

“ONCE AGAIN NEVER AGAIN?”

*Thomas G. Weiss**

Endorsing a principle is one thing. Applying it is quite another. The Responsibility to Protect is a perfect illustration of this proposition. The Responsibility to Protect, an initiative conceived by the Canadian-sponsored International Committee on Intervention and State Sovereignty and discussed in this issue by Mient Jan Faber and Ciarán Burke, represents a bold attempt to reconceptualise sovereignty, rendering it contingent upon the most basic respect for the most fundamental of human rights, life. That is, sovereignty entails not merely privileges but also responsibilities, in particular it does not include the license to kill.

Violations of this basic responsibility to protect one’s citizens could and should lead to a variety of outside pressures, including non-consensual non-military as well as military interventions – perhaps sanctioned by the UN Security Council, perhaps not – by outside powers in places where home states fail to adequately protect such rights or themselves are in fact the perpetrators of such abuse. As was to be expected and as detailed below, the initial enthusiasm for this project has met with problems when putting theory into practice.

The most recent illustration came in July 2008, when only nine of the fifteen members of the UN Security Council voted to approve a U.S.-sponsored resolution to impose a weapons embargo on Zimbabwe, and to levy sanctions on Robert Mugabe and thirteen members of his inner circle. That number of approvals would have been just enough to pass the resolution, but a rare double-veto from Russia and China blocked it. The Russian foreign ministry explained that the measure constituted “interference by the Security Council in internal affairs in connection with certain political events including elections, which is a gross violation of the UN Charter.”

This represents either a profound misunderstanding of a commitment made by Russia and all other states—or a flat repudiation of that commitment, or both. Over three years ago, at the UN World Summit in September 2005, world leaders accepted the principle that each state, and the international community collectively, have a “responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.” The supreme goal of this doctrine, usually abbreviated as ‘R2P’, is to prevent atrocities from occurring in the first place. States pledged to work cooperatively to prevent such crimes and, when necessary, to take ‘collective action’ through the Security Council to protect populations.

** Thomas G. Weiss is Presidential Professor of Political Science and Director of the Ralph Bunche Institute for International Studies at The CUNY Graduate Center, which is home to the Global Centre for the Responsibility to Protect.*

In Zimbabwe, President Mugabe unleashed a systematic campaign of intimidation and terror against opponents, real and imagined, in an increasingly desperate bid to cling to power. He raised the houses of poor communities backing the opposition and drove some 3 million citizens into forced exile. In addition to a stolen election, that one of the continent’s most advanced and best equipped economies is on the edge of starvation, complete with a cholera epidemic, constitutes a different type of proof of Mugabe’s criminality.

We need not split academic and legal hairs about whether these past acts amount to crimes against humanity. The goal of R2P is not really to punish evildoers but rather to protect people. There is good reason to fear that far worse could be in store for the people of Zimbabwe – whether from a civil war between Mugabe’s forces and those of the opposition (which has used peaceful methods so far), or from the cumulative effect of the regime’s refusal to grant humanitarian organizations access to people trying to survive without food, fuel, shelter or medical care. The continual jousting and the still tentative agreement between the two sides holds out some hope that a negotiated solution might be possible, but Mugabe’s past behaviour offers little grounds for optimism.

Zimbabwe offers a textbook case of a setting where pressure from outsiders is desperately needed to prevent atrocities – the proverbial bottom line for R2P. There are numerous possible measures to forestall the worst – the robust mediation efforts by the African Union and the West in Kenya illustrate that much is possible before the deployment of the U.S. Army’s 82nd Airborne Division. Some UN member states might well have felt that the threats contained in the American resolution would not persuade the Mugabe regime to stop brutalizing opponents or to restore humanitarian access. But there can be no serious claim that the Security Council was exceeding its mandate; the 2005 World Summit vote settled that.

Russia and China had the company of several developing countries on the Security Council, including Libya, Vietnam, and South Africa. But Burkina Faso, the other non-permanent member of the Council from Africa, voted for the measure as did Costa Rica and Panama, while Indonesia sought to build bridges by abstaining. And Ellen Johnson Sirleaf, president of Liberia, also spoke out in support of the measure, declaring that in “the new Africa,” which she very much represents, “all Africans have a responsibility for our collective future.”

The three years since the World Summit are of course barely an eye-blink in the long process by which norms of international behaviour gain universal acceptance. In his first major speech on this topic in July 2008 in Berlin, UN Secretary-General Ban Ki-moon referred to R2P as “an aspiration, not yet a

reality.” True, but it would be wrong to conclude that this new doctrine is merely suffering growing pains.

The Russian insistence that the Security Council had no business meddling in Zimbabwe’s affairs certainly resonates elsewhere, starting with Russia’s invasion of South Ossetia and Georgia in August 2008. Paradoxically, Moscow actually tried to argue that they were protecting Russian citizens in both South Ossetia and Abkhazia. And Foreign Minister Sergei Lavrov tried to use, unsuccessfully as it turned out, the ‘R2P’ label to justify actions that were more akin to the Sudetenland in 1938 than to a legitimate R2P situation.

The UN’s bedrock is, after all, the principle of non-interference in domestic affairs. And many states with second thoughts about R2P have spoken of re-opening debate on the subject, which they see as an infringement on sacrosanct state sovereignty. Others dismiss the responsibility to protect as a license for powerful states to invade weaker ones, or claim that the doctrine must be invoked consistently or not at all.

It is easy, amidst all the clamour, to forget why it was that the largest collection of heads of state and government ever to gather at the UN (over 150) had endorsed this new principle in the first place at the 2005 World Summit. The world had done too little too late to stop genocide in Rwanda. The Security Council resolution on the human rights situation in Myanmar met with the double Moscow-Beijing veto in January 2007, which did not augur well for feeble international pressure on the Burmese junta in spring 2008 to permit humanitarian access in the face of Cyclone Nargis. The UN had failed to respond effectively in Bosnia, and again in Kosovo. And of course we have had reports of an ongoing, slow motion genocide in Darfur since 2003 and more recently of a looming calamity in the eastern part of the Democratic Republic of the Congo.

Yet the premise that states can do as they wish inside their borders has become insupportable. Borders, as UN Secretary-General Kofi Annan proclaimed in 1999, should “no longer be seen as a watertight protection for war criminals or mass murderers.” The responsibility to protect was the culmination of a long effort to inscribe the pledge of “never again” in law and practice. Surely it is not quixotic to say no more Holocausts and Rwandas and mean it.

We are at the beginning of a long and difficult road. Debate will continue in the General Assembly, probably in 2009, after the Secretary-General’s presentation of a new overview on R2P early next year. It is essential to clear away misconceptions and clarify the means that states and bodies like the UN have at their disposal to prevent mass atrocities, to define the threshold at which grave threats become “an R2P situation.” It is essential for the friends of R2P to be as organised and vigilant as the usual suspects in the

Non-Aligned Movement seeking to shield human rights abuses behind the moniker of state sovereignty.

We know that publics around the world are inspired not by abstract arguments about sovereignty and grand UN pronouncements but rather by the urgent obligation to protect people from the worst crimes. The UN matters because it continues to represent their aspirations. And the responsibility to protect, as Secretary-General Ban put it, “speaks to the things that are most noble and most enduring in the human condition.”

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