

POLICY *dialogue* BRIEF



Taking Stock of the Responsibility to Protect in Africa: Challenges, Prospects, and Priorities for the Next Decade

The Responsibility to Protect (R2P) has achieved important progress since it gained a rare political consensus at the World Summit in 2005, gradually assuming a normative significance in policy and academic circles. In the final paragraph of his 2014 *Report on the Responsibility to Protect*, UN Secretary General Ban Ki-moon declared that 2015, which marks the tenth anniversary of the World Summit, “is an opportune moment” for the General Assembly to build on the consensus reached to date on R2P and to “take stock of efforts to implement” the principle. The UN Office on Genocide Prevention and the Responsibility to Protect, in collaboration with the Stanley Foundation, organized a regional consultation meeting on the evaluation of R2P in Africa. The meeting, “Taking Stock of Efforts to Implement the Responsibility to Protect,” took place March 6, 2015, in Addis Ababa, Ethiopia.

As part of the stocktaking process recommended by the secretary-general, this informal regional consultation brought together a diverse group of experts, policymakers, diplomats, and representatives of African Union (AU) member states, regional organizations, and civil society organizations. The objective of the meeting was to produce recommendations for the practical advancement of R2P and to shape an implementation strategy for the next decade. Discussion focused on three objectives: (1) reviewing past and current efforts to implement R2P in Africa under the framework of its three pillars; (2) identifying key challenges and opportunities; and (3) developing a set of priorities for the next decade of R2P’s implementation in the region. The meeting also sought to provide insights for the 2015 secretary-general’s report on R2P and to contribute to the development of a compendium of practice that specifies the various ways states, international organizations, and civil society actors have worked to implement the three pillars of R2P.

This report highlights the salient issues discussed by participants at the meeting and recommendations for making R2P fully operational in the next decade.

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This brief summarizes the primary findings of the conference as interpreted by the rapporteur, Frank O. Okyere, and the chair, Keith Porter. Participants neither reviewed nor approved this brief. Therefore, it should not be assumed that every participant subscribes to all of its recommendations, observations, and conclusions.

Summary Recommendations

Conference participants recommended several significant priorities for full implementation of R2P in the next decade. Among them:

- Shift from a culture of response to a culture of prevention.
- Fully integrate and institutionalize R2P in national policies and programs, and strengthen national infrastructures for peace as mechanisms for mass atrocity prevention.
- Promote awareness and ownership of R2P to a wider network of stakeholders, particularly at the grassroots level.
- Encourage political leaders and government officials to employ R2P language in policy statements and national agenda setting.
- Link and integrate local and national efforts to regional and continental action.
- Deepen engagement and collaboration between the United Nations and regional organizations.
- Focus on the factors driving nonstate atrocities and their implications for R2P policies, including international assistance and response.
- Mainstream R2P in peacebuilding processes and promote a focus on atrocity prevention across all phases of engagement.

Assessing Implementation: Regional and National Efforts

Since R2P gained political acceptance at the World Summit in 2005, numerous efforts have been made to accelerate its implementation. At the level of the United Nations, there have been efforts by the Joint Office on Genocide Prevention and the Responsibility to Protect (Joint Office) to prioritize the mainstreaming of mass atrocity prevention throughout the UN system. The Joint Office has also developed a framework of analysis for assisting states and nonstate actors in anticipating and preventing atrocity crimes.

At the regional level, participants considered the AU's African Peace and Security Architecture (APSA) and were largely divided on its effectiveness in anticipating and responding to atrocity crimes. Reviewing the history of regional approaches to mass atrocity crimes, participants noted that the practice of preventing genocide and mass atrocities in Africa preceded the normative framework of R2P. They further stated that actors at the community

and national levels were engaged in atrocity prevention before R2P was codified into a normative framework. In the West African subregion, for instance, the adoption of the protocol relating to the mechanism for conflict prevention, management, resolution, peacekeeping, and security in 1999 and the subsequent protocol on democracy and good governance were triggered by the lessons of the conflicts in the Mano River basin (Liberia, Sierra Leone, and Guinea).

The AU has since established several structures and institutions that play a critical role in the implementation of R2P in Africa. Article 4(h) of the African Union Constitutive Act enjoins the AU to intervene in member states in grave circumstances such as genocide, war crimes, and crimes against humanity. This closely aligns with the crimes R2P seeks to prevent. Furthermore, the APSA enables the AU to institute measures to prevent the outbreak of violent conflicts that could lead to the commission of atrocity crimes. The Continental Early Warning System, the Panel of the Wise, and the African Standby Force are some of the structures through which the AU anticipates and responds to crises on the continent. Additionally, the AU signaled its political acceptance of R2P in the Ezulwini Consensus in 2005, months before the principle gained global recognition at the UN World Summit.

