

Responsibility to Protect: Implementing a Global Norm towards Peace and Security

An Interview with Dr Simon Adams; Global Centre for the Responsibility to Protect

Tomas Königs, Junko Nozawa and Erica Teeuwen*

In September 2000, as a result of growing critique and scepticism towards humanitarian intervention, UN Secretary-General Kofi Annan posed the following question to the international community: '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?'

In response to this challenge, the newly founded International Commission on Intervention and State Sovereignty ('ICISS'), introduced a new approach towards humanitarian intervention in its final report: the Responsibility to Protect ('R2P'). Concisely, the R2P principle holds that the responsibility to protect people in a state from severe human rights violations shifts to the international community when that respective state fails to live up to said responsibility.

Although the R2P principle has received general acceptance by the international community, it is not just individual states that play a role in ensuring the implementation of doctrine. Various international organisations have established themselves as authoritative bodies that contribute to the advancement and institutionalisation of the R2P norm through international advocacy and extensive research.

In this interview, Executive Director of the Global Centre for the Responsibility to Protect Dr Simon Adams shares his views on the development of the R2P principle in light of recent human rights atrocities.

* Tomas Königs, BA (*honours*), LLM; Junko Nozawa, JD; and Erica Teeuwen, BA (*honours*), LLB, External Affairs Editors, *Merkourios*, Utrecht Journal of International and European Law 2012-2013.

The Board of Editors is pleased to have the opportunity to interview a person such as yourself. Could you please say a few words about yourself and the work you do at the Global Centre for the Responsibility to Protect?

I'm currently the Executive Director of the Global Centre for the Responsibility to Protect, based in New York. The Global Centre is the leading international organisation responsible for advancing R2P at the United Nations and beyond. We act as advisors to governments, monitor situations where mass atrocities are occurring, or are at serious risk of occurring, undertake advocacy with policymakers, and work closely with states around the world to build domestic and regional structures for the prevention of mass atrocities.

As for me, I'm Australian and Irish. I was a member of the international anti-apartheid movement and of the African National Congress in South Africa where I lived for a number of years. My professional interest has always been in peace and conflict studies and I was lucky enough to work, either as an activist or academic (or both), in Northern Ireland, East Timor and a number of other situations where people were trying to rebuild civil society from the ruins of violent conflict. Some years after the genocide in Rwanda I had an opportunity to do some work there and I was profoundly moved by the experience. There were some career detours but along the way I came to the attention of Gareth Evans, chairman of the ICISS, and that's how I eventually got drawn into the world of R2P. It is an honour to work on such an important issue and a privilege to interact with people like Gareth, Romeo Dallaire and others who have done so much to change the way the world thinks about mass atrocity crimes.

The authority of the R2P doctrine remains an issue of controversy in both the academic and the political sphere. Some regard the R2P principle as soft law, others believe it has more authority due to the U.N.'s explicit acceptance of the principle, and others disregard these standpoints and solely view the doctrine as a non-binding guideline that does not pose any legal obligations upon states. Could you share your thoughts on this issue related to the current crisis in Syria? Does the international community have a legal obligation to protect the Syrian people, derived from the R2P principle?

Essentially, R2P builds upon existing

'The problem of the second half of the twentieth century was not the absence of international law requiring states to protect populations (...) from genocide or other mass atrocity crimes. The problem was one of political will.'

international human rights and humanitarian law; it does not seek to impose new legal obligations upon states. There are other agreed obligations, such as the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. The problem of the second half of the twentieth century was not the absence of international law requiring states to protect populations – including their own – from genocide or other mass atrocity crimes. The problem was one of political will. This is the lesson of Rwanda, of Srebrenica and Cambodia. R2P has now been utilised in a number of UN Security Council resolutions, Presidential statements and so on. It is used at the Human Rights Council and elsewhere in the UN system. R2P is an established international norm. But any international norm is only as strong as the will and ability of UN member states to uphold it. From our perspective, it is not so much a question of how we define R2P – whether it is a doctrine, concept or legal obligation – but a question of whether R2P can act as a political framework for mobilising action to protect those who are otherwise marked for death.

Unfortunately, with regard to Syria we have the worst possible situation at the UN Security Council where one permanent member is a long-term ally of the Assad government. By using its veto in opposition to the majority of the Council, Russia has opposed, undermined and sabotaged every attempt to hold the Syrian government accountable for its crimes. For me, this is not a matter of the failure of R2P but rather it is compelling evidence of the need for reform of the Security Council. In particular, I support the S5 initiative for a moratorium on the permanent members using their veto to prevent Council action in a situation where mass atrocity crimes are occurring.

China is an upcoming economic and military power, but none of the members of the International Commission on Intervention and State Sovereignty was a Chinese national. Could you explain the lack of involvement of China with regards to the development of the R2P doctrine, and could this threaten future implementation of the R2P doctrine?

It is true there wasn't a Chinese representative on ICISS but the origin story of R2P is not restricted simply to that 12-member commission. For example, in 2003 while Kofi Annan was UN Secretary-General, he set up the High-level

Panel on Threats, Challenges and Change. The members included Gareth Evans, who played such a crucial role in the development of R2P, as well as Qian Qichen, former Vice Prime Minister and Minister for Foreign Affairs of the People's Republic of China. This panel represented another important step in the development of the Responsibility to Protect.

