of like-minded governments (Australia, Belgium, Canada, the Netherlands, Norway, Rwanda and the UK), the Open Society Institute and by at least one highly committed individual. The Centre will be based at the City University of New York's Ralph Bunche Institute led by Professor Tom Weiss, and will have from the outset a strong North-South dimension, in its professional staff, its International Advisory Board (which I will be co-chairing with Mohamed Sahnoun), and in the globally represented group of Associated Centres and broader research network that will be working closely with it. And it will be working very closely indeed in support of the

Secretary-General's advisers on Genocide Prevention and R2P, Francis Deng and Ed Luck – assuming that their posts survive their current scrutiny in the UN committee piranha-pool.

It is very easy - in this world we inhabit full of cynicism, double-standards, the crude assertion of national interest, high-level realpolitik and low-level manouvring for political advantage - to believe that ideas don't matter very much. But I believe as passionately now as I have ever done in my long career, starting and finishing in the NGO world but with a lot of time in politics and government in between, that they matter enormously, for good and for ill. And I don't think that there are many ideas that have the potential to matter more for good than that of the responsibility to protect.

It has taken the world an insanely long time, centuries in fact, to come to terms conceptually with the idea that state sovereignty is not a license to kill – that there is something fundamentally and intolerably wrong about states murdering or forcibly displacing large numbers of their own citizens, or standing by when others do so. Now that we have at last won recognition of that, with – however some may try to read the words differently - the unanimous acceptance of the principle of the responsibility to protect by the world's assembled heads of state and government in 2005, it seems to me, and I hope to all of you here, that it would be a tragedy now for there to be any backsliding.

I think we can hold the line against the negative forces that are all too visibly still out there, but it's going to take a lot of effort and energy from men and women of goodwill all round the world – including those who SEF has brought together in this excellently conceived and organized symposium - to ensure not only that R2P continues to be accepted in principle, but is effectively operational in practice.