The AU has come a long way in instituting measures to contain crises on the continent, most of which are, in one way or another, related to political governance. Despite the remarkable progress in establishing these mechanisms and structures, some participants argued that the AU has often fallen short of effective response in crisis situations. They cited political dynamics, including continued deference to sovereignty and solidarity among heads of state, as important factors that have limited the effectiveness of AU efforts to prevent and respond to atrocity risks on the continent.

In addition to political dynamics, participants considered the institutional challenges that limit the effectiveness of the AU's mass atrocity prevention and response mechanisms. In particular, participants highlighted the lack of a fully functional standby force capable of mounting effective enforcement action in member states in spite of available early warning signs. The inability of the AU to institute enforcement action under Article 4(h) led some participants to conclude that the APSA is virtually ineffectual. However, not all participants shared this opinion, as some argued that despite its shortcomings, the APSA remains critical to conflict prevention and atrocity prevention efforts in Africa.

Another factor challenging the effectiveness of the APSA is the lack of clear mechanisms to trigger consideration of action under Article 4(h) or other provisions relevant to atrocity prevention. Under Article 4(h), all decisions to intervene in member states shall be pursuant to a decision of the Assembly of Heads of State and Government. Article 4(j) of the Protocol on the establishment of the AU Peace and

Security Council reaffirms this provision by deferring decisions for intervention to the assembly. Further, Article 58 of the African Charter on Human and Peoples' Rights requires the African Commission on Human and People's Rights to bring to the attention of the Assembly of Heads of State and Government the existence of any serious or massive violations of human rights. However, the Protocol has established the Peace and Security Council as a standing decision-making organ for the prevention, management, and resolution of conflicts. Such ambiguity in the delegation of authority further complicates the procedures for activating collective response in situations of atrocity risk and serious abuses of human rights.

The APSA has also been hampered by a complete disconnect between Africa's Regional Economic Communities and the AU in responding to crises in member states. In some cases, competition between the Regional Economic Communities and the AU, and the divergent approaches adopted by these actors, present a major challenge to R2P implementation. The lack of credible institutional structures in some regional blocs has also impeded the practical implementation of the AU Constitutive Act.

In assessing the effectiveness of regional structures and mechanisms, participants considered their application to specific cases over the last decade. Even though it is believed that Article 4(h) has not been explicitly activated in conflict situations across the continent owing to political sensitivities around the subject of intervention, it was highlighted that the principle behind Article 4(h) was invoked in the case of Darfur, where it was debated whether atrocities committed in the country amounted to genocide. With reference to the application of R2P in Libya through the AU, it was argued that the AU was impeded by what was described as a choice of convenience made by the Security Council to authorize enforcement action in response to a call by the League of Arab States, in apparent disregard of the AU desire for a political solution. Participants argued that the decision to intervene in Libya was not based on principle, as the Security Council failed to consider the implications of such a move on neighboring states and the region as a whole, a vital yardstick in deciding matters of coercive intervention.

In appraising the trajectory of the AU's inclination to prevent atrocity crimes, it must be noted that the AU indicated in the Ezulwini Consensus—six months before the United Nations' adoption of R2P—that it does not require Security Council authorization prior to intervention. This view is contrary to the stipulations of the UN Charter, which bar any form of external intervention without Security Council approval. Contention over how regional intervention can proceed without Security Council endorsement remains a sticking point.

The Economic Community of West African States (ECOWAS) has also played a crucial role in conflict prevention and crisis response in member states. Notable examples of ECOWAS's preventive interventions include the political crises in Guinea and Niger in 2008 and 2010, respectively. ECOWAS has also committed resources to developing preventive mechanisms, many established by the protocol on the mechanism for conflict prevention, management, resolution, peacekeeping, and security that was adopted 1999. Among these mechanisms, the protocol established: (1) the Council of the Wise that engages primarily in preventive diplomacy; (2) a subregional early warning network dedicated to analyzing and sharing information on emerging crises; and (3) the ECOWAS Standby Force tasked with monitoring and enforcement action. Article 25 of the mechanism further stipulates the conditions under which the mechanism could be invoked, which include serious violations and abuses of human rights. These mechanisms and structures are complemented by a conflict prevention framework that explicitly adopts the principles of R2P in the prevention of conflicts.

The AU has come a long way in instituting measures to contain crises on the continent. Despite the remarkable progress, some participants argued that the AU has often fallen short of effective response in crisis situations.