While many people are deeply disappointed with the role of China on the UN Security Council over the last two years with regard to Syria, the Chinese have been broadly supportive of R2P in other situations the Council has had to deal with, and in other fora. I do think, however, that we would all like to see China become more openly engaged with R2P. For example, China has considerable influence with both Sudan and South Sudan, but in my opinion, it has not used that influence enough in terms of acting as a key interlocutor between the Security Council and those countries and helping ensure that both sides meet their obligations in relation to the conflict in Abyei and elsewhere. On the other hand, the Chinese have been steadfast in their support for those all-important two paragraphs in the 2005 World Summit Outcome document and that sends a powerful signal.

On a personal level, I think I was on Chinese national television last year more than any other state broadcaster, so there is definitely interest in China with regard to debating mass atrocities, sovereignty and what it means to be a rising global power. I think the challenge is to work with China to make its support for R2P more consistent.

The Security Council referred the situation in Libya to the ICC in Resolution 1970. Adama Dieng, Special Adviser of the Secretary-General on the Prevention of Genocide, recently warned of the increasing risk of sectarian violence in Syria and also called for the international community acting through the Security Council to refer the situation to the Court. What is the relationship between the norm of R2P and the role of the ICC?

I think the emergence of R2P and the establishment of the International Criminal Court are historically connected. Ending impunity for past mass atrocity crimes is the best defence we have against the possible commission of future crimes. At the Global Centre for the Responsibility to Protect we have a good working relationship with the Office of the Prosecutor and

we support the growing number of states (and non-state actors) calling for the UN Security Council to refer the Syrian situation to the ICC.

There are also other things the international community can do to support accountability with regard to Syria, despite the current political paralysis of the UN Security Council. For example, states should be actively supporting the Human Rights Council's independent commission of inquiry and donors should help increase the number of qualified investigators collecting evidence and testimony from refugees on Syria's borders.

At the Global Centre for the Responsibility to Protect we have been emphasising that all perpetrators of war crimes and crimes against humanity in Syria must be held accountable. The government is still the main perpetrator but we've consistently argued that those states who are backing the anti-Assad rebels also need to ensure that they are not sponsoring groups who commit war crimes. In fact, I wrote about this in the New York Times last November¹. At the time it was slightly controversial, but I think our concerns and our early warnings were prescient. We are always focussed on how we can ensure that we are not just talking about R2P as a grand political idea, but as a practical guide to action.

'Ending impunity for past mass atrocity crimes is the best defence we have against the possible commission of future crimes.'

'[T]hose states who are backing anti-Assad rebels also need to ensure that they do not sponsor groups who commit war crimes.'

The R2P principle has been praised for introducing the responsibility to prevent and the responsibility to rebuild as being complementary to the responsibility to react to severe human rights crises. Since the fall of the Libyan regime by NATO's intervention, how would you assess the international community's response and its responsibility to build 'a durable peace, and promoting good governance and sustainable development'?

I think it has been a mixed record. The responsibility to rebuild is an essential part of R2P. We are in touch with the Libyan Mission to the UN, we are abreast of the challenges Libya faces in attempting to rebuild and we are continuing to raise issues of accountability for all perpetrators of mass atrocities, regardless of their past or current political affiliations. The 'react' phase is clearly over, but the work of rebuilding is ongoing. We believe the international

¹ S Adams, 'The World's Next Genocide' The New York Times (New York, 15 November 2012) <http://www.nytimes.com/2012/11/16/opinion/the-worlds-next-genocide.html?_r=0> accessed 24 January 2013.

community and UN need to remain directly engaged as partners in this process.

What are the main challenges for the advancement of the R2P norm and its recognition?

We have won the battle of ideas. I don't think even the boldest dictator would stand up in the United Nations and state that it is simply their sovereign right to kill their own people if they so desire. There is broad consensus amongst the UN's 193 members that preventing and responding to mass atrocities is a global responsibility. We've been through some testing times since the Libya intervention but R2P is here to stay. I think recent debates in the UN General Assembly reflect that there is recognition that for all the imperfections and weaknesses of the international system, R2P is still the best tool we have to bridge the chasm between the UN's noble aims and practical action to protect people from mass atrocities.

The challenge now – and this is what keeps me awake at night – is how to implement R2P in specific situations like Syria or Sudan and how to ensure that all the preventive, mediated and coercive elements of R2P are adequately understood and operationalised. R2P is not a military doctrine, it is primarily about prevention. So how do we utilise R2P to help protect the Rohingya in Burma/Myanmar, or to prevent a recurrence of widespread ethnic violence during the upcoming Kenyan elections, or to ensure that the peace and reconciliation process in Côte d'Ivoire is adequate resourced and supported? It is still a struggle, but to quote the UN Secretary-General, 'I would far prefer the growing pains of an idea whose time has come to sterile debates about principles that are never put into practice.' ■

I don't think even the boldest dictator would stand up in the UN and state that it is simply their sovereign right to kill their own people if they so desire.'