

# **“Responsibility to Protect” and the UN PKO : @PKO Now!**

## **No. 5**

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### **"Responsibility to Protect" and state sovereignty**

Article 2.7 of the United Nations Charter states that "nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state...", making it clear that non-intervention in domestic affairs is a fundamental principle of the UN . On the contrary, however, the International Commission on Intervention and State Sovereignty ( ICISS ), which was sponsored by the Government of Canada, put forward a different view. It argued in its final report of 2001, entitled "Responsibility to Protect" (often abbreviated as RtoP or R2P) ( ICISS report)<sup>1</sup>, that state sovereignty implies that the responsibility to protect its people lies with the state itself, and that in cases when a state has not fulfilled this responsibility, then it is up to the international community to protect people suffering serious harm.

### **"Responsibility to Protect" and its three responsibilities**

The ICISS report embraces three specific responsibilities under RtoP: the responsibility to prevent, to react, and to rebuild. The responsibility to prevent is the duty to address both the root and direct causes that are putting populations at risk. This includes providing development aid, assistance to governance, human rights and the rule of law, and the promotion of dialogue and reconciliation. The responsibility to react is the duty to respond to situations of compelling human need with appropriate measures, which may include

coercive measures like sanctions and international prosecution, and in extreme cases military intervention. The responsibility to rebuild is the duty to provide, particularly after a military intervention, full assistance to recovery, reconstruction, and reconciliation efforts, while addressing the causes of the harm the intervention was designed to halt or avert.

### **The consequence of the ICISS report**

After receiving the ICISS report, in 2004 the High-level Panel on Threats, Challenges and Change, which was an advisory commission to then UN Secretary-General Kofi Annan, submitted its own report entitled "A More Secure World: Our Shared Responsibility",<sup>2</sup> which supported the concept of "responsibility to protect" of the ICISS report. The UN Secretary-General, then published a report in 2005 entitled "In Larger Freedom: Towards Development, Security and Human Rights for All"<sup>3</sup>, which argued that in cases when a state fails to fulfill its responsibility to protect its people, the responsibility then shifts to the international community, and the Security Council under the UN Charter may decide to take the necessary actions including enforcement action, if so required.

Having received the above reports, the 2005 UN World Summit adopted an outcome document<sup>4</sup> which acknowledged that each individual state has the responsibility to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity. It also stated that the international community is prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the UN Charter, should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. With this, it can be understood that the United Nations, if not legally, at least politically accepted the possibility of sovereign intervention, including the use of force, based on the idea of "responsibility to protect".

### **Relevance to UN Peacekeeping Operations**

Current UN Peacekeeping operations encompass a broad range of activities that include disarmament, demobilization, and reintegration ( DDR ) of former combatants in post-

conflict societies, Security Sector Reform ( SSR ), elections, assistance to the rule of law, and the protection of civilians caught up in conflicts. "Robust" Peacekeeping Operations that cover everything from protection to reconstruction have become the mainstream. This adheres to the idea of RtoP elaborated in the ICISS report. On the other hand, the legitimacy of RtoP or the criteria and scope of its implementation has yet to be clarified, and thus the idea of RtoP is sometimes described as just "political rhetoric".<sup>5</sup> As long as the RtoP is inescapably linked with the use of force, then there will still be many issues that need to be addressed in order for R2P to become an international norm. These issues comprise such things as the criteria to identify the failure of a state to fulfill its responsibility to protect its people, the criteria and scope of the measures used by the international community based on RtoP, and also the responsibility to protect those civilians who could be incidentally harmed by implementing such measures.

## End Notes

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<sup>1</sup> International Commission on Intervention and State Sovereignty ( ICISS ), The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty. Ottawa: International Development Research Centre, 2001.

<sup>2</sup> "A More Secure World: our shared responsibility. Report of the High-level Panel on Threats, Challenges and Change." UN Doc. A/59/565(2 December 2004).

<sup>3</sup> "In Larger Freedom: Towards Development, Security and Human Rights for All." UN Doc. A/59/2005 (21 March 2005)).

<sup>4</sup> 2005 World Summit Outcome (A/RES/60/1(16 September 2005)).

<sup>5</sup> Stahn, Carsten. "Responsibility to Protect: Political Rhetoric or Emerging Legal Norm?" The American Journal of International Law. 2007, Vol.101(1), p.99-120.