At the national level, several policies, programs, and initiatives have been put in place by governments and civil society organizations to prevent and deter the commission of atrocity crimes. Some AU member states have designated national focal points to coordinate efforts to domesticate R2P in national policies. National and regional peace councils have been established in Kenya and Ghana. Some other countries have further developed policies and programs aimed at preventing atrocity crimes.

In the Central African Republic, the first phase of a draft bill to reform the constitution has been completed, pending consultations among the relevant stakeholders. The draft bill aims to institute a penal court that would punish past atrocity crimes and deter future atrocities. Actions to institute a national commission on human rights and a national commission on prevention of genocide and crimes against humanity are expected to be completed.

The government of the Democratic Republic of Congo has also put in place some measures to ensure that violent crimes of the past do not recur. These measures largely take the form of transitional justice initiatives. The country is a signatory to the Rome Statute and has established a Penal Court and Appellate Court for atrocity crimes, as well as a draft bill to determine the penalties for crimes under the Rome Statute. However, a weak judicial system impedes the ability to punish perpetrators of atrocity crimes. Also, political leaders are unwilling to reform the security services. Participants suggested that international assistance is necessary to support these processes.

Liberia was described by participants as a postwar country in a postwar region, and R2P's significance in Liberia is linked to addressing the socioeconomic situation of the people as a way to prevent a relapse into violence. Liberia has established an Anti-corruption Commission, Governance Commission, and Human Rights Commission to address some of the structural causes of internal conflict. Liberia has also appointed a national R2P focal point to steer efforts of the government in the prevention of future crimes.

However, one lingering issue raised by participants was the implementation of R2P under pillar two of the norm, or the responsibility of the international community to support states under stress and to help states build the capacity to protect their populations from atrocity violence. While it was explained that international assistance could be activated upon request of the state, participants wondered whether the international community's obligation to assist states in crisis should be interpreted to be mandatory or discretionary. Commenting on the role and place of the international community in providing assistance to states, participants noted that most African countries are postconflict countries and that, therefore, international assistance should take their unique circumstances into account. For instance, it was noted that security services

are notorious for committing grave crimes, highlighting the need for substantial reform of the security sector in most postconflict countries. Nonetheless, the donor community is generally averse to funding such programs.

Knowledge, Capacity, and Operational Gaps

Assessing knowledge gaps, participants identified the tendency of many observers to conflate critiques of the R2P principle with critiques of its implementation. This conflation has led many to underestimate the strength of consensus in favor of R2P and construe criticism of selective or ineffective application as criticism of the concept itself. Participants reinforced that R2P has become an established norm with broad-based consensus, and that critiques of its application do not undermine the significance of the principle.

Another knowledge gap noted by participants was misapprehension of the nature of "the state" and governance in many African contexts. Participants noted that governance structures in Africa often vary considerably from conventional understandings of "the state," which presume an organized political collective, institutional independence, and checks and balances. In the African context, there is often a conflation of the ruling regime and the state, whereby the ruling party substitutes itself for the state. Because of the extensive powers wielded by the executive and the pervasive recourse to political patronage networks, the state becomes fused with the ruling regime. This has meant there is limited space for independent action, contributing to the institutional capacity gaps that inhibit effective atrocity prevention. External actors need to take these dynamics and their implications for governance into account in designing assistance programs and engaging the state for atrocity prevention in Africa.

In addition to knowledge gaps, several capacity gaps continue to inhibit the effective implementation of R2P in Africa. Notable among these are institutional weaknesses that manifest in state fragility and constrict states' ability to prevent and respond to atrocity crimes. The lack of checks and balances in governance, the lack of separation of powers and independent structures like human rights commissions, and the co-optation of institutions that mainly serve as appendices to the state are some of the constraints to effective atrocity prevention. Institutional weakness is common with fragile and failing states, and many African states are particularly vulnerable to mass atrocity crimes owing to the collapse of the rule of law, lack of an independent judiciary, and the absence of transparent democratic systems, which results in a cycle of impunity. Other factors are political and economic inequality, and ethnic or religious division, which manifest themselves in deliberate policies of discrimination along ethnic or religious lines (for example, in the provision of social services or the

dominance of particular groups in key government positions or state security services). Such divisions often result in the use of hate speech and incitement to violence, which can lead to atrocity crimes.

Participants argued that atrocity prevention efforts, particularly capacity building, often exclude nonstate actors that are a source of resilience against atrocity risk. Even though the state is central to atrocity prevention efforts, it may face several challenges that inhibit its capacity to prevent or respond effectively. It was thus suggested that nonstate actors could help build national resilience by filling in the gaps created by the challenges confronting the state. Resilience could be developed in areas such as provision of critical social services and development of early warning and response capabilities. Furthermore, if a state were found liable for serious abuses that could trigger atrocity crimes, atrocity prevention efforts should look beyond the state to include nonstate actors.

In terms of operational gaps, challenges to human rights and popular participation continue to create problems in many states, especially in the Horn of Africa, where citizen participation and freedom of expression are constricted. Participants also noted the imbalance that has developed in some cases between the promotion of human security and the promotion of democracy and human rights, and the implications of such imbalances for state fragility or resilience.

Here myriad country cases were cited that seemed to point to advances in human security in terms of economic and infrastructural development but stagnation or reversals in the areas of democracy and human rights. Examples included Rwanda, Uganda, and Ethiopia, where advances in human security have not directly translated into improved democracy. In Ethiopia, for instance, it was noted that there is only one opposition member in a 500-member Parliament, indicating a low appetite for multiparty democracy in the country. Nonetheless, progress made in other areas has contributed to some resilience within society. Questions were raised, therefore, as to whether countries that may not register positively on democracy and human rights indices are necessarily “fragile” countries at risk for mass atrocity crimes. Alternative opinions emerged, with some participants pointing out that while considerable advancements in some areas of human security have improved social resilience in Ethiopia and Rwanda in the absence of full democracy, long-term conflict and atrocity prevention dictates that inclusive structures of governance be considered a necessity. This is mainly because political exclusion has been determined to be a major root cause of atrocity crimes and that neglect of these inclusive structures of governance could prove tragic in the long term. While a clear consensus was not reached, the seeming dilemma between the promotion of human security and the promotion of human rights was presented as an issue that requires a nuanced approach, particularly in assessing and addressing state fragility.

At the subregional and continental levels, one challenge to the effective prevention of atrocity crimes relates to the low level of implementation despite the existence of noteworthy normative documents. Participants attributed this implementation gap to institutional weakness and misapplication of resources. Closely linked to these weaknesses is the international community’s tendency to focus on crisis response without addressing the structural causes of the crisis. The disconnect between R2P and peacebuilding remains, resulting in the postponement, rather than the prevention, of atrocity crimes due to the implementation of short-term policies that do not resolve the underlying causes of conflicts. Here participants deliberated on the role of the international community in providing assistance to states in crisis and identified the responsibility to rebuild, reconstruct, and reconcile society as the weakest link of the R2P framework in Africa. Participants noted that about five of the country cases on the agenda of the United Nations

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Peacebuilding Commission are countries with histories of atrocity crimes, indicating failure to address the root causes of these crimes.

In discussing the disconnect between R2P and peacebuilding, participants considered the degree to which the international community can assist states in structural prevention and how the effectiveness of such efforts can be measured. While it was generally agreed that steps taken by international and regional actors in building effective and legitimate governance indirectly promote prevention of atrocity crimes, participants also noted that legitimacy is often defined narrowly by external actors. For instance, organizing elections has often been promoted at the expense of institution building in many African countries. Thus, in places such as Mali, Burkina Faso, Lesotho, and Libya, participants noted that conflicts have merely been postponed instead of resolved.

Tensions between local parties and the legitimacy of external actors providing assistance to the state have also led to significant and costly impediments in the implementation of R2P. In this case, Libya was cited as a useful lesson. Whereas the international community initially deemed it necessary to have a heavier footprint in the country in the wake of intervention, it has been reported that Libyans opted against such sustained engagement, making it difficult for external actors to institute meaningful postintervention measures. This was discussed as a critical issue that the international community faces in its assistance obligations.

Priorities for the Next Decade

Addressing the obstacles to full implementation of R2P in the next decade will require anticipating new threats and emerging challenges, as well as the factors likely to influence atrocity risk in the future.

Factors Driving Change in Atrocity Risk

Looking ahead, emerging threats to human security are increasingly changing the dynamics of atrocity crimes and response efforts. The growing nexus between terrorism/violent extremism and mass atrocity crimes continues to present unique challenges for policymakers and practitioners. Additionally, the transnational nature, scope, and activities of nonstate armed groups create limitations for state response, thereby raising questions about the theoretical foundations of R2P. These questions necessitate an innovative approach to combat these threats, including focusing on the factors that engender nonstate atrocities and paying close attention to the dynamics of international assistance in such circumstances.

Civil society and nonstate actors have been identified as critical role players in the future implementation of R2P. To buttress this point, it was illustrated how traditional chiefs and hunters have been educated to identify and relay early

warning signals to enable the appropriate authorities to take action on cross-border criminal enterprises in dense forests straddled between Ivory Coast and Liberia. While this has been done without labeling it as an R2P initiative, participants discussed how these actors are proving to be significant stakeholders in operationalizing R2P at the grassroots level and challenging the status quo in atrocity prevention. It was suggested that promoting full operationalization of R2P necessitates strengthening the national infrastructures for peace as key drivers of mass atrocity prevention. These local actions should then be reinforced with support from regional and international organizations.

Addressing Challenges Impeding Implementation

Participants mentioned the internal political dynamics of the Security Council as one of the key challenges likely to impede the implementation of R2P. Participants noted that most contemporary atrocity crimes have been committed in Africa, as evidenced by the number of peacekeeping and peacebuilding missions on the continent. However, the structure and composition of the Security Council remains skewed, impacting the legitimacy and effectiveness of atrocity crime response efforts. In this context, participants also discussed the use of the veto as a potential obstacle to collective response. To advance the principles of R2P, participants argued that all members of the Security Council should be willing to build consensus around the norm through continuous dialogue on all aspects of their engagement.

As an additional challenge to R2P implementation, participants noted the avoidance of R2P language by stakeholders engaged in R2P activities and considered whether this avoidance is negatively impacting the norm. Participants attributed the reluctance to invoke R2P language to political sensitivities. They argued, however, that unlike the Convention on the Prevention and Punishment of the Crime of Genocide, R2P is not a legally binding instrument and that its value lies in its ability to communicate political will and commitment. Thus, participants wondered if R2P needs to be visible in every policy document in order for the principle to survive, or if it should be understood and accepted as a moral obligation that does not require explicit reference.

While participants largely agreed on the significance of employing the language of R2P, the ensuing discussions tended to point to a careful, or selective, use of the language. It was suggested that at the level of civil society discussions, R2P language could provide a powerful foundation for dialogue between government and the population. In this sense, the language can act as a potent mobilizing tool for action. In high-level deliberations such as Security Council dialogue and debate, the language could also prove crucial in galvanizing action by making it clear to states that R2P is not a discretionary mechanism but a specific obligation and a collective responsibility. However, specific policies to prevent atrocity crimes, such

as development assistance and mediation efforts, need not necessarily be labeled as R2P policies. Participants also noted that to enable appreciation of the principles of R2P at the grassroots/community level, it may be necessary to communicate these principles in a language easily understood by the average person.

Proposed Policy and Institutional Changes

Participants advocated for the mainstreaming of R2P in peacebuilding but were cautious about the dangers of an expansive interpretation of the norm.

Owing to the importance of citizen awareness in the implementation of R2P, participants suggested that it is necessary to embrace new ways of disseminating R2P principles to a wider network, particularly at the grassroots level. Despite its acceptance at the global level, participants noted that understanding and appreciation of R2P remains limited and often conflated with general conflict prevention strategies. It was suggested, therefore, that political leaders and government officials be encouraged to employ R2P language in their statements and national agenda setting. Similarly, ongoing efforts to domesticate atrocity prevention at the national level should be encouraged to ensure full institutionalization of the norm.

More broadly, participants identified the need to move from a culture of response to a culture of prevention. Even though successful preventive effort may be difficult to assess, participants indicated that the recent fallout from the application of R2P in Libya and its effects on the Syrian crisis point to the need to emphasize prevention over coercive intervention.

Finally, participants advocated for deepening engagement and collaboration between the United Nations and regional organizations that act as gatekeepers in generating consensus for implementation. Participants noted that effective partnerships between the international community and regional and subregional arrangements are more likely to lead to the successful implementation of R2P. Further, participants identified the need to link and integrate local and national efforts to regional and continental action. Surveying experience to date, participants suggested that national leadership typically provides impetus for regional and continental action.

Conclusion

Regional stocktaking provides an important forum to move atrocity prevention discourse to a new level through engagement with relevant stakeholders. The meeting in Addis Ababa offered participants the opportunity to exchange views on R2P's trajectory for the next decade. Key issues raised included the need to build strong, legitimate, and credible institutions to ensure equity, justice, and accountability in member states. Participants identified civil society actors as critical partners in the implementation of R2P while cautioning about the challenges engendered by emerging threats such as violent extremism. The importance of the Security Council in providing political leadership and generating the collective will for preventing atrocity crimes was also highlighted. Above all, participants stressed the need to prioritize prevention over reaction in order to save populations from abuse and avoid the challenges associated with the application of coercive action.

Looking ahead, emerging threats to human security are increasingly changing the dynamics of atrocity crimes and response efforts.